



**AGENDA  
TOWN OF CAMP VERDE  
BOARD OF ADJUSTMENTS & APPEALS  
473 MAIN STREET, SUITE 106, CAMP VERDE, AZ 86322  
TUESDAY, MAY 9, 2023, AT 3:00 PM  
REGULAR SESSION**

**Zoom Meeting Link:**

<https://us06web.zoom.us/j/85630748203?pwd=WnJySnV3WUFkajB2Q0dvQlB2WXZYUT09>

**Call in Phone Numbers**

**+1 719 359 4580 US**

**+1 253 205 0468 US**

**Meeting ID: 856 3074 8203**

**Passcode: 050304**

**1. Call to Order**

**2. Roll Call** – Chairman BJ Davis; Vice Chairman Buck Buchanan; Tanner McDonald; Jeremy Brady; Rodney Corbin

**3. Pledge of Allegiance**

**4. Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of the Board so requests.

a. **Approval of Minutes** – April 11, 2023

b. **Set Next Meeting, Date and Time** – June 13, 2023, at 3:00 PM (currently no items to discuss)

**5. Item Withdrawn by Applicant - Public Hearing followed by Discussion, Consideration and Possible Approval of a Variance to encroach into the rear yard setback from 25' to approximately 11'. Staff Resource: John Knight**

**Applicant/Owner:** Justin Chambers

**Parcel:** 404-13-383

**Zoning:** R1-10

**Address:** 4732 E Cripple Creek Drive

**6. Public Hearing followed by Discussion, Consideration and Possible Decision on a Zoning Interpretation from the Community Development Department regarding the transfer of animal points by lease, license, or any mechanism. Staff Resource: John Knight**

**Applicant/Owner:** Stephen Magoon and Jill Irvin

- Staff Comments
- Applicant Comments/Presentation
- Public Hearing Open
- Public Hearing Closed
- Applicant Comments or Questions
- Board Discussion

**7. Board Informational Reports:** Individual Board members may provide brief summaries of current events and activities. Summaries are strictly for the purpose of informing the public. The Board will have no discussion,

consideration nor act on any such item, except an individual Board member may request an item be placed on a future agenda.

**8. Staff Comments**

**9. Adjournment**

**Please note:** Staff makes every attempt to provide a complete agenda packet for public review. However, it is not always possible to include all information in the packet. You are encouraged to check with Staff prior to a meeting for copies of supporting documentation that may have been unavailable at the time agenda packets were prepared.

Note: Pursuant to A.R.S. §38-431.03A.2 and A.3, the Board may vote to go into Executive Session for purposes of consultation for legal advice with legal counsel on any matter listed on the Agenda, or discussion of records exempt by law from public inspection associated with an agenda item.

The Town of Camp Verde Council Chambers is accessible to the Handicapped. Those with special accessibility or accommodation needs, such as large typeface print, may request these at the Community Development Office.

**CERTIFICATION OF POSTING OF NOTICE**

*The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the Town of Camp Verde and Bashas on May 2, 2023 (date) at 3:30 (time).*

(signed) Cory L Mulcaire (print name and title) Cory Mulcaire, Planner



**FINAL MINUTES  
TOWN OF CAMP VERDE  
BOARD OF ADJUSTMENTS & APPEALS  
473 MAIN STREET, SUITE 106, CAMP VERDE, AZ 86322  
TUESDAY, APRIL 11, 2023, AT 3:00 PM  
REGULAR SESSION**

1. **Call to Order** Vice Chairman Buck Buchanan called the meeting to order at 3:09.
2. **Roll Call** – Buck Buchanan, Vice Chairman; BJ Davis; Tanner McDonald; Jeremy Brady (absent); Rodney Corbin
3. **Pledge of Allegiance** Vice Chairman Buchanan said the pledge of allegiance.
4. **Election of Officers** – Election of new Chair and Vice Chair

Vice Chairman Buchanan **moved** to nominate B.J. Davis to Chairman of the Board of Adjustments and Appeals.

**Second** by Tanner McDonald.

Roll Call Vote-

Rodney Corbin: Aye

B.J. Davis: Nay

Buck Buchanan: Aye

Tanner McDonald: Aye

**Motion passed 3-1.**

Tanner McDonald **moved** to nominate Buck Buchanan to Vice Chairman of the Board of Adjustment and Appeals.

**Second** by Rodney Corbin.

Roll Call Vote-

Rodney Corbin: Aye

B.J. Davis: Aye

Buck Buchanan: Aye

Tanner McDonald: Aye

**Motion passed 4-0.**

5. **Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of the Board so requests.

- a. **Set Next Meeting, Date and Time** – May 9, 2023, at 3:00 pm

Mr. Corbin **moved** to approve the Consent Agenda.

**Second** by Tanner McDonald.

Roll Call Vote-

Rodney Corbin: Aye

Chairman Davis: Aye

Vice Chairman Buchanan: Aye

Tanner McDonald: Aye

**Motion passed 4-0.**

6. **Call to the Public for items not on the agenda:** Residents are encouraged to comment about any matter not included on the agenda. State law prevents the Board from taking any action on items not on the agenda, except to set them for consideration for a future date.

No items.

7. **Public Hearing followed by Discussion, Consideration and Possible Approval of a Variance to encroach into the rear yard setback from 25' to approximately 11'.** Staff Resource: John Knight

**Applicant/Owner:** Justin Chambers  
**Parcel:** 404-13-383  
**Zoning:** R1-10  
**Address:** 4732 E Cripple Creek Drive

- Staff Comments
- Public Hearing Open
- Public Hearing Closed
- Board Discussion

Community Development Director John Knight stated that this is a variance request on a project that has already been constructed. It had been discovered that there was an addition that had been started on a home between the existing house and the previously existing garage. They filled in the space, and when that took place, it changed the way that setbacks were calculated. Once the two buildings were attached, they had to meet the primary setback in the primary structure which is 25'. Previously said garage was not attached to the house, but because of the newly shared common wall that was constructed, they are considered attached and have a setback of 11 ft.

There are several options in order to proceed. The options are: 1. Grant the variance 2. A formal interpretation from staff on how they interpret how the setbacks should be calculated from the structure. 3. A code development amendment to change the way they look at attached and detached structures.

He feels that variances have very specific criteria under state statute.

As staff, they don't feel that all those criteria can be met in this case. It is up to the board to decide if all those criteria can be met.

Chairman Davis asked Mr. Knight whether the applicant would have to tear his structure down if for some reason none of those options move forward.

Mr. Knight responded that in that case there would be some further options, one being constructing another wall in order to meet the code of a detached structure.

The applicant's attorney Clint Brown took some time to present his client's position. He stated that there's no question that Mr. Chambers readily admits his mistake in this situation. It has been a learning experience for him, and something he will not repeat in the future.

Mr. Brown and Mr. Chambers are asking the board to grant Mr. Chambers' request for a variance. They believe that adequate cause exists for a variance and the circumstances of the situation do not dictate a denial of their request.

It is their understanding that there is no community opposition in this matter. Instead, several of the immediate neighbors in the Verde Lakes area are in full support of Mr. Chambers request for the variance. They are also pleased with the facelift that he has given the property.

The language within the town code states that there are special circumstances surrounding this property that would make this variance approval appropriate for this property.

Additionally, while Mr. Chambers has admittedly made premature improvements to the interior of the addition, he did not cause the addition to be built, or this condition we're all now dealing with, to be created. That was an earlier owner over 10 years ago.

They feel there is no meaningful benefit achieved by forcing the destruction of any portion of this property. He went on to say that each decision made by the board is unique and specific to each property and such decisions are not regarded as strict precedence.

In conclusion, the structures are free standing, detached structures, and an opinion letter is provided in the packet from a license contractor stating that they meet the code requirement. There is no shared, or party wall, joining the addition to the garage.

If the board determines that the result of this condition is that the home and the addition remain freestanding structures separate from the garage, and the garage is in fact a free-standing structure, they believe that the result of that conclusion is the setback issue resolves itself.

Mr. Chambers stands ready and willing to provide proper permits on the work that has been done on this addition.

The Town Attorney said they can ask the applicant questions in order to inform their decision making.

Chairman Davis opened the hearing to the public at 3:35 PM.

Deborah Moody spoke in favor of Mr. Chambers. She hopes there are no charges to be filed against Mr. Chambers, as she feels this was not his fault. She finds the addition to be an asset to the neighborhood.

Chairman Davis closed the public hearing at 3:37.

Chairman Davis said he's interested in the fact that the addition was started before Mr. Chambers owned the property. This is a self-imposed issue, not by Mr. Chambers, but the previous owner. He asked Mr. Knight a question regarding the previous owner and what took place with them when they started the addition.

Mr. Knight said the previous owner came to the town stating he was going to get a permit for the work he had started, but realized he couldn't get a permit due to the same setbacks that Mr. Chambers has. When Mr. Chambers purchased the property, he subsequently finished out the interior portion. He had been advised to resolve the issue.

Mr. Knight said it appeared from the site plan and information they have, the walls were attached, sharing a structural wall. If, in fact, the addition is truly free standing, they would consider it detached. Mr. Knight threw out another option. If the board wants to continue this for a month, the applicant can submit documentation verifying the two buildings are detached, they can then bring it back to the board.

Chairman Davis said he typically doesn't like to delay a decision if they don't have to.

Both Mr. Chambers and Mr. Brown agreed that they don't want to go that route. They'd like this variance to be issued and issued with some conditions.

Commission discussion began in order to decide how they'd like to vote.

Mr. Chambers was brought up for the discussion and said that once he receives the variance, he will do whatever he needs to get the proper permit approval and inspection done for this property.

The board initially decided to grant the variance with two conditions- 1. Mr. Chambers complies with permitting, inspections, penalties, fees, etc. 2. Mr. Chambers proves to the satisfaction of the Community Development department that the structures are truly detached.

Mr. McDonald asked specific questions on the add-on and whether they are setting themselves up for failure in the future by approving the variance, when Mr. Chambers could possibly not get approved for a permit later.

Mr. Chambers said he's willing to make whatever change he needs in order to get permits for the addition. He said septic inspection passed twice.

Chairman Davis **moved** to approve the variance as they have found the requirements to approve it (A-E) have been met but they will have two major conditions- 1. That the applicant works with the building department to bring it up to code through full permits, full inspections, permit fees, and any penalties that accrue in that in all areas of the code. 2. The applicant provides whatever information is needed to prove to the satisfaction of the community development department the structure is truly independent structures and can stand alone. The variance is for the garage structure to encroach into the rear yard setback from 25' to approximately 11'.

(Motion was not immediately voted on)

Mr. McDonald brought up the fact that Mr. Chambers and Mr. Brown have evidence that there are two walls that separate the structure, making it a detached structure, so they don't even need the variance.

Mr. Brown said he'd like to stay within the terms of the variance. However, upon the determination that these are in fact free standing structures, the variance would no longer be necessary.

Mr. Knight suggested that they continue this in May so the applicant can prove that it is in fact a detached structure. And if he does, they can pull the item off the agenda, as they'll no longer need the variance.

Mr. Chambers said he prefers to get the variance to move forward. He and Mr. Brown are concerned about the timing to pull all the necessary information together by the next meeting.

After more discussion, it was decided that that they will continue this until the May meeting, giving Mr. Chambers time to prove that the structures are, in fact, detached, at which, they'll drop it off the agenda, and Mr. Chambers will get his proper permitting.

The original motion was voted down.

