

# AGENDA PLANNING AND ZONING COMMISSION PUBLIC HEARING JUNE 8<sup>TH</sup>, 2021 AT 6:00PM 22 W 2ND ST. EAGAR

ITEM 2 ROLL CALL

ITEM 3 PLEDGE OF ALLEGIANCE

ITEM 4 INVOCATION

PUBLIC COMMENTS: Persons wishing to address the Commission on any item not already on the agenda may do so, although each speaker is limited to three minutes. The Chair, with the consent of the Commission, may limit the total time offered speakers, if necessary. All such remarks shall be addressed to the Commission as a whole, and not to any specific member. No person other than the speaker shall enter into the discussion without permission of the Chair. The Commission may not address, discuss or vote upon any petition or comment raised by the public at any meeting. The item may be placed on a future agenda with direction from the Planning and Zoning Administrator on how to place an item on the agenda.

ITEM 6 LOYALTY OATH FOR NEW COMMISSION MEMBER JIMI HAMMOND

ITEM 7 CONSIDERATION OF THE MAY 11<sup>TH</sup>, 2021 MINUTES

CONVENE TO PUBLIC HEARING

ITEM 8 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2021-2; A Conditional use permit application for the property known as 251 E. 5<sup>TH</sup> ST. also known as parcel #104-22-012Q to allow for landowners to live in two recreational vehicles until Manufactured Homes can arrive and be installed on property.

Public Hearings are conducted in accordance with A R S 38-431 et seq (the "open meeting law") and the Planning & Zoning Commission Policies Procedures, Town of Eagar, Arizona Section VII-Public Hearing

- a. <u>Calling Agenda Item</u>: The agenda item shall be called by the Chair as any other agenda item.
- b. <u>Declaration of Public Hearing:</u> The Chair shall declare that the Commission is in public hearing
- c. <u>Applicant Presentation:</u> The Applicant may make an opening statement in order to explain the item to the commission and public. The Chair or Commission may limit the time for his/her statement as necessary
- d. <u>Staff Reports/Recommendations:</u> Staff shall have an opportunity to report on the issue and answer questions by the Commission
- e. Written Comments: Written Comments filed with the Town or staff shall be presented to the Commission and read into the record
- f. Public Comments: Testimony from members of the public shall be permitted and encouraged. Anyone wishing to make a statement shall first stand and identify themselves by name and also identify where they reside. Members of the public shall be limited to five minutes per person, or less as designated by the Chair or Commission. The total time allotted to the public on any issue may be limited or extended by the Chair or Commission
- g. <u>Commission Interaction:</u> Questions from Commissioners may be held at this time, or reserved until public hearing has closed. The Commissioners may address the applicant with any questions raised from the public and discuss the question
- h. <u>Applicant Closing Statement:</u> The applicant shall be allowed a brief closing statement in order to rebut the statements made by the public, to offer a compromise, or otherwise address the issue
- i. <u>Declaration of closing the Public Hearing:</u> Unless a majority of the Commissioners object, the Chair shall declare the public hearing as closed. At this time public and applicant participation is limited to questions from the Commission only
- j. Commission Discussion and Vote: The agenda item will then be discussed and action taken as on any other agenda item

ITEM 9 DISCUSSION AND CONSIDERATION OF ITEM 8.

RECONVENE TO REGULAR MEETING

ITEM 10 REPORTS

ITEM 11 ADJOURNMENT

ANYONE WISHING TO ATTEND THIS MEETING AND HAS A SPECIAL NEED DUE TO DISABILITY, PLEASE CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT AT 928-333-4128 EXT. 222 FORTY-EIGHT HOURS PRIOR TO THE MEETING AND REASONABLE ACCOMMODATIONS WILL BE PROVIDED.

