

**FINAL**

**TUSAYAN PLANNING AND ZONING COMMISSION MEETING**

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Tuesday, April 24, 2012 @ 5:00 P.M.

TUSAYAN TOWN HALL BLDG

845 Mustang Drive, Tusayan Arizona

**PLANNING AND ZONING COMMISSION MEETING MINUTES**

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The Chairman called the meeting to order at 5:04pm and the Pledge of Allegiance was recited.

**2. ROLL CALL**

Upon roll call, the following were present:

**CHAIRMAN BRYAN  
COMMISSIONER MONTOYA**

**COMMISSIONER FITZGERALD  
COMMISSIONER RUETER  
COMMISSIONER SANDERSON**

Also present: Town Manager Ochoa  
Assistant Clerk Garver  
Town Attorney Sims – by phone  
Town Planner Turner – by phone

**3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

No public comments were made

**4. ACTION ITEMS**

**A. Consideration, discussion and possible action regarding a determination as to whether the Grand Canyon Dinner Theater and Steakhouse be deemed a permitted use or a conditional use in the CG-10,000 Zoning District.**

On May 26, 2009 the Coconino County Planning and Zoning Commission approved Conditional Use Permit application CUP-09-017. The approval of that application authorized the development of subject property as a western museum with retail uses and 4 employee housing units.

The property is currently in the final stages of being converted to the Grand Canyon Dinner Theater and Steakhouse. Based on information supplied to Town Staff, building permits have been issued for this use as a restaurant with a bar, ancillary retail uses and facilities for offering live entertainment.

Subject property is approximately one acre in size and is located on the east side of Highway 64, immediately south of the Texaco Service Station. Over the past several months, the Town has received correspondence from the representative of the owner of adjacent property citing concerns regarding the development of the property and bringing into question the way in which the use has been categorized by the Town and

the subsequent issuance of building permits based on the Town's determination. In an effort to resolve any questions regarding how this use should be categorized with regard to the Zoning Ordinance, staff has brought the question forward to the Planning and Zoning Commission for review and decision.

Section 11 of the Zoning Ordinance, the section on commercial zoning districts, relates to this situation:

Section 11.1.F. Other Uses

Other commercial, office or service uses as may be determined by resolution of the Planning and Zoning Commission to be consistent with the purposes indicated in Section 11.0 and similar to and no more detrimental than existing permitted or conditional uses in any commercial zone. Such other uses shall meet the performance standards outlined in Section 11.3.

The other relevant part of the Zoning Ordinance is Section 20.1, "Determination As To Uses Not Listed". This section provides a process whereby the Planning and Zoning Commission is authorized to determine "whether a use not specifically listed as a permitted or conditional use in any zone shall be deemed a permitted use or a conditional use in any one or more zones on the basis of similarity to uses specifically listed."

It is this last referenced section of the Zoning Ordinance that Mr. Turner believes is most applicable in this situation.

In reviewing the various uses listed in the ordinance vis-à-vis the proposal, it was Mr. Turner's opinion, that restaurant was the closest use to what was being proposed. "Dinner theater" is not among the list of uses in the Zoning Ordinance. A key consideration is the way in which customers are seated. In the proposal, customers will be seated in chairs around dinner tables, from which they will view entertainment. This is restaurant seating and is unlike the seating in a traditional theater where seats are in rows.

Another factor to be considered in determining the use and how it should be categorized is the entertainment that will be offered. The floor plan for the building shows a stage, dressing rooms and separate restrooms for performers. Regularly scheduled musical performances are planned. The entertainment will be inside the building. The Zoning Ordinance does not speak to the issue of entertainment insofar as any special approval requirements. In this instance, Mr. Turner considers the entertainment to be an accessory use. An accessory use to a permitted use is also a permitted use (see Section 11.1.D.1 of the Zoning Ordinance).

Commissioner Fitzgerald asked about whether it was the responsibility of the Town Manager or Designee to decide if this was a permitted use or a conditional use. Mr. Turner said that in most cases when the uses are similar, the Town Manager decides, but as there were letters of concerns and he felt that it needed to go to the Planning and Zoning Commission to make a final decision.

Cameron Carter, representative for Red Feather Properties, stated that the Grand Canyon Dinner Theater was located adjacent to Red Feather property and his clients

were concerned about the proposed uses. The Dinner Theater acts like both a restaurant and a dinner theater. The dinner theater is not an incidental use but a primary use. The primary concern is the parking impacts as the requirements are not the same for both types of uses. The circulation patterns flow differently due to the new construction of the highway. The theater is the dominate use on this property and as such needs to go through the entitlement process and obtain a CUP. He asked if food was served at tables and chairs, then can any sort of entertainment go.

Commissioner Montoya asked if any other businesses objected to the Dinner Theater. McDonalds and The Grand had raised objections and Mr. Carter stated that he represents them as well in this matter. Chairman Bryan asked if Mr. Carter had indicated in any earlier communications on this issue that he was representing any business other than the Red Feather? He had not and did not have anything in writing. Commissioner Rueter asked if the music that was played at the Grand would be considered theatrical. Mr. Carter said that the Dinner Theater's advertisement was promoting it as a theater and there were two set show times with people arriving and leaving in mass. Mr. Carter felt the question that needed to be answered is what was the dominate use for the Dinner Theater. Chairman Bryan asked if Mr. Carter thought that the Native American dancing at the grand would be considered theatrical? He did not know.

The Dinner Theater has the minimum seating required for a restaurant. The Grand's parking is consistent with the County's ordinances for restaurant and hotel parking. The Grand built a stage for Native American Dancing performances with two separate seating times and it has an additional stage. Is the Dinner Theater any more detrimental then The Grand's stages?

Commissioner Montoya moved to determine that the proposed use, Grand Canyon Dinner Theater and Steakhouse, is most similar to a restaurant and as such is deemed to be a permitted use in the CG-10,000 Zoning District.

Commissioner Rueter seconded the motion. All were in favor. Motion passed.

**5. SET ADDITIONAL ACTION ITEMS FOR NEXT REGULAR MEETING**

No action items were set

**6. SET ADDITIONAL DISCUSSION ITEMS FOR NEXT REGULAR MEETING**

No discussion items were set

**7. COMMISSIONER REPORTS**

No reports were given

**8. CHAIRMAN'S REPORT**

No reports were given

**9. MOTION TO ADJOURN**

Commissioner Montoya moved to adjourn the meeting at 6:00.

Commissioner Fitzgerald seconded the motion. All were favor. Motion passed.

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**ATTEST:** On this date, May \_\_\_\_\_, 2012.

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Greg Bryan, Town Mayor

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Town Clerk