Chairman Davis **moved** to approve the variance as they have found the requirements to approve it (A-E) have been met but they will have two major conditions- 1. That the applicant works with the building department to bring it up to code through full permits, full inspections, permit fees, and any penalties that accrue in that in all areas of the code. 2. The applicant provides whatever information is needed to prove to the satisfaction of the community development department the structure is truly independent structures and can stand alone. The variance is for the garage structure to encroach into the rear yard setback from 25' to approximately 11'.

**Second** by Rodney Corbin

Roll Call Vote-Nay

Rodney Corbin: Nay

B.J. Davis: Nay

Buck Buchanan: Nay

Tanner McDonald: Nay

**Motion failed 4-0.**

Chairman Davis **moved** to continue this issue to the May meeting, allow the applicant time to prove that these are in fact detached structures to the satisfaction of the Community Development Department.

**Second** by Rodney Corbin

Roll Call Vote- Aye

Rodney Corbin: Aye

B.J. Davis: Aye

Buck Buchanan: Aye

Tanner McDonald: Aye

Motion passed 4-0

8. **Board Informational Reports:** Individual Board members may provide brief summaries of current events and activities. Summaries are strictly for the purpose of informing the public. The Board will have no discussion, consideration nor act on any such item, except an individual Board member may request an item be placed on a future agenda.

No Reports.

9. **Staff Comments**

No Staff Comments.

Gave some information on some interesting things coming up on the Planning and Zoning Agenda.

10. **Adjournment** Chairman B.J. Davis adjourned the meeting at 4:05.

Buck Buchanan **moved** to adjourn the meeting.

**Second** by Rodney Corbin

Roll Call Vote- Aye

Rodney Corbin: Aye

B.J. Davis: Aye

Buck Buchanan: Aye

Tanner McDonald: Aye

Motion passed 4-0

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Chairman BJ Davis

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Community Development Director John Knight

CERTIFICATION

I hereby certify that the foregoing minutes are a true and accurate accounting of the actions of the Board of Adjustment and Appeals of the Town of Camp Verde, Arizona during the Regular Session held on the 11th day

of April 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 11 th day of April 2023.

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Mary Frewin  
Mary Frewin, Recording Secretary



**Agenda Report Form – Section I**

**Meeting Date:** Tuesday May 9, 2023

Consent Agenda     Decision Agenda     Executive Session Requested

Presentation Only     Action/Presentation     Work Session

**Requesting Department:**                      **Community Development**

**Staff Resource/Contact Person:**              **John Knight, Director**

**Agenda Title:** Discussion, Consideration and Possible approval of an appeal application regarding the portion of the Zoning Interpretation that allows for the transfer of animal points by lease, license or any mechanism.

**List Attached Documents:**

- Attachment A:** Zoning Interpretation, 2023-01
- Attachment B:** Appeal Application and Supporting Documentation
- Attachment C:** General Plan Excerpt
- Attachment D:** Relevant Zoning Ordinance Sections
- Attachment E:** Hearing Notification Letter to owners within 300'
- Attachment F:** Public Comments Received

**Estimated Presentation Time:** 10 minutes

**Estimated Discussion Time:** 20 minutes

**Reviews and comments Completed by:**

Town Manager: N/A                                       **Department Head: John Knight, Director**

**Town Attorney Comments:**                       **Risk Management: N/A**

**Finance Department: N/A**

**Summary and Request:** On February 9, 2023, Community Development Director John Knight issued a formal Zoning Interpretation (2023-01) regarding the Calculation of Animal Points to allow an increase in points for contiguous acreage (Attachment A). This formal opinion allows a property owner to utilize contiguous properties in order to increase the number of allowed animals. This decision was focused on a specific property; however, it has ramifications that would affect other properties within the Town. This staff Interpretation has been appealed by Stephen Magoon and Jill Irvin (the Appellant). The Board has the authority to reverse or affirm this interpretation, in whole or in part, or modify the interpretation per their determination.



**Discussion:** The Planning and Zoning Ordinance, specifically Section 305, permits the keeping and owning of animals such as horses, goats, sheep, etc. on any parcel within the Town. Generally, the number and types of animals which may be kept on each parcel is guided by a point system. See below chart taken from Section 305.

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 POINTS	Miniature horses, Ponies and Sicilian donkeys:	6 POINTS
Emus:	3 POINTS	Ostriches:	6 POINTS
Pygmy goats:	3 POINTS	Cattle:	12 POINTS
Sheep, Goats:	4 POINTS	Domestic deer:	12 POINTS
Llamas:	6 POINTS	Horses, Mules, and Donkeys	12 POINTS

A minimum of ½ acre is required to keep animals (other than dogs). A parcel of ½-1 acre has 24 points. The number and types of animals for each parcel is then guided by the size of the parcel and type of animals. For example, a ½ acre parcel may have two (2) horses, or one (1) horse and four (4) pygmy goats, or one (1) cow and three (3) sheep, etc.

The points assigned to a specific parcel are increased by 6 points per additional ¼ acre, beyond one (1) acre. Therefore, a 2 ¼ acre parcel would have a total of 54 points. The owner/occupant of this 2 ¼ acre parcel may use the applied 54 points to keep or maintained any number of animals which would total up to 54 points.

Example: A 2 ¼ acre lot would be attributed 54 points  
 1 acre = 24 points  
 +  
 24 points for the 2nd acre + 6 points for the ¼ acre  
  
 Total points for a 2 ¼ acre parcels is: 54 points

Section 305.A(2) states: *“Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.”*

It has been the opinion of the Community Development department that “contiguous” lots or parcels did not necessarily need to be owned by the same person. If a contiguous neighbor gave permission for this neighboring parcel to be used by another to help house animals, then the intent and letter of the Planning and Zoning Ordinance was being met.

The Appellant, Stephen Magoon and Jill Irvin, challenged this interpretation. Therefore, in conjunction with the Towns’ Attorney, the Director of Community Development, John Knight,

issued a formal interpretation in February of this year which supports the Town's position that a parcel owner may increase their available animal points by utilizing contiguous neighboring properties. See Attachment A., Zoning Interpretation, 2023-01.

Note this Zoning Interpretation requires this use of contiguous properties be supported by a formal legal instrument (such as a license or lease).

The Appellant challenges this Formal Zoning Interpretation stating they believe, "...it lacks serious merit and is not supported by the relevant terms and conditions of the Ordinance." See Attachment B. Staff disputes the claim that it is not supported by the Ordinance (in this case, the Zoning Ordinance). Section 305.A.2. clearly states that "Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, **contiguous** quarter acre." Staff believes the definition of contiguous is very clear and stands by the interpretation as written.

The interpretation states:

*"The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot.*

*Owners that wish to increase their number of animals have options, including to purchase or lease contiguous areas or apply for an Agritourism use permit if located in the Residential-Rural area which may allow an increase in the total animal count with the approval of conditions that limit the impact on neighbors. Specifically, Section 203, subsection D "R-R District" has rules for rural, large lot residential uses that allow for Agritourism uses with a Use Permit that can mitigate negative impacts by requiring adequate separation requirements, mitigation against noise, traffic, dust and other environmental factors on nearby residential uses, and other provisions for public health and safety."*

**General Plan Conformance:** The properties that are subject to this interpretation are agricultural in nature and are keeping animals. This is in conformance with the Town General Plan statements related to the western, rural lifestyle. A few applicable sections are noted below (Attachment C).

**1. Pg. 9 - Purpose**

*When describing their town, residents of Camp Verde continue to use terms such as western, rural, friendly, and historic.*

**2. Pg. 12 – Public Participation Results:** This section lists a variety of "Top Qualities to Preserve". Specifically referenced qualities include, "Friendliness, Historic, and Western Rural Character."

**3. Pg. 17 – Goals & Implementation Strategies:**

*B. Goal: Support and enhance arts and culture.*

B. 3. Support and encourage recognition of our agricultural heritage.

**Relevant Code Sections:** The Board of Adjustment has several roles and responsibilities related to zoning administration. Refer to Attachment D. These are noted below.

**Section 600.C.3. – Council Appointments:** The Council is required to appoint five (5) Board of Adjustment Members for terms of three (3) years per Town Code. At least three (3) members must be present for a quorum. In the event only three (3) members are present, then a unanimous vote must be case for approval or denial.

**Section 600.E. – Board of Adjustment Authority:** The Board serves in a quasi-judicial capacity, hearing and deciding appeals from the Community Development Director. This section also references state statute ARS 9-462.06 that states:

1. *Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Community Development Director, or designee, in the enforcement of the Zoning Ordinance by reversing or affirming, wholly or in part, or modifying the order, requirement, decision appealed from and make such order, requirement, or decision or determination as necessary.*

**The Following Have Been Completed by Staff:**

- Interpretation was formally requested by Stephen Magoon on March 23, 2023.
- Interpretation Issued by the Community Development Director on February 9, 2023.
- Community Development Staff mailed out letters to property owners within three hundred (300) feet of the address on the application on April 5, 2023.
- Notice of Hearing was placed in the Bugle newspaper on April 19, 2023, and April 23, 2023, by the Community Development Staff.
- Notice of Public Hearing was posted on the Town bulletin board, Bashas public bulletin board, and the Town website in accordance with the requirements of the Zoning Ordinance and Arizona Revised Statutes.

**Recommended Action (Motion):** Motion to affirm the staff interpretation as written.

**Other Options:** Note that the Board has the authority to reverse or affirm, in whole or in part, or modify the interpretation as necessary.



ZONING INTERPRETATION  
RECORD OF INTERPRETATION  
2023-01

**Subject of Interpretation:** Calculation of Animal Points

**Regulation:** Planning & Zoning Ordinances and Subdivision Regulations, Section 305 Animals

**Purpose:** To provide clarification regarding the maximum number of livestock allowed on a lot.

**Background:** The Town of Camp Verde, Arizona (the "Town") adopted requirements for the keeping of animals in Section 305 of the Planning & Zoning Ordinances and Subdivision Regulations (the "Zoning Code"). The keeping of farm animals "in appropriate locations and circumstances" is deemed to be consistent with the Town's rural character. However, the Zoning Code restricts the number, size, type, or manner of keeping animals on any parcel so as not to impair the enjoyment or use of any nearby properties or violate other legal restrictions.

Animal points are provided per acreage to regulate the type and number of animals on any particular property. Certain livestock are prohibited in residential areas or other conditions are imposed to limit negative impacts on neighboring properties. The section further provides maintenance requirements for livestock facilities requiring them to be maintained in a clean and slightly manner so as not to be a nuisance to neighbors.

The Town has been asked to provide clarity regarding how to calculate animal points under Section 305 of the Zoning Code. This interpretation is provided in response.

**Mansker Dispute:**

- A. **Location of Property.** Mr. Trampus Mansker owns property known as Yavapai County Assessor parcel (APN) 404-12-422D and 404-12-422C. He has 4.7 acres between the two adjacent parcels. Mr. Mansker has a private riding arena where the family participates in riding and steer roping activities. Mansker family friends and other community members use the arena for roping practice before competitions. They often bring in several horses. Mr. Mansker provides the cattle for roping.
- B. **Requestor.** Mr. Stephen Magoon and his wife Jill Irvin live across the street and southwest of the Mansker property (APN 404-11-027A). The Town has received complaints from the Magoons going back several years. Complaints are mostly related to exceeding the allowed animal count or nuisances (such as flies, dust, and smell). The Magoons have requested a zoning interpretation regarding the allowable livestock count on Mr. Mansker's property.
- C. **Neighbor Dispute.** Mr. Mansker's roping activities routinely exceed the allowable number of large animals. Between his horses, "guest horses", and cattle; the numbers often range from about 15 to 34 animals. In an effort to work with the neighbors to resolve the dispute, the Town has, over the years, conducted inspections to determine if the arena activity on Mr. Mansker's property constitutes a nuisance and discussed options for moving animals to



adjacent neighboring properties to decrease the concentration of animals. This is, however, the first time a formal interpretation of the Zoning Code has been requested.