Date Posted Time Posted	Posted by
-------------------------	-----------

### LOYALTY OATH

### STATE OF ARIZONA COUNTY OF APACHE TOWN OF EAGAR

THE CONSTITUTION OF THE ULAWS OF THE STATE OF ARIZE EAGAR; THAT I WILL BEAR THAND DEFEND THEM AGAINST AND THAT I WILL FAITHFULL DUTIES OF THE OFFICE OF PLA	O SOLEMNLY SWEAR THAT I WILL SUPPORT INITED STATES, THE CONSTITUTION AND ONA AND THE CODE OF THE TOWN OF RUE FAITH AND ALLEGIANCE TO THE SAME, ALL ENEMIES, FOREIGN AND DOMESTIC, Y AND IMPARTIALLY DISCHARGE THE ANNING AND ZONING COMMISSIONER MY ABILITY, SO HELP ME GOD.
COMMISSIONER	CHAIR
DATE	DATE



#### PLANNING AND ZONING COMMISSION PUBLIC HEARING MAY 11<sup>th</sup>, 2021 AT 6:00PM 22 W 2ND ST. EAGAR

Chair Shawna Murphy called the meeting to order and welcomed those in attendance. Commissioner Joe Sitarzewski was excused from the meeting. Chair Murphy led the Pledge of Allegiance and Commissioner Muth offered the invocation.

Commission Present:

Shawna Murphy

Brenda Ciminski Dave Kalinowski

Dan Muth Ron Shepherd Deanna Davis

Commission Absent:

Joe Sitarzewski

Staff Present:

Matthew Mears, Town Manager

Britney Reynolds, Community Development Coordinator

Brett Rigg, Town Attorney

**ITEM #5** 

**PUBLIC COMMENTS:** 

None

**ITEM #6** 

LOYALTY OATH FOR NEW MEMBER BRENDA CIMINISKI AND RETURNING COMMISSION MEMBER RON SHEPHERD

New commissioner Brenda Ciminski read the loyalty oath followed by commissioner Shepherd. Obtained necessary signatures on documents.

#### ITEM #7 ELECTION OF VICE CHAIR

Commissioner Davis made a motion to appoint Brenda Ciminski as Vice Chair. Commissioner

Shepherd seconded; all were in favor, motion carried unanimously. 5-0

Vote:

Ayes:

Shawna Murphy Dave Kalinowski Dan Muth

Ron Shepherd Deanna Davis

Nays:

None

#### ITEM 8 CONSIDERATION OF THE JANUARY 12<sup>TH</sup>, 2021 MINUTES

Commissioner Dan Muth abstained from vote as he was not present for the January meeting. Commissioner Brenda Ciminski made a motion to accept the January 12<sup>th</sup>, 2021 minutes with commissioner Deanna Davis second; all were in favor, motion carried unanimously 5-0.



Vote:

Ayes:

Shawna Murphy Dave Kalinowski Ron Shepherd Deanna Davis

Brenda Ciminski

Abstain:

Dan Muth

#### CONVENE TO PUBLIC HEARING

#### ITEM #9 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2021-3

A Conditional use permit application for the property known as 795 N. Main St. also known as parcel #104-09-001 to allow

for the storage and selling of firewood.

Chair Shawna Murphy opened the public hearing. The applicant was not present for the meeting. Town manager, Matthew

Mears, gave the staff report to allow this to move forward with conditions. Discussion of clean up of the area as well as placing

a solid six-foot fence behind the property boundary took place.

#### ITEM #10 DISCUSSION AND CONSIDERATION OF ITEM 8.

After discussion of applicants many applications for conditional uses for this property, commissioners Muth and Ciminski abstained from voting due to conflicts. Commissioner Ron Shepherd made a motion to grant the conditional use permit with the conditions that a six-foot solid fence be put in place 25' behind the easement of said property and that the property owner clean up all debris on the property before the operation could commence and commissioner Dave Kalinowski seconded; all were in favor, motion carried unanimously 4-0.

Vote:

Ayes:

Shawna Murphy Dave Kalinowski

Ron Shepherd Deanna Davis

Abstain:

Dan Muth

Brenda Ciminski

#### ITEM #11 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2021-4

A Conditional Use Permit application for the property known as 489 E. 7<sup>th</sup> St. also known as parcel #104-23-006M to allow for landowners to live in two recreational vehicles until home can be completed.

Cameron McCall was in attendance as the applicant. Commissioner Muth abstained from discussions and voting due to conflict. Cameron McCall verified Planning and Zoning departments statement that building is in the process of being ordered and that water, sewer, and power have been installed at property. McCall's are waiting for plans to be completed. The commission discussed the need to review this permit at the year mark of the building permit if building is not completed at that time. The commission has allowed this type of permit recently, so all felt this should be approved.