- D. **Neighbor Permission to Use Adjacent Property**. Key to this interpretation is a question regarding how the Zoning Code approaches use of “*adjacent properties*” for purposes of increasing animal counts. Mr. Mansker has provided the Town with letters from neighbors including (1) a letter dated November 16, 2022, from Ray Sanders which provides “permission to put some of [Mansker’s] stock in his pasture (APN 404-11-017); (2) an undated letter from Carol “Montana” Renkema with “permission to use [her] property for [Mansker’s] livestock (APN 404-12-420B); and (3) an undated letter from Robert (Bob) Ashcraft to Mr. Mansker providing “permission to put his animals on my land” (APN 404-12-418C, 404-12-418, and 404-12-418G). These letters and a map of the property purporting to increase the animal count by use of these properties is attached.
- E. **Scope of Interpretation**. This interpretation analyzes (1) how to calculate maximum animal counts and (2) efforts to increase a lot’s animal count by use of adjoining properties (including the requirements for such permission to be valid).

**Applicable Code Sections:**

Section 305 of the Zoning Code provides, in relevant part:

**A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

**B. Animal Points Allowed per Acreage**

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 POINTS	Miniature horses, Ponies and Sicilian donkeys:	6 POINTS
Emus:	3 POINTS	Ostriches:	6 POINTS
Pygmy goats:	3 POINTS	Cattle:	12 POINTS
Sheep, Goats:	4 POINTS	Domestic deer:	12 POINTS
Llamas:	6 POINTS	Horses, Mules, and Donkeys	12 POINTS

**Interpretation:**

- A. **Initial Calculations**. Animals which are cared for by the property owner or occupant are subject to the Animal points per Zoning Code – often referred to as the Animal Unit Count. Lots of one-half acre to one acre may total 24 points. This number can be increased by an increment of six points for each additional, contiguous quarter acre.



Although various sized animals have a different point count, large animals such as horses and cattle, are allowed at a rate of two (2) per acre. As applied to Mansker he is allowed a total of nine (9) large animals on his two contiguous parcels.

- B. **Increase in Animal Count.** The Zoning Code provides an increase in the allowable number of points as stated above “*for each additional, contiguous quarter acre.*” The interpretation of that language is key in this interpretation.
- C. **Definition of “Lot”.** A lot is defined in Section 103 of the Zoning Code as: “*A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.*” From a real property perspective, a parcel of property or lot is necessarily created by someone – an “owner” who legally established real property rights through plat, subdivision, or other legal process. The question of who owns the lot, or who has the *right to possession* and use of the lot (including the right to exclude others), is paramount in this interpretation.
- D. **Meaning of Each Additional, Contiguous Quarter Acre.** The definition of “*contiguous*” for purposes of calculating animal points is best interpreted as *immediately adjacent* to the receiving property and not contiguous to other transferring properties. In other words, there is a limit to how many neighbors could approve use of their property for purposes of increasing the total number of animals. The purpose of the Zoning Code is to limit animals to avoid nuisances and concentration of animals on any one property. Restricting the meaning of contiguous to immediately adjacent is important to not defeat the purpose of the restriction. A strict reading of the quarter acre exception (“*Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.*”) would require that the same person or persons own the land constituting the primary parcel and the contiguous land.

A more expansive reading of the exception would allow increases in the animal count through leases, licenses, or other valid legal instrument, i.e., legally recognized documents for the transfer of rights in real property. However, even this more liberal interpretation is still subject to properties immediately adjacent to the receiving property.

Under the second analysis, Mansker, who owns 404-12-422D and 404-12-422C, would be able to increase his animal count of nine (9) large animals if he obtains legal rights to the following lots: 404-11-017, 404-12-420B, and 404-12-418. However, the practice of extending to 404-12-418C and 404-12-418 G should be discontinued as these are not immediately adjacent lots.

- E. **Validity of Neighbor Permissions.** Although the Zoning Code contemplates both owners and occupants having interest in lots for purposes of calculating animal points, nothing in the Zoning Code supports a reading that letters allowing some use or access to property are sufficient to increase the animal count. The transfer of the animal points must be done by some *form of formal legal instrument* (for example, a lease, license, or enforceable contract) and the transferring property must acknowledge that it gives up a *specific number* of points by transferring those rights to the receiving party. Transfer of



rights must be by a valid, binding legal obligation. The letters Mr. Mansker received from his neighbors are not enough to transfer rights under the Zoning Code.

- F. **Impact of Use.** Notwithstanding the foregoing analysis, the request for this opinion raises the question of whether a roping arena used by friends and community members on a fairly regular basis is even considered a permitted use under the Mansker property's current Residential Rural (R-R) zoning, which permits "*agriculture and cultivation*" and the "*keeping of farm animals*". The Zoning Ordinance does not have a specific listing for "arena" or "cattle roping" as a permitted or conditionally permitted use.

Although the purpose of this interpretation is to identify the proper procedure for calculating animal count, this does raise the question of use. Should the use of the roping arena for cattle roping events for friend and community members be considered a permitted use in the R-R District? Note that the Zoning Ordinance does allow "*other accessory uses commonly associated with [a] primary permitted use*". An interpretation may be needed to determine whether an arena or cattle roping could be considered an allowed accessory use.

The Arizona Court of Appeals dealt with a similar fact pattern in *Murphy v. Town of Chino Valley*, 163 Ariz. 571 (App. 1989). Like the facts here, the Murphys used a roping arena on their property to host events that attracted up 30-40 people on a regular basis and over 100 people at certain times. The Appeals Court concluded, similar to the Camp Verde Zoning Code, that:

"A roping arena, where the owners and numerous others participate in competitive roping is not expressly within the scope of any of the listed uses for the zoning district. If the roping arena is to be considered a permitted use, it must come under the definition of an accessory use."

The Town's Zoning Code defines "Accessory Use" as a use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal use. Regarding the keeping of animals, Section 305 of the Zoning Code states, "Keeping of **farm animals** in appropriate locations and circumstances is regarded as being consistent with the Town's rural character." Farm animals are animals used for agricultural purposes, meaning the production, keeping or maintenance, for sale, lease or personal use, animals useful to man, including the breeding and grazing of any or all of such animals.

The Court of Appeals (in *Murphy*) found that it would be reasonable to conclude that a roping arena where friends and community members are invited for competitive and practice cattle roping events is not an accessory agricultural use. *Murphy*, 163 Ariz. 571, 577.

While the Mansker arena may be a lesser scale than the Murphy arena, the extent of the impact of this activity on the neighborhood is not disputed. There are complaints that the arena activities are noisy, result in flies, dust and unwanted odors.

Mansker's use of the roping arena for friend and community member cattle roping events is more aligned with the Town's agritourism use, which is defined as "the act of visiting a working farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle. Visitors may participate



in events and services related to agriculture which may take place on or off the farm or ranch, and that connect consumers with the heritage, natural resource or culinary experience they value.”

Ultimately, given the cap on animals and type of activities conducted on the Mansker property, the Town recommends that the Manskers apply for and obtain an Agritourism use permit which is better suited to addressing the impact of the current and future roping arena uses. Inviting large numbers of people and holding events is best addressed by use permit with the ability to put conditions on the approved use.

**Conclusion:**

The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot.

Owners that wish to increase their number of animals have options, including to purchase or lease contiguous areas or apply for an Agritourism use permit if located in the Residential-Rural area which may allow an increase in the total animal count with the approval of conditions that limit the impact on neighbors. Specifically, Section 203, subsection D “R-R District” has rules for rural, large lot residential uses that allow for Agritourism uses with a Use Permit that can mitigate negative impacts by requiring adequate separation requirements, mitigation against noise, traffic, dust and other environmental factors on nearby residential uses, and other provisions for public health and safety.

**Approvals:**

Interpretation:

By: John Knight  
Title: Community Development Director

Date: February 9, 2023

Copy: Gayle Mabery, Interim Town Manager  
Trish Stuhan, Town Attorney

**Attachments:**

- Map of Affected Properties
- Letters from neighbors allowing use of their property
- Murphy v. Town of Chino Valley decision
- Relevant Zoning Code Sections (103 – Definitions, 203 – D. R-R Use District, 305 – Animals)



Revised 06/05/18

Application #: 20230176

RECEIVED  
MAR 23 2023



R1E70  
Yes Flood

# Land Use Application Form

1. Application is made for:

- |                                           |                     |                      |
|-------------------------------------------|---------------------|----------------------|
| Zoning Map Change                         | Use Permit          | Temporary Use Permit |
| Conceptual Plan Review                    | Preliminary Plat    | Final Plat           |
| PAD Final Site Plan Review                | Variance            | Appeal               |
| Street Abandonment                        | Minor Land Division | Wireless Tower       |
| Administrative Review                     | Lot Line Adjustment | Zoning Verification  |
| Development Standards Review (Commercial) | Other: _____        |                      |

2. Project Name: Zoning Interpretation

3. Contact information: (a list of additional contacts may be attached)

Owner Name: _____	Applicant Name: <u>Stephen Magoon/Jill Irvin</u>
Address: _____	Address: _____
City: _____ State: _____ Zip: _____	City: <u>Camp Verde</u> State: <u>AZ</u> Zip: <u>86322</u>
Phone: _____	Phone: _____
E-mail: _____	E-Mail: _____

4. Property Description: Parcel Number 404-11-027A Acres: 4.18

Address or Location: \_\_\_\_\_

Existing Zoning: \_\_\_\_\_ Existing Use: \_\_\_\_\_

Proposed Zoning: \_\_\_\_\_ Proposed Use: \_\_\_\_\_

5. Purpose: (describe intent of this application in 1-2 sentences)

To appeal the portion of the Zoning Interpretation that allows for the transfer of animals points by lease, license or any mechanism.

6. Certification:

I certify that I am the lawful owner of the parcel(s) of land affected by this application and hereby consent to this action. I have also attached a completed Permission to Enter form for consent to access the property regarding this action.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

I certify that the information and attachments I have submitted are true and correct to the best of my knowledge. In filing this application, I am acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the Town of Camp Verde must be submitted prior to having this application processed.

Applicant: [Signature] Date: 3/23/2023

404-11-028  
Jill Irvin & Stephen Magoon  
RES: BOA Appeal; Animal Counts  
3510 S Sierra Ln  
20230176

RECEIVED

MAR 23 2023

March 23, 2023

We are requesting an appeal of the Zoning Ordinance, signed and dated February 9, 2023 by John Knight, for the reasons set forth herein

We live at APN 404-11-027A ("Irvin Property"), which is across the street from two parcels Trampus Masker owns: [REDACTED] Mansker routinely exceeds the farm animal count at the Mansker Property. Irvin, in turn, has complained to the Town of Camp Verde ("Camp Verde") on several occasions, but to date Camp Verde has taken no action to remedy Mansker's repeated violations.

As a result of Mansker's violations of the animal count limits contained in the Ordinance, Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although, a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use animal points from a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing property or licensing animal points from the owner(s) of contiguous property and then using the acquired animal points to house and care for the farm animals on the original Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by leasing contiguous property or obtaining a license for the animal points and "using" that property's animal points to countenance having an excessive number of farm animals on Mansker's own Property.

The part of the Interpretation authorizing a landowner to increase its animal count points by leasing property from a contiguous landowner or by obtaining a license transferring those animal points is unavailing, lacks serious merit and is not supported by the relevant terms and conditions of the Ordinance. If this Interpretation is allowed to stand it would have the effect of creating a transferable asset, in this case Animal Points, where one did not otherwise exist. Camp Verde and the Board of Adjustment should reverse that portion of the Interpretation permitting a landowner to increase its animal's points on a given parcel by obtaining a license assigning those points or acquiring them by leasing contiguous property of a neighboring landowner. A more detailed analysis from our attorney will be submitted in advance of the meeting.

Signed,



Stephen Magoon



Jill Irvin

RECEIVED

MAR 23 2023

Subject: Appeal to Board of Adjustment & Appeals  
Re: Animal Count Interpretation

We have lived at [REDACTED] in Camp Verde for the past twelve years on 3.6 acres. The point system in our Town Code regulating kinds and numbers of animals, allows us to enjoy a rural life style with adequate restrictions to have the animals we love without negatively impacting the land or our neighbors. We bought our property with this understanding and believe that the Town has an obligation to enforce these restrictions to protect people, animals, and property values.

The allowable points are attached to a particular property to insure that the owners can enjoy their property without adversely impacting the quality of life of their neighbors and/or the surrounding community. These points are not something that can be traded, bought, sold or gifted. They come with and remain with the property. Limiting the kinds and numbers of animals that can reside or be kept on any particular property, also results in limiting the amount of manure, urine, and vermin, thus promoting a safe, healthy, and positive environment for people and animals alike.

The point system must be enforced as intended. Failure to do so is a dereliction of the responsibility on the part of the planning and zoning department to insure a safe, healthy, and peaceful community. The inconsistency, the hesitation, and the failure to enforce the Animal Count restrictions results in frustration, favoritism, unrest, and lack of confidence in governance throughout our town.

Respectfully,

Nils and Janet Anderson

*Nils A. Anderson*  
*Janet S. Anderson*

RECEIVED

MAR 23 2023

DI & PI Grondin

Town of Camp Verde  
Board of Adjustments/Appeals

RE: 'Administrative Decision'

Please accept this letter, with respect to the 'Administrative Decision' recently made, and the reason for this appeal, as our letter in total opposition to the 'Decision' as rendered. The decision is to allow for the transfer of points from one property to another, thereby allowing a property owner to exceed the total number of points allowed per town code on any given piece of property.

The following points have been numerically placed to better define our opposition.

- 1) Per the Town of Camp Verde 'best practices' guidelines, page 5; para 3: "Actions requiring approval by ordinance include...adopting code or code amendments". A 'transfer of points' certainly meets the definition of a code amendment.
- 2) The conclusions by the Community Development Director in his own 'record of interpretation' states the following; page 1: "certain livestock are prohibited in residential areas....other conditions are imposed to limit negative impacts..."; page 2: animals which are cared for by the property owner or occupant are subject to the animal points per zoning code"; page 3: "...purpose of the zoning code is to limit animals to avoid nuisance..." page 3: "...nothing in the zoning code supports a reading that 'letters' are sufficient to increase the animal count"; page 5: Conclusion..."it is not enough to have permission to use or temporarily move animals around on a neighbors lot". Seems the CDD has determined himself that the property in question has violated the Town Code.
- 3) Town Code 305(A): "...the number, size, type or manner in which the animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties..." Seems pretty obvious there is a violation given the complaints.

So all of this begs but one question, WHY are we here? The property in question has been and continues to be in violation of the town code pertaining to animal points, period. This so called "transfer of points" is neither legal nor allowable in any Arizona State, Yavapai County, or Town of Camp Verde ordinance.

We urge the Board of Appeals to negate this current administrative decision & subsequently force the Town Code Enforcement officer to do 'due diligence' with respect to enforcing current zoning codes and restrictions.

All due respect;

David J. Grondin



Patricia J. Grondin



RECEIVED

MAR 23 2023



RES: BOA Appeal:  
Calculations of animal  
Appeal points

Staff Use Only	
Application Number:	
Received By:	JK
Date:	
Fees Paid:	\$540.75
Complete:	<input checked="" type="radio"/> Y <input type="radio"/> N

### Application Instructions

*Even with the most careful drafting of a Planning & Zoning Ordinance, unforeseen complications can arise. Planning & Zoning Ordinances are often long and complex and even with the most experienced and well-trained Enforcement Officer or Community Development Director, disagreement regarding interpretations of the Zoning provisions may result.*

### Required for an Appeal

**Complete sets of these documents are required at the time of application.**

**The required quantities are shown next to each item. (See Part 6 Section 602 B)**

Staff Use only

- |    |                                                                             |                                                            |
|----|-----------------------------------------------------------------------------|------------------------------------------------------------|
| 1. | Application submittal made within 45 days after decision has been rendered. | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 2. | Letter of request for appeal specifying the grounds.                        | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 3. | Application fee as per the current fee code.                                | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 4. | Completed <i>Land Use Application</i> .                                     | <input checked="" type="radio"/> Y <input type="radio"/> N |

#### Appeals from Administrative Decisions

The Board of Adjustment & Appeals, on deciding appeals from decisions of the Community Development Director (Zoning Administrator), is responsible for interpreting the meaning and equitable application of the Zoning Ordinance.

1. Appeals to the Board of Adjustment & Appeals may be filed by persons aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the Community Development Director, within a period of 45 days by filing, in writing, with the Community Development Director and with the Board, a notice of appeal specifying the grounds thereof.
2. The Community Development Director shall immediately transmit all records, pertaining to the action appealed, to the Board of Adjustment & Appeals.
3. An appeal stays all proceedings in the matter appealed, unless the Community Development Director verifies to the Board of Adjustment & Appeals after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed other than by a restraining order granted by the Board or by a court of record on application and notice to the Community Development Director.
4. A person aggrieved by a decision of the Board of Adjustment & Appeals, or a taxpayer or municipal officer may, at any time within 30 days after the Board has rendered the decision, file a complaint in the Superior Court to review the decision. Filing of the complaint shall not stay proceedings upon the decision appealed, but the court may, on application, grant a stay, and on final hearing may reverse or affirm wholly or partly, or may modify the decision received.

#### Hearings

The Board of Adjustment & Appeals shall fix a reasonable time for the public hearing of an appeal; and shall give public notice thereof, by both publication in a newspaper of general circulation in accordance with ARS 9462.04 as it exists now or as it is amended from time to time, and by posting notices in conspicuous places close to the property affected, as well as due notice to the parties in interest, including first class mail notice to all owners of record of properties located within 300 feet of the subject property.

1. At the public hearing, any applicant may appear in person or by representative, and may present their appeal orally or by documentary materials and submit rebuttal as may be necessary.
2. The chair shall have the power to administer oaths and take evidence in accordance with ARS 9462.06, as may be amended.
3. The Board shall reach its decision within a reasonable time.

## **PART 6 Section 602 B**

### **B. Appeals from Administrative Decisions**

The Board, on deciding appeals from decisions of the Community Development Director (Zoning Administrator), is responsible for interpreting the meaning and equitable application of the Zoning Ordinance.

1. Appeals to the Board may be filed by persons aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the Community Development Director, within a period of 45 days by filing, in writing, with the Community Development Director and with the Board, a notice of appeal specifying the grounds thereof.
2. The Community Development Director shall immediately transmit all records, pertaining to the action appealed, to the Board.
3. An appeal stays all proceedings in the matter appealed, unless the Community Development Director verifies to the Board after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed other than by a restraining order granted by the Board or by a court of record on application and notice to the Community Development Director.
4. A person aggrieved by a decision of the Board, or a taxpayer or municipal officer may, at any time within 30 days after the Board has rendered its decision, file a complaint in the Superior Court to review the decision. Filing of the complaint shall not stay proceedings upon the decision appealed, but the court may, on application, grant a stay, and on final hearing may reverse or affirm wholly or partly, or may modify the decision received.

### **C. Hearings**

The Board shall fix a reasonable time for the public hearing of an appeal; and shall give public notice thereof, by both publication in a newspaper of general circulation in accordance with ARS 9-462.04 as it exists now or as it is amended from time to time, and by posting notices in conspicuous places close to the property affected, as well as due notice to the parties in interest, including first class mail notice to all owners of record of properties located within 300 feet of the subject property.

1. At the public hearing, any applicant may appear in person or by representative, and may present their appeal orally or by documentary materials and submit rebuttal as may be necessary.
2. The chair shall have the power to administer oaths and take evidence in accordance with ARS 9-462.06, as may be amended.
3. The Board shall reach its decision within a reasonable time.

**Yavapai County Print Parcel**



<b>Parcel ID</b>	404-11-027A	<b>Check Digit</b>	7	
<b>Owner</b>	Magoon Stephen T &			
<b>Owner's Mailing Address</b>	[REDACTED]			
<b>Secondary Owner</b>	Irvin Jill D RS			
<b>Recorded Date</b>	N/A			
<b>Last Transfer Doc Docket</b>	N/A	<b>Last Transfer Doc Page</b>	N/A	
<b>Physical Address</b>	3510 S Sierra Ln 3460 S Sierra Ln		<b>Incorporated Area</b>	Town of Camp Verde

<b>Assessor Acres</b>	4.18	<b>Subdivision</b>	Sierra Verde Estates	<b>Subdivision Type</b>	M
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<b>School District</b>	Camp Verde Unified SD #28	<b>Fire District</b>	Copper Canyon Fire And Medical
------------------------	---------------------------	----------------------	--------------------------------

<b>Improvements (2)</b>	<b>Local Zoning</b>
<b>Type:</b> Single Family Residential <b>Year Built:</b> 1993 <b>Floor area ? :</b> 2874 <b>Multi Level:</b> Yes <b>Below Grade Area ? :</b> None <b>Basement ? :</b> No	Town Of Camp Verde R1L-70
<b>Type:</b> Stable <b>Year Built:</b> 1999 <b>Floor area ? :</b> 2200 <b>Multi Level:</b> No <b>Below Grade Area ? :</b> None <b>Basement ? :</b> No	

**Assessment**  
 Starting with the 2015 tax year, the Limited Property Value is the only value considered for taxation purposes, the Full Cash Value is no longer used for taxation.

Tax Year	2024	2023
Assessed Value(ALV)	\$36,949	\$43,436
Limited Value(LPV)	\$352,789	\$374,713
Full Cash(FCV)	\$650,620	\$667,194
Legal Class	Mixed	Mixed
Assessment Ratio	10.5%	11.6%
Usage Code	0130 ?	0130 ?

<b>Taxes</b>	<b>2022 Taxes Billed</b>
<b>Tax Area Code</b>	2877
	\$

**Recorded Documents & Sales (0)**  
 No Recorded Documents were found.

**Disclaimer:** Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. Users should independently research, investigate and verify all information.

By using this website, the user knowingly assumes all risk of inaccuracy and waives any and all claims for damages against Yavapai County and its officers and employees that may arise from the use of this data and agrees to indemnify and hold harmless Yavapai County and its officers and employees to the fullest extent permitted by law. By using this website, the user also agrees that data and use of this website may not be used for commercial purposes.

## ATTACHMENT C

2. Ensure that citizens, property owners and neighbors have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve potential concerns at an early stage of the process; and
3. Facilitate ongoing communication between the applicant, interested citizens, property owners, and town staff, throughout the application review process.