#### ITEM #12 DISCUSSION AND CONSIDERATION OF ITEM 10

Commissioner Deanna Davis moved to accept Conditional Use Permit CU2021-4; A conditional use permit application for the property known as 489 E. 7<sup>th</sup> St. also known as parcel #104-23-006M to allow for landowners to live in two recreational vehicles until home can be completed, Commissioner Ron Shepherd seconded; all were in favor, motion carried unanimously 5-0.

Vote:

Ayes:

Shawna Murphy Dave Kalinowski Ron Shepherd Deanna Davis Brenda Ciminski

Abstain:

Dan Muth

#### ITEM #13 PUBLIC HEARING ON CONDITIONAL USE PERMIT CU2021-5

A Conditional Use Permit application for the property known as 788 W. School Bus Rd. also known as parcel 104-20-023G to allow for a towing and impound company to operate on the property.

Mr. Deric Whitmore opened by stating the family business for many years was long hauling, but due to health issues the family needed to find work options closer to home. Mr. Whitmore's plan is to build a storage facility for towing trucks and have a six-foot-high steel fence for shielding of the impounded vehicles that would be brought to the property. Currently, the operation has four vehicles used for towing and Mr. Whitmore did state that there would eventually be a parking shed for towing vehicles. Mr. Whitmore stated that hours of operation would be 8 a.m. – 5 p.m. Monday through Friday, but that he does have to be available to respond to D.P.S. calls 24-hours a day. Mr. Whitmore stated that vehicles from D.P.S. would need to remain on the property for 90 days.

Mr. Matthew Mears gave the staff recommendation stating that Mr. Whitmore spoke to Mr. Loyd, who is no longer employed with the Town of Eagar, and that there is no record of what transpired from that conversation. Mr. Mears stated that due to zoning and examining conditional uses for the area this use cannot be approved as it does not meet the standards for the area.

Mr. Brett Rigg, Town Attorney, shared with the commission that the zoning of this area is agricultural and residential with limited general uses. Conditional uses for the area are even further restrictive and outdoor storage is not a listed use for the area. Mr. Rigg stated that he does not believe there are other businesses in the immediate vicinity of the area and the use is not compatible with the agricultural and residential zoning in place. Mr. Rigg shared Town Code 18.20.050 that states "All abandoned or inoperable vehicles or vehicles in residential areas being restored or repaired for longer than ninety days shall be stored safely within a lawful, enclosed building or structure or screened by a lawful fence in such a manner as to not be visible from beyond the lot boundaries." Mr. Rigg also shared that under Town code 5.02.050, Tow to the Rescue business license should be revoked.

Neighbors in the vicinity of the property were allowed to address the commission at this time. Mr. Bill Swapp and Gary Kiehne shared their thoughts on this operation being allowed to continue in the area and that there was at one time a commercial business operating there in the past. Asked that this be allowed to be "grandfathered" into the area. Mr. Rigg stated that "grandfathering" does not apply to new businesses or new owners when it is not the same type of business or operation as previously allowed on the property. Mrs. Betty Lester and Mr. Gary Miller shared that this is not an operation they want to see in the residential area. Mr. Miller stated the area is not zoned commercial and that when he further looked into the home business definition that is allowed within the zoning, Mr. Whitmore's operation would not fall within that as it exceeded the 10% of area of property that is allowed for a home business and the traffic flow would increase which is also prohibited within the home business guidelines.



Commissioner Ron Shepherd stated that he does not believe this use is allowable in this area. Commissioner Brenda Ciminski asked if Mr. Whitmore was still running semi-trucks from the property as there are some on the property and pictures have depicted such activity occurring. Mr. Whitmore stated that the long-haul company still operates in 48 states and that there is currently heavy equipment on the property for updates. Commissioner Ciminski stated that due to previous knowledge she understands that there is 90 days of wait time for vehicles, but that there is an additional 90 days of wait time to obtain necessary titles for vehicles to be cleared from property. Mr. Whitmore then told the commission it is possible for the process to take 180 days (six months) to remove one vehicle from the property. Commissioner Dave Kalinowski stated that the area is not zoned for commercial operation.