The Public Participation Plan is not intended to produce consensus on all applications, but will encourage all applicants to be good neighbors and to allow for an informed decision-making process enabling the Town Council to meet its commitment to ensure that public participation is used in enhancing development and uses throughout Camp Verde.

### Public Participation Results:

A series of presentations were conducted from January – March of 2016 to gather public input for the General Plan amendment process. During that time, nine presentations were given. Listed below are the main concerns voiced by members of the public who attended the presentations and provided input:

**TABLE 1.1 – General Plan Public Participation Results:**

2004	2016
GENERAL PLAN PUBLIC PARTICIPATION RESULTS:	GENERAL PLAN PUBLIC PARTICIPATION RESULTS:
<b>Top Qualities To Preserve:</b>	<b>Top Qualities To Preserve:</b>
1. Friendliness	1. Friendliness; Historic; Western Rural Character
2. Historic	2.
3. Western/Rural Character	3.
4. Small Town	4. Maintained Roads
5. Maintained Roads	5. Small Town
<b>Top Assets/Characteristics For The Future:</b>	<b>Top Assets/Characteristics For The Future:</b>
1. More Business	1. More Business
2. Job Opportunities	2. Job Opportunities
3. Health/Medical Care	3. Health/Medical Care
4. Verde River Access; Wildlife/River Protection	4. Verde River Access
5.	5. Wildlife/River Protection
<b>Three Greatest Needs:</b>	<b>Three Greatest Needs:</b>
1. Job Opportunities	1. Job Opportunities
2. Preserving Open Space	2. Neighborhood Upkeep
3. Neighborhood Upkeep	3. Preserving Open Space
<b>Three Biggest Future Concerns:</b>	<b>Three Biggest Future Concerns:</b>
1. Water Quality/Quantity	1. Water Quality/Quantity
2. Increase In Traffic	2. Lack Of Medium Priced Homes
3. Lack Of Medium Priced Homes	3. Increase In Traffic
<b>Three Strongest Assets:</b>	<b>Three Strongest Assets:</b>
1. Verde/River	1. Verde/River
2. Western/Rural Lifestyle	2. Open Space/Scenery
3. Open Space/Scenery	3. Western/Rural Lifestyle
<b>Top Five Attributes You Want Camp Verde Recognized For By 2026:</b>	<b>Top Five Attributes You Want Camp Verde Recognized For By 2026:</b>
1. Western/Rural Character	1. Verde River Wildlife Protection
2. Visually Attractive	2. Visually Attractive
3. Historic Preservation	3. Western/Rural Character
4. Verde River Wildlife Protection	4. Historic Preservation
5. Open Space/Scenic Views	5. Open Space/Scenic Views



## Goals & Implementation Strategies:

### **A. Goal: Preserve and enhance the prehistoric and historic past.**

#### **Implementation Strategy:**

- A. 1. Continue to support and promote organizations such as the Camp Verde Historical Society, Verde Valley Archaeology Center, Fort Verde State Historic Park, and others to preserve and interpret Camp Verde's agricultural heritage and unique historical past.
- A. 2. Continue to work cooperatively with the Yavapai-Apache Nation and other Native American cultures to preserve and interpret our collective past.
- A. 3. Enhance the Town's "sense of place" by promoting projects throughout the community that recognize, interpret and preserve our prehistory, history, arts and culture.
- A. 4. Encourage the identification of historic buildings, residences and landscape features with descriptive markers which recognize their place within our community's past.
- A. 5. Support the continued designation, preservation and interpretation of historic trails, districts and landmarks.
- A. 6. Encourage the restoration and reuse of historic properties.
- A. 7. Encourage new development to be compatible with the Town's history and architecture.

### **B. Goal: Support and enhance arts and culture.**

#### **Implementation Strategy:**

- B. 1. Support and encourage local art.
- B. 2. Support programs which preserve and enhance cultural events.
- B. 3. Support and encourage recognition of our agricultural heritage.
- B. 4. Develop cooperative programs with citizens, groups, schools, businesses, governmental agencies and non-profit organizations with the goal of celebrating our prehistory, history, arts and culture.

## **ATTACHMENT D**

### **PART SIX. ADMINISTRATION AND PROCEDURE**

#### **SECTION 600 - DEVELOPMENT DECISION AUTHORITY**

##### **C. Town Council**

As the governing body, the Town Council determines and oversees Town development policies for consistency with the adopted General Plan, considering public testimony, recommendations from the Planning and Zoning Commission or other advisory bodies, and staff where applicable. Council exercises the Town's legislative authority.

1. The Town Council, responsible for considering and acting upon applications for development entitlements may, from time to time, after public hearings and Planning and Zoning Commission report as prescribed herein, amend, supplement or change zoning boundaries, zoning text or subdivision text regulations. Any such proposed amendments may be initiated by the Planning and Zoning Commission, the Town Council or by application of property owners.

2. Council exercises final decision-making authority on recommendations received from advisory bodies or staff pertaining to applications including, but not limited to:

- a. Use Permits; and
- b. Subdivision plats.

3. Council appoints development guidance advisory bodies, the Planning and Zoning Commission (See Section 600D), with a membership of seven members, and the Board of Adjustment and Appeals (See Section 600E), with a membership of five members, appointed for terms of three years as stated in Article 4-1 of The Town Code.

- a. The Council shall establish regular meeting dates, times and meeting place by Resolution in January of each year for the Commission and Board. The Chair of either body may schedule special meetings and work sessions subject to approval by the Town Manager.
- b. Meetings of the Commission and Board are held as stated in Article 4-3 of the Town Code and shall be open to the public, with minutes of its proceedings, showing the votes of each member and records of its determinations, recommendations and other official actions kept and filed in the Community Development Department as a public record. The secretary of the Commission and Board shall be a member of the Community Development Department staff.

- 1) For the Planning and Zoning Commission, at least four members shall be present to conduct a meeting.

2) For the Board of Adjustments and Appeals, at least three members shall be present to conduct a meeting.

3) In the event a quorum of four members or three members, respectively, are the total members present, then a unanimous vote must be cast to recommend approval or denial.

### **E. Board of Adjustment and Appeals**

The Board of Adjustment and Appeals, established by Ordinance 89-A33 of the Town of Camp Verde, serves in a quasi-judicial capacity, hearing and deciding appeals from the decision of the Community Development Director, or designee, pursuant to (Ord. 95-A107) and ARS 9-462.06, as may be amended.

Duties of the Board of Adjustment and Appeals, as set forth in ARS 9-462.06, include:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Community Development Director, or designee, in the enforcement of the Zoning Ordinance by reversing or affirming, wholly or in part, or modifying the order, requirement, decision appealed from and make such order, requirement, or decision or determination as necessary.
2. Hear and decide appeals for variances from the terms of the Zoning Ordinance in accordance with the requirements and criteria of Section 602-A.



# Town of Camp Verde

## Community Development Department

◆ 473 S. Main Street, Suite 108 ◆ Camp Verde, Arizona 86322 ◆  
◆ Telephone: 928.554.0050 ◆ [www.campverde.az.gov](http://www.campverde.az.gov) ◆

April 5, 2023

Dear Landowner:

You are receiving this letter because a landowner within 300 feet of your parcel has submitted an application to the Town of Camp Verde, or you have personally expressed interest in this issue. This appeal will be heard by the Board of Adjustments and Appeals on:

**Tuesday, May 9<sup>th</sup>, 2023, at 3pm**  
**in the Council Chambers, 473 S. Main Street, Camp Verde, AZ.**

**Application No:** 20230176

**Applicant/Owner:** Jill Irvin and Stephen Magoon

**Request:** The applicants have applied to the Board of Adjustments and Appeals regarding an interpretation of the Animal Count on contiguous property that was rendered by the Community Development Director.

The agenda with accompanying documentation will be available on the Town website approximately 1-week prior to the meeting. It may be found at: <https://www.campverde.az.gov/departments/boards-commissions/board-of-adjustments-appeals>

This is a public meeting which you may attend and be heard regarding this matter.

Additional information may be obtained by contacting the Community Development Department at (928) 554-0050, or by emailing [john.knight@campverde.az.gov](mailto:john.knight@campverde.az.gov). Written comments may be dropped off at the Community Development Office, located at 473 S. Main Street, Suite 108, or may be mailed to the Department at 473 S. Main Street, Suite 108, Camp Verde, AZ 86322.

Comments received by close-of-business Monday, May 1st, 2023, will be included in the packet for the Board Members. Comments received after the above date will be given to members at the meeting.

Respectfully,

John Knight, Director  
Community Development, Town of Camp Verde  
[John.Knight@campverde.az.gov](mailto:John.Knight@campverde.az.gov) or (928) 554-0053

cc: Project File



**Gail Pate**

MAY 01 2023

To: The Camp Verde Board of Adjustments and Appeals

RE: Appeal to Zoning Interpretation – Record of Interpretation 2023-01

The premise that the Town Code listing of animal points allows for "points" to be traded is false. No points go with a deed. They are restricted to the actual land on which the animals reside and are managed. Points are not a tradable commodity.

The point system was designed to set limits on carrying capacity of acreages to regulate best livestock husbandry practices, sanitary protections for neighboring properties, protection of wells on adjacent properties, air quality, vermin and insect control, noise control and any other nuisances which may arise due to overstocking of animals on a parcel. The points are not in any way to be considered as a commodity to trade to another parcel. There is no such thing as points under these codes to be loaned to an owner of another property. Points are used as a simple way to quantify different species of domestic animals fairly and equitably based upon body size, manure quantity, urine quantity, the animal's needs for movement, etc.

If an adjacent property actually houses the animals on that property full time then that parcel's point system and only that parcel's point system applies. The allowance for that parcel cannot be used to go over the code limits on any adjacent property. Unless the animals are most of the time resident on a property they are not considered to be housed under that parcel's points. The entire reasoning for points is to avoid overstocking. In reading the enclosed request it appears the property owner wants to grossly overstock his acreage to keep for extended periods of time far more animals than is reasonable for 4.7 acres and in numbers far in excess of the existing Town Code. It defeats the entire purpose of the Town Code to allow animals to be overcrowded on one parcel and claim that points were given from other parcels. Points cannot be traded as a commodity. They are simply a regulatory system to measure animal holding allowances.



Gail Pate

## Opposition to Zoning Interpretation Record of Interpretation 2023-01

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March 23, 2023

RECEIVED

MAY 01 2023

To Whom It May Concern:

On February 9, 2023, Community Development Director, John Knight issued the Zoning Interpretation, Record of Interpretation, 2023-01. This document addresses how the Calculation of Animal Points would be interpreted, not only for the property in question, but all properties in Camp Verde moving forward.

In the summary of the document, Mr. Knight stated: "The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot." Section 305 clearly indicates that the animal count is based on a specific parcel. The leasing or purchasing of additional parcels would not change the number of animals allowed on the specific parcel. The Animal Code was written to ensure that large numbers of animals were not allowed to congregate on any one parcel. It does not allow for you have several parcels of land and share the points between parcels, but allows for an individual who owns a larger parcel to have more animals.

The concept that one could purchase or lease other parcels to increase the animal count on one parcel defeats the intent of the Animal Code, which is "the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject."

Additionally, the document indicates that the acquisition of an Agritourism Use Permit may allow for a larger animal count. Nowhere in the Town Ordinance does it indicate that an individual can request a larger animal count by simply acquiring or applying for an Agritourism Use permit.

We have been told that if this document is allowed to stand as written it will be the mechanism that the calculation of animal points moving forward will be used. This sets precedence for our entire community without the benefit of public input and was never the intent of the actual ordinance.

I am asking that the Board of Appeals and Adjustments review the written document and remove any statements that are not based on the actual Town Ordinances or official case law. The decision of this body will be setting precedence for the future of our Town and the facts should be carefully weighed.

Respectfully,



Cheryl (Cheri) Wischmeyer

# Wischmeyer Review of Zoning Interpretation 2023-01

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MAY 01 2023

## Purpose

The purpose of this document is to provide a review and analysis of Zoning Interpretation 2023-01 (the interpretation) that was issued by Camp Verde Community Development Director John Knight.

In Mr. Knight's document he states the purpose is "To provide clarification regarding the maximum number of livestock allowed on a lot."

The purpose of appealing this Zoning Interpretation is that Mr. Knight has misinterpreted the Animal Code and the Agritourism Definition. If this interpretation is allowed to stand it will have long reaching effects throughout the entire community and it will set the precedence for how the Animal Code is enforced moving forward.

Mr. Knight has the authority to issue administrative decisions; however they may not contraindicate laws or codes that are already in place. It is our opinion that this Zoning Interpretation does not make an interpretation that coincides with the Animal Code or the definition of Agritourism, but rather rewrites those actual meanings. This type of action would require a vote of the Council in a public meeting, and this has not occurred.

At a recent joint work session with the Town Council and Planning and Zoning Commission, Mr. Knight admitted that the Camp Verde Animal Code is already the least restrictive of all Towns in the area, as well as Yavapai County. If that is the case, why is he attempting to make it even less restrictive through this Zoning Interpretation?

## Review and Analysis

In order to review this document, we must first identify some definitions. These terms are used throughout Section 305 of the Planning and Zoning Ordinance, referred to as the Animal Code in this document. The definitions are:

**Lot:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**Parcel:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.



# Wischmeyer Review of Zoning Interpretation 2023-01

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The animal code clearly identifies the number and type of animals allowed on a lot or parcel of land by assigning points. The first ½ acre to one acre of land receives 24 points and each additional ¼ acre receives 6 points for each additional, contiguous quarter acre.

**It is important to note that the Animal Code clearly identifies this as a lot for the purpose of the contiguous quarter acre and does not anywhere indicate that this may incorporate multiple lots into the animal points for a specific lot.**

The mere idea that the owner of a small parcel could lease a neighbor's contiguous property to increase the animal points on their property totally defeats the purpose of the Animal Code – "Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject."

It is also important to note that the issue at hand is not the keeping of farm animals. The right to keep farm animals is part of what Camp Verde is and those rights should be maintained. What we are opposing is the interpretation's false premise that someone can legally lease or license neighboring property that is contiguous to their property and then use those animal points to increase the number of animals on their property. Mr. Knight's interpretation even indicated that the Town has suggested at one point that he (Mansker) move some of his animals to adjacent neighboring properties to decrease the concentration of animals. This would have been an acceptable solution as long as the increased animal counts did not place the neighbors in violation of the Town's Animal Code. However, the Town did not follow through with this solution and therefore the excessive animal counts have continued.

Leasing land has been used in ranching communities for years, but that process has involved placing the animals on the land that is leased. In fact, a review of past animal count violations within Camp Verde indicates that for years this has been the suggested solution. When a property owner had too many animals on his property, he just asked his neighbor if he could use their pasture to house the excess animals. This has always worked, ensuring that there were no excess animals on any lot/parcel of land.

This is not the process that Mr. Knight is suggesting in his interpretation. He states "Owners that wish to increase their number of animals have options, including to purchase or lease contiguous areas ..." This statement is false as it does not accurately interpret the existing Animal Code.

The idea that animal points from contiguous property can be transferred from one property to another through a lease or license insinuates that animal points are a transferrable asset. This could not be further from the truth. Animal points are not an asset, but a benefit that is assigned to a specific lot/parcel of land of a certain size for the purpose of measuring the number of animals that can be housed on the lot based on its size. The points go with the land and are not transferrable.

## Wischmeyer Review of Zoning Interpretation 2023-01

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Mr. Knight has determined, based on the Animal Code calculations, that the maximum number of large animals on Mr. Mansker's property is nine, yet the Community Development Department admits that Mansker has had animal counts ranging between 15-34 animals – far in excess of the number Mr. Knight has identified as the allowed number and in two years they have never taken any enforcement action.

### Conclusion

In the conclusion of the Zoning Interpretation provided by Mr. Knight he states "The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot."

We do agree that the temporary moving of animals from lot to lot is not an acceptable solution, however, the fact that Mr. Knight intimates that the animal count numbers could be increased by a lease is not an acceptable interpretation of Section 305. Section 305.A.1&2 consistently refers to a lot and all contiguous additional acreage should be included in that particular lot/parcel.

Additionally, in the conclusion, Mr. Knight also indicated that if Mr. Mansker acquires an Agritourism permit he could increase his animal count. This too is an erroneous interpretation of the Town Code. The Town Code definition of Agritourism states "Is the act of visiting a working farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle." Mr. Mansker's property is not a working farm, ranch, agricultural or horticultural agribusiness, and therefore does not meet the criteria for an Agritourism Use Permit.

Mr. Mansker's property is primarily a residential property with a roping area that is utilized for recreational activities. Mr. Mansker has repeatedly stated that he has no intention of operating a commercial enterprise on his property. Additionally, nowhere in the Town Planning and Zoning Ordinance does it indicate that an individual may increase their animal count above the allowed amount in the Animal Code simply by applying for this type of permit.

It is requested that the Board reverse this zoning interpretation due to the numerous flawed perceptions it provides and the fact that it will dramatically change the intent of the existing animal code.

RECEIVED

MAY 01 2023

Subject: Appeal to Board of Adjustment & Appeals  
Re: Animal Count Interpretation

We have lived at 1587 S. Rio Verde Lane in Camp Verde for the past twelve years on 3.6 acres. The point system in our Town Code regulating kinds and numbers of animals, allows us to enjoy a rural life style with adequate restrictions to have the animals we love without negatively impacting the land or our neighbors. We bought our property with this understanding and believe that the Town has an obligation to enforce these restrictions to protect people, animals, and property values.

The allowable points are attached to a particular property to insure that the owners can enjoy their property without adversely impacting the quality of life of their neighbors and/or the surrounding community. These points are not something that can be traded, bought, sold or gifted. They come with and remain with the property. Limiting the kinds and numbers of animals that can reside or be kept on any particular property, also results in limiting the amount of manure, urine, and vermin, thus promoting a safe, healthy, and positive environment for people and animals alike.

The point system must be enforced as intended. Failure to do so is a dereliction of the responsibility on the part of the planning and zoning department to insure a safe, healthy, and peaceful community. The inconsistency, the hesitation, and the failure to enforce the Animal Count restrictions results in frustration, favoritism, unrest, and lack of confidence in governance throughout our town.

Respectfully,

Nils and Janet Anderson

*Nils A. Anderson*  
*Janet S. Anderson*

John J. Browder  
602-234-7800  
jjb@jhkmlaw.com

April 28, 2023

VIA E-MAIL: [jill.irvin@mc.com](mailto:jill.irvin@mc.com)

Ms. Jill Irvin  
Mr. Stephen Magoon  
3510 S. Sierra Lane  
Camp Verde, Arizona 86322

Re: Legal Opinion

Dear Jill and Stephen:

## I. INTRODUCTION

Stephen Magoon and Jill Irvin live at APN 404-11-027A (“Irvin Property”), which is across the street from two parcels Trampus Masker owns: APNs 404-12-422D and 404-12-422C (“Mansker Property”). Mansker routinely exceeds the farm animal count at the Mansker Property. Irvin, in turn, has complained to the Town of Camp Verde (“Camp Verde”) on several occasions, but to date Camp Verde has taken no action to remedy Mansker’s repeated violations.

As a result of Mansker’s violations of the animal count limits contained in the Ordinance, Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although, a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing or licensing property from the owner(s) of contiguous property and then using the lessor’s animal points to house and care for the farm animals on the lessee’s Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by leasing contiguous property and “using” that property’s animal points to countenance having an excessive number of farm animals on Mansker’s own Property.

For the reasons set forth herein, the part of the Interpretation authorizing a landowner to increase its animal count points by the use of some form of legal instrument (for example, a lease, license or enforceable contract) from a contiguous landowner is unavailing, lacks serious merit and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the



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Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points with the use of a lease, license or enforceable contract of contiguous property of a neighboring landowner.

## **II. RELEVANT PROVISIONS OF CAMP VERDE'S PLANNING & ZONING ORDINANCE (THE "ORDINANCE")**

**LOT:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**-AREA:** The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT LINE:** A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

**LOT OF RECORD:** A lot which existence and dimensions are acknowledged on a plat or deed at the County Recorder's Office.

**PARCEL:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

**SECTION 305 – ANIMALS:** Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject. Any lot where farm livestock are kept must be not less than one-half acre (21,780 sq ft.) in area. 87 Fowl (chickens, ducks, geese, turkeys, and peacocks) rabbits, and guinea pigs, which are cared for the by the property owner or occupant as prescribed in Section 305.C.3, are not limited to a maximum number of animals.

### **A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use

Ms. Jill Irvin  
 Mr. Stephen Magoon  
 April 28, 2023  
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on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

### B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 Points	Miniature Horses, Ponies and Sicilian Donkeys:	6 Points
Emus:	3 Points	Ostriches:	6 Points
Pygmy Goats:	3 Points	Cattle:	12 points
Sheep, Goats:	4 Points	Domestic Deer:	12 Points
Llamas:	6 Points	Horse, Mules and Donkeys:	12 Points

### III. LEGAL ANALYSIS.

When construing a statute, a reviewing court's "goal is to find and give effect to" the drafter's intent. *Mail Boxes, Etc., U.S.A. v. Industrial Comm'n*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). The court looks "first to the plain language of the statute as the best indication" of the drafter's intent. *Id.* "Each word, phrase, and sentence must be given meaning so that no part will be [void], inert, redundant, or trivial." *City of Phoenix v. Yates*, 69 Ariz. 68, 72, 208 P.2d 1147, 1149 (1949). Although a statute's language must be consulted first, uncertainty about the meaning of the statute's terms may require the court to apply "methods of statutory interpretation that go beyond the statute's literal language." *Estancia Dev. Assoc., L.L.C. v. City of Scottsdale*, 196 Ariz. 87, 90, ¶ 11, 993 P.2d 1051, 1054 (App. 1999). These methods must include "consideration of the statute's context, language, subject matter, historical background, effects and consequences, and spirit and purpose," *id.*, as well as "the evil sought to be remedied." *Scenic Ariz. v. City of Phx. Bd. of Adjustment*, 228 Ariz. 419, 426, 268 P.3d 370, 377 (Ct. App. 2011), quoting *McElhaney Cattle Co. v. Smith*, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982).

By applying these principles to the Interpretation, it is amply clear that it is a fatally flawed analysis of the Ordinance's relevant terms. The first step in understanding why is to look at the pertinent language of the of the Ordinance itself:



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1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

As the Interpretation acknowledged, the definition of “lot” is critical to the Interpretation. This is because the allowable number of animal points may increase by six (6) points for every contiguous quarter acre increase in the lot’s area, provided the lot is at least one acre in size.