During the closing statement, Mr. Whitmore pointed to Matthew Mears and Britney Reynolds saying that they had told him he had everything he needed for this and there were no further steps to complete this process. Mr. Whitmore stated he came in for the business license which was granted. Mr. Whitmore stated that he has spent \$140,000 on improving the property and creating the area for the impound lot. He believed that he had followed all requirements and that he cannot afford to buy another property for this venture. He believes the Town has dropped the ball on this matter. Mr. Mears stated that he and Britney Reynolds did discuss the Conditional Use process with Mr. Whitmore and he had completed the requirements for that process, but that Mr. Mears was not with the Town of Eagar when Mr. Whitmore began the process of a business license or asking about this operation. Mr. Rigg stated that the business license is a separate issue, and that Mr. Loyd may have been under the impression that the office would be at the home location and not the impound lot. Either way, if a business license is issued and it is later learned that the business is not in conformance with the Town zoning, the business license will then be denied. Commissioner Dan Muth stated that the zoning code for AR-43 does not allow this use even by conditional use and asked if it should have come to the commission as a rezoning request. Mr. Rigg did agree that this option would work, but Mr. Mears stated that situation would create a spot zoning which is not allowable. Commissioner Muth agreed. Mr. Rigg followed by stating that there is no way to allow this conditional use or this operation that will fall in line with Town Code.

#### ITEM #14 DISCUSSION AND CONSIDERATION OF ITEM 12

Commissioner Shepherd stated this does not fit into AR-43 zoning as it stands and cannot be allowed by conditional use. Commission was in agreement with this statement. Commissioner Brenda Ciminski moved to deny Conditional Use Permit CU2021-3; A Conditional Use Permit application for the property known as 788 W. School Bus Rd. also known as parcel 104-20-023G to allow for a towing and impound company to operate on the property as it is not allowable to be approved by zoning and town code. Commissioner Ron Shepherd seconded; all were in favor, motion carried unanimously 6-0.

Vote: Ayes: Shawna Murphy

Dave Kalinowski Ron Shepherd Deanna Davis Brenda Ciminski Dan Muth

#### RECONVENE TO REGULAR MEETING

Chair Shawna Murphy closed the public hearing.

#### **ITEM #15 REPORTS**

Britney Reynolds informed the commission that Commissioner Dave Kalinowski would be resigning from the commission after this meeting. On behalf of the Town, Britney Reynolds thanks Commissioner Kalinowski for his service to the community. No other reports.



#### ITEM #16 ADJOURNMENT

Chair Shawna Murphy moved to adjourn the meeting [6:59 p.m.].

ir signature:		7 - 25 - 10 - 10 - 10 - 10 - 10 - 10 - 10 - 1

## June 8th, 2021 meeting

# TOWN OF EAGAR COMMUNITY DEVELOPMENT REQUEST FOR CONDITIONAL USE PERMIT (REFER TO CHAPTER 18.84 OF THE ZONING CODE)

	Permit No. (42021-2) Date: 412021
	Name of applicant: David 4 Kellie Shinkle
	Mailing Address P.O Box 27 Grover WY 83122
	Telephone: (307) 887-0100 Email Address Shinkle 7774 Gmail.com
	1. Location of Property: 251 E 5th St - 104-22-012Q + 104-
	2. Current Zoning: RM+1-7
	3. Proposed Use (as listed under "Conditional Uses" in the above zoning district):  Two RV's on property till manufature home  are dilivered
	4. Reason for Proposed Use Home's out to 7 months
	out want to work on land prep and garage fill that,
	5. Attachments: a. Plot Plan (to Scale)
	b. Pertinent data as required by the Zoning Administrator or Planning and Zoning Commission
2860	Filing Fee: \$100.00 Date Paid: 41121 Receipt # 1451e93905PT - Debit payment
	6. Signature of Applicant: Date: 4/1/2021
	7. Signature of Zoning Administrator: Now Wee Date: 4/6/21
	8. Application shall be forwarded to the planning and Zoning Commission on:
	(Date) 4821 (Time) Lepm
	(Place) Town Hall
	Notice of the nature of the Conditional use Permit and the date of the meeting at which it will be considered will be posted on the affected property 15 days prior to the public hearing. The property owners within a 300-foot radius of the applicant's property will be notified by first class mail

## ZONING AMENDMENT CONDITIONAL USE PERMIT BACKGROUND CHECKLIST

1.	Responses from adjacent property owners				
	In Favor	Opposed			
2.	Checklist complete				
3.	Building plans, pictures of property, specifications, etc.				
4.	Zoning and building approval				
5.	Special conditions, approvals, etc.				
6.	Copies of ordinance allowing use				