The core premise of the Interpretation is that a lease, license or enforceable contract of contiguous property increases the size or area of the “lot.” The premise is flawed. “Lot” is defined in pertinent part as “[a] parcel of land established by plat, subdivision, or otherwise permitted by law . . . .” It adds that the “area” within a lot is the “total area within the lot lines of a lot, excluding any street rights-of-way.” The definition of “lot line” is a “line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.” “Parcel,” in turn, is defined as “real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

Under these definitions, a “lot” is “real property with a separate or distinct number or other designation shown” on a “plan recorded in the office of the County Recorder,” or otherwise delineated on a recorded “survey, parcel map or subdivision plat,” and which abuts at least one public right of way. The “area” of the lot, which is necessary for computing the allowed number of animals on it, is the “total area” within its “lot lines,” or as defined by the Ordinance, “the line of record bounding a lot...”

Because the leasing, licensing or use of an enforceable contract of contiguous property does not increase the “area” of a “lot,” the Interpretation’s conclusion that owners may increase the number of animals in this way is legally invalid. After a purported “lease” or “license” of the contiguous lot, the lessee’s “lot” has exactly the same “area” as it did before the purported lease. Concomitantly, the “area” of the lessor’s “lot” also is exactly the same size as it was before the lease. In terms of the Ordinance’s definitions, the “area” of the lessee “lot” does not increase by leasing or licensing the contiguous property because the “line[s] of record” bounding it are exactly the same after the lease as they were before the lease. Leasing contiguous property is not legally sufficient to increase the lot’s “area” because leasing the ground does not increase the size of the

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lessee lot, i.e., its "area." A review of the respective lots' "line[s] of record bounding" at the County Recorder after the execution of any lease will reveal the exact same sized "lots" as they were before the lease or license of contiguous property. Because a lease of contiguous property does not enlarge the "lot" as the Ordinance defines that term, the Interpretation's conclusion to the contrary is unavailing and contrary to the law.

By contrast, if Mansker purchased property from a contiguous landowner and then adjusted his property's "line of record bounding" his property, then Mansker's "lot" would have increased in "area" such that he may be afforded additional animal points under the Ordinance. But "leasing" ground to purportedly obtain animal points without actually increasing the lot's "area" is not supported by the plain terms of the Ordinance.

Besides the fact that the Interpretation is not supported by the relevant plain terms of the Ordinance, the Interpretation contravenes the purpose of the Ordinance. The purpose of the Ordinance is "to conserve and promote the public health, safety, convenience and general welfare, by guiding and accomplishing a coordinated and harmonious town development for future growth." Ordinance, at § 101. Although the keeping of farm animals in "appropriate locations and circumstances" is consistent with Camp Verde's nature, the "number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties . . ." Ordinance, at § 305.

The Interpretation, which acknowledges it is an "expansive" reading, flies in the face of the stated purpose of the Ordinance. First, and significantly, the Interpretation does not analyze the effect that Trampus Mansker's roping activities have on the nearby properties, including the Irvin Property. Indeed, the Interpretation concedes that Mansker's "roping activities routinely exceed the allowable number of large animals," with numbers "often" ranging from 15 to 34 animals. As such, Mansker has not complied (and is not complying with) the Ordinance. But instead of reigning in Mansker's non-compliance, the Town appears ready and willing to reward him for violating the Ordinance based on the unavailing Interpretation. The message to the rest of the Town's citizens is (a) their interests may not, and in the case of Irvin, do not matter; and (2) the Town would rather forgive and reward non-compliance instead of taking appropriate action to prevent the impairment of Irvin's right to use and enjoy their Property.

Second, the Interpretation leads to the absurd result that, under the Ordinance, Mansker or a similarly situated landowner could enter into an agreement to house many, many more animals on a lot than would be allowed under the actual terms and conditions of the Ordinance. Put simply, if Mansker (a) had a neighbor who owned a contiguous parcel of property the size of which would permit the landowner to care and house, for example, a hundred head of cattle, and (b) Mansker leased the neighbor's contiguous property, Mansker could house and care for an additional 100 head of cattle on Mansker's 4.7 acres of property. It is absurd to conclude the Interpretation





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contemplates such a result. But that is exactly the door the Interpretation has opened. Ineluctably, the intent of the Ordinance is not to permit landowners such as Mansker to make an end-run around the animal count limits contained in the Ordinance simply by entering into a lease, license or other enforceable contract with an adjacent landowner. This is especially true because, as analyzed above, the plain terms of the Ordinance do not support the Interpretation.

Very truly yours,

John J. Browder

JJB:rba

**MAGOON-IRVIN**  
**APPEAL OF ZONING RECORDING INTERPRETATION 2023-01**  
**BASED ON LEGAL ANALYSIS PROVIDED BY JOHN J. BROWDER OF JHKM LAWYERS**

## **I. INTRODUCTION**

Stephen Magoon and Jill Irvin (collectively, “Magoon-Irvin”) live at APN 404-11-027A (“Magoon-Irvin Property”), which is across the street from two parcels Trampus Mansker owns: APNs 404-12-422D and 404-12-422C (“Mansker Property”). Mansker routinely exceeds the farm animal count at the Mansker Property. Magoon-Irvin, in turn, has complained to the Town of Camp Verde (“Camp Verde”) on several occasions, but Camp Verde has taken no action to remedy Mansker’s repeated violations.

As a result of Mansker’s violations of the animal count limits contained in the Ordinance, Magoon-Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use the animal points appurtenant to and a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing or licensing property from the owner(s) of contiguous property and then using the lessor’s animal points to house and care for the farm animals on the lessee’s Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by obtaining a license from or leasing contiguous property and “using” that property’s animal points to countenance having an excessive number of farm animals on Mansker’s own Property.

This is significantly different from leasing a piece of property and then distributing animals across the properties which is a long-standing practice in the farming and ranching community. If the intent of this Administrative Interpretation was to clarify that position it does not. This interpretation asserts that it is now the animal points that transfer from one property owner to another not that the animals have been distributed across multiple lots.

For the reasons set forth herein, the part of the Interpretation authorizing a landowner to increase its animal count points by leasing property from a contiguous landowner or by obtaining a license is unavailing, lacks serious merit, and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points via a license or by leasing contiguous property of a neighboring landowner.

## **II. RELEVANT PROVISIONS OF CAMP VERDE’S PLANNING & ZONING ORDINANCE (THE “ORDINANCE”)**

The following definitions and sections are relevant to the issue presented by the Interpretation.

**LOT:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**-AREA:** The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT LINE:** A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

**LOT OF RECORD:** A lot which existence and dimensions are acknowledged on a plat or deed at the County Recorder's Office.

**PARCEL:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

**ACCESSORY USE:** A use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal.

**PRINCIPAL OR PRIMARY:** The primary or predominant use of Lot or parcel.

**SECTION 305 – ANIMALS:** Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject. Any lot where farm livestock are kept must be not less than one-half acre (21,780 sq ft.) in area. 87 Fowl (chickens, ducks, geese, turkeys, and peacocks) rabbits, and guinea pigs, which are cared for the by the property owner or occupant as prescribed in Section 305.C.3, are not limited to a maximum number of animals.

#### **A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

### B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
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Sheep, Goats:	4 Points	Domestic Deer:	12 Points
Llamas:	6 Points	Horse, Mules and Donkeys'	12 Points

### III. LEGAL ANALYSIS.

When construing a statute, a reviewing court's "goal is to find and give effect to" the drafter's intent. *Mail Boxes, Etc., U.S.A. v. Industrial Comm'n*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). The court looks "first to the plain language of the statute as the best indication" of the drafter's intent. *Id.* "Each word, phrase, and sentence must be given meaning so that no part will be [void], inert, redundant, or trivial." *City of Phoenix v. Yates*, 69 Ariz. 68, 72, 208 P.2d 1147, 1149 (1949). Although a statute's language must be consulted first, uncertainty about the meaning of the statute's terms may require the court to apply "methods of statutory interpretation that go beyond the statute's literal language." *Estancia Dev. Assoc., L.L.C. v. City of Scottsdale*, 196 Ariz. 87, 90, ¶ 11, 993 P.2d 1051, 1054 (App. 1999). These methods must include "consideration of the statute's context, language, subject matter, historical background, effects and consequences, and spirit and purpose," *id.*, as well as "the evil sought to be remedied." *Scenic Ariz. v. City of Phx. Bd. of Adjustment*, 228 Ariz. 419, 426, 268 P.3d 370, 377 (Ct. App. 2011), quoting *McElhaney Cattle Co. v. Smith*, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982).

By applying these principles to the Interpretation, it is amply clear that it is a fatally flawed analysis of the Ordinance's relevant terms. The first step in understanding why is to look at the pertinent language of the of the Ordinance itself:

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.

2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

As the Interpretation acknowledged, the definition of “lot” is critical to the Interpretation. This is because the allowable number of animal points may increase by six (6) points for every contiguous quarter acre increase in the lot’s area, provided the lot is at least one acre in size.

The core premise of the Interpretation is that a lease or license of contiguous property increases the size or area of the “lot.” The premise is flawed. “Lot” is defined in pertinent part as “[a] parcel of land established by plat, subdivision, or otherwise permitted by law . . . .” It adds that the “area” within a lot is the “total area within the lot lines of a lot, excluding any street rights-of-way.” The definition of “lot line” is a “line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.” “Parcel,” in turn, is defined as “real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

Under these definitions, a “lot” is “real property with a separate or distinct number or other designation shown” on a “plan recorded in the office of the County Recorder,” or other otherwise delineated on a recorded “survey, parcel map or subdivision plat,” and a which abuts at least one public right of way. The “area” of the lot, which is necessary for computing the allowed number of animals on it, is the “total area” within its “lot lines,” or as defined by the Ordinance, “the line of record bounding a lot....”

Because the leasing or licensing of contiguous property does not increase the “area” of a “lot,” the Interpretation’s conclusion that owners may increase the number of animals by leasing or licensing contiguous areas is legally invalid. After a purported “lease” or “license” of the contiguous lot, the lessee’s “lot” has exactly the same “area” as it did before the purported lease or license. Concomitantly, the “area” of the lessor’s “lot” also is the exactly the same size as it was before the lease or license. In terms of the Ordinance’s definitions, the “area” of the lessee “lot” does not increase by leasing or licensing the contiguous property because the “line[s] of record” bounding it are exactly the same after the lease or license as they were before the lease or license. Leasing or licensing contiguous property is not legally sufficient to increase the lot’s “area” because leasing the ground does not increase the size of the lessee lot, i.e., its “area.” A review of the respective lots’ “line[s] of record bounding” at the County Recorder after the execution of any lease will reveal the exact same sized “lots” as they were before the lease of license of contiguous property. Because a lease of contiguous property does not enlarge the “lot” as the Ordinance defines that term, the Interpretation’s conclusion to the contrary is unavailing and contrary to the law. The “size” of “lot” for purposes of calculating animal points is not determined by a private lease. It is and must be determined by the size of the “lot” as defined by the recorded documents.

By contrast, if Mansker purchased property from a contiguous landowner and then adjusted his property’s “line of record bounding” his property, then Mansker’s “lot” would have increased in “area” such that he may be afforded additional animal points under the Ordinance. But “leasing” ground to

purportedly obtain animal points without actually increasing the “area” of the lot where the animals would be kept is not supported by the plain terms of the Ordinance.

Furthermore, the Interpretation improperly purports to create a transferrable property right severable from the real property to which it is incidental and appurtenant. Preliminarily, the Interpretation provides no legal support whatsoever in favor of the proposition that animal points are an intangible property right that can be transferred via lease or license. Instead, it incorrectly reasons that, for the purpose of determining the number of animal points afforded a “lot,” the size of the “lot” as indicated by the “plat,” “deed” or the “lot line” is entirely irrelevant because the lot owner can mysteriously transfer animal points by lease or license. That proposition, however, fails to account for the fact that except for within the Agricultural District, “livestock activity” within the Town is an “accessory use to the principal use.” This means the “livestock activity” (and the animal points scheme) are “incidental and subordinate to and [must be] **located on the same lot with the principal use.**” See definitions of “accessory use” and § 305 (emphasis added.); see also definition of Use (Accessory)(defining an “accessory use” as a “use incidental to the principal use on the **same lot**”(emphasis added.). The Interpretation does violence to the terms and conditions of the Ordinance, ignoring the fact that “livestock activity” is an “accessory use” which under the terms and conditions of the Ordinance, must be located on the same lot as the principal use. There simply is no support for the Interpretation under the terms and conditions of the Ordinance.

Besides the fact that the Interpretation is not supported by the relevant plain terms of the Ordinance, the Interpretation contravenes the purpose of the Ordinance. The purpose of the Ordinance is “to conserve and promote the public health, safety, convenience and general welfare, by guiding and accomplishing a coordinated and harmonious town development for future growth.” Ordinance, at § 101. Although the keeping of farm animals in “appropriate locations and circumstances” is consistent with Camp Verde’s nature, the “number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties . . . .” Ordinance, at § 305.

The Interpretation, which acknowledges that it is an “expansive” reading, flies in the face of the stated purpose of the Ordinance. First, and significantly, the Interpretation does not analyze the effect that Trampus Mansker’s excessive animals have on the nearby properties, including the Magoon-Irvin Property. Indeed, the Interpretation concedes that Mansker’s “roping activities routinely exceed the allowable number of large animals,” with numbers “often” ranging from 15 to 34 animals. As such, Mansker has not complied (and is not complying with) the Ordinance. But instead of reigning in Mansker’s non-compliance, the Town appears ready and willing to reward him for violating the Ordinance based on the unavailing Interpretation. The message to the rest of the Town’s citizens is (1) their interests may not and, in the case of Magoon-Irvin, do not matter; (2) the Town would rather forgive and reward non-compliance instead of taking appropriate action to prevent the impairment of Magoon-Irvin’s right to use and enjoy their Property; and (3) the Town will justify its actions with the dubiously reasoned Interpretation.

Second, the Interpretation leads to the absurd result that, under the Ordinance, Mansker or a similarly situated landowner could enter into a lease to house many more animals on a lot than would be allowed under the actual terms and conditions of the Ordinance. Put simply, if Mansker (a) had a neighbor who owned a contiguous parcel of property the size of which would permit the landowner to

care and house, for example, a hundred head of cattle, and (b) Mansker leased the neighbor's contiguous property, Mansker could house and care for an additional 100 head of cattle on Mansker's 4.7 acres of property. It is absurd to conclude the Interpretation contemplates such a result. But that is exactly the door the Interpretation has opened.

Third, the Interpretation creates an asset that would be a transferrable property right severable from the real property to which it is incidental and appurtenant. The absurd result of this is that the property owner adjacent to Mansker could assign a monetary value to his animal points license and put that license up for bid. This would force Magoon-Irvin or other residents of the community into a bidding war in order to protect their property rights. Prior to this Interpretation those rights would have been protected by the Town's enforced zoning ordinances. Again, it is absurd to conclude the Interpretation contemplates such a result, but that is exactly the door the Interpretation has opened.

Ineluctably, the intent of the Ordinance is not to permit landowners such as Mansker to make an end-run around the animal count limits contained in the Ordinance simply by entering into a lease or license with an adjacent landowner. This is especially true because, as analyzed above, the plain terms of the Ordinance do not support the Interpretation.

For the reasons stated above, the part of the Interpretation authorizing a landowner to increase its animal count points by license or by leasing property from a contiguous landowner is unavailing, lacks serious merit, and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points via a license, lease or enforceable contract of contiguous property of a neighboring landowner.



ZONING INTERPRETATION  
RECORD OF INTERPRETATION  
2023-01

**Subject of Interpretation:** Calculation of Animal Points

**Regulation:** Planning & Zoning Ordinances and Subdivision Regulations, Section 305 Animals

**Purpose:** To provide clarification regarding the maximum number of livestock allowed on a lot.

**Background:** The Town of Camp Verde, Arizona (the "Town") adopted requirements for the keeping of animals in Section 305 of the Planning & Zoning Ordinances and Subdivision Regulations (the "Zoning Code"). The keeping of farm animals "in appropriate locations and circumstances" is deemed to be consistent with the Town's rural character. However, the Zoning Code restricts the number, size, type, or manner of keeping animals on any parcel so as not to impair the enjoyment or use of any nearby properties or violate other legal restrictions.

Animal points are provided per acreage to regulate the type and number of animals on any particular property. Certain livestock are prohibited in residential areas or other conditions are imposed to limit negative impacts on neighboring properties. The section further provides maintenance requirements for livestock facilities requiring them to be maintained in a clean and slightly manner so as not to be a nuisance to neighbors.

The Town has been asked to provide clarity regarding how to calculate animal points under Section 305 of the Zoning Code. This interpretation is provided in response.

**Mansker Dispute:**

- A. **Location of Property.** Mr. Trampus Mansker owns property known as Yavapai County Assessor parcel (APN) 404-12-422D and 404-12-422C. He has 4.7 acres between the two adjacent parcels. Mr. Mansker has a private riding arena where the family participates in riding and steer roping activities. Mansker family friends and other community members use the arena for roping practice before competitions. They often bring in several horses. Mr. Mansker provides the cattle for roping.
- B. **Requestor.** Mr. Stephen Magoon and his wife Jill Irvin live across the street and southwest of the Mansker property (APN 404-11-027A). The Town has received complaints from the Magoons going back several years. Complaints are mostly related to exceeding the allowed animal count or nuisances (such as flies, dust, and smell). The Magoons have requested a zoning interpretation regarding the allowable livestock count on Mr. Mansker's property.
- C. **Neighbor Dispute.** Mr. Mansker's roping activities routinely exceed the allowable number of large animals. Between his horses, "guest horses", and cattle; the numbers often range from about 15 to 34 animals. In an effort to work with the neighbors to resolve the dispute, the Town has, over the years, conducted inspections to determine if the arena activity on Mr. Mansker's property constitutes a nuisance and discussed options for moving animals to





adjacent neighboring properties to decrease the concentration of animals. This is, however, the first time a formal interpretation of the Zoning Code has been requested.

- D. **Neighbor Permission to Use Adjacent Property**. Key to this interpretation is a question regarding how the Zoning Code approaches use of “*adjacent properties*” for purposes of increasing animal counts. Mr. Mansker has provided the Town with letters from neighbors including (1) a letter dated November 16, 2022, from Ray Sanders which provides “permission to put some of [Mansker’s] stock in his pasture (APN 404-11-017); (2) an undated letter from Carol “Montana” Renkema with “permission to use [her] property for [Mansker’s] livestock (APN 404-12-420B); and (3) an undated letter from Robert (Bob) Ashcraft to Mr. Mansker providing “permission to put his animals on my land” (APN 404-12-418C, 404-12-418, and 404-12-418G). These letters and a map of the property purporting to increase the animal count by use of these properties is attached.
- E. **Scope of Interpretation**. This interpretation analyzes (1) how to calculate maximum animal counts and (2) efforts to increase a lot’s animal count by use of adjoining properties (including the requirements for such permission to be valid).

**Applicable Code Sections:**

Section 305 of the Zoning Code provides, in relevant part:

**A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

**B. Animal Points Allowed per Acreage**

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 POINTS	Miniature horses, Ponies and Sicilian donkeys:	6 POINTS
Emus:	3 POINTS	Ostriches:	6 POINTS
Pygmy goats:	3 POINTS	Cattle:	12 POINTS
Sheep, Goats:	4 POINTS	Domestic deer:	12 POINTS
Llamas:	6 POINTS	Horses, Mules, and Donkeys	12 POINTS

**Interpretation:**

- A. **Initial Calculations**. Animals which are cared for by the property owner or occupant are subject to the Animal points per Zoning Code – often referred to as the Animal Unit Count. Lots of one-half acre to one acre may total 24 points. This number can be increased by an increment of six points for each additional, contiguous quarter acre.



Although various sized animals have a different point count, large animals such as horses and cattle, are allowed at a rate of two (2) per acre. As applied to Mansker he is allowed a total of nine (9) large animals on his two contiguous parcels.

- B. **Increase in Animal Count.** The Zoning Code provides an increase in the allowable number of points as stated above “*for each additional, contiguous quarter acre.*” The interpretation of that language is key in this interpretation.
- C. **Definition of “Lot”.** A lot is defined in Section 103 of the Zoning Code as: “*A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.*” From a real property perspective, a parcel of property or lot is necessarily created by someone – an “owner” who legally established real property rights through plat, subdivision, or other legal process. The question of who owns the lot, or who has the *right to possession* and use of the lot (including the right to exclude others), is paramount in this interpretation.
- D. **Meaning of Each Additional, Contiguous Quarter Acre.** The definition of “*contiguous*” for purposes of calculating animal points is best interpreted as *immediately adjacent* to the receiving property and not contiguous to other transferring properties. In other words, there is a limit to how many neighbors could approve use of their property for purposes of increasing the total number of animals. The purpose of the Zoning Code is to limit animals to avoid nuisances and concentration of animals on any one property. Restricting the meaning of contiguous to immediately adjacent is important to not defeat the purpose of the restriction. A strict reading of the quarter acre exception (“*Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.*”) would require that the same person or persons own the land constituting the primary parcel and the contiguous land.

A more expansive reading of the exception would allow increases in the animal count through leases, licenses, or other valid legal instrument, i.e., legally recognized documents for the transfer of rights in real property. However, even this more liberal interpretation is still subject to properties immediately adjacent to the receiving property.

Under the second analysis, Mansker, who owns 404-12-422D and 404-12-422C, would be able to increase his animal count of nine (9) large animals if he obtains legal rights to the following lots: 404-11-017, 404-12-420B, and 404-12-418. However, the practice of extending to 404-12-418C and 404-12-418 G should be discontinued as these are not immediately adjacent lots.

- E. **Validity of Neighbor Permissions.** Although the Zoning Code contemplates both owners and occupants having interest in lots for purposes of calculating animal points, nothing in the Zoning Code supports a reading that letters allowing some use or access to property are sufficient to increase the animal count. The transfer of the animal points must be done by some *form of formal legal instrument* (for example, a lease, license, or enforceable contract) and the transferring property must acknowledge that it gives up a *specific number* of points by transferring those rights to the receiving party. Transfer of



rights must be by a valid, binding legal obligation. The letters Mr. Mansker received from his neighbors are not enough to transfer rights under the Zoning Code.

- F. **Impact of Use.** Notwithstanding the foregoing analysis, the request for this opinion raises the question of whether a roping arena used by friends and community members on a fairly regular basis is even considered a permitted use under the Mansker property's current Residential Rural (R-R) zoning, which permits "*agriculture and cultivation*" and the "*keeping of farm animals*". The Zoning Ordinance does not have a specific listing for "arena" or "cattle roping" as a permitted or conditionally permitted use.

Although the purpose of this interpretation is to identify the proper procedure for calculating animal count, this does raise the question of use. Should the use of the roping arena for cattle roping events for friend and community members be considered a permitted use in the R-R District? Note that the Zoning Ordinance does allow "*other accessory uses commonly associated with [a] primary permitted use*". An interpretation may be needed to determine whether an arena or cattle roping could be considered an allowed accessory use.

The Arizona Court of Appeals dealt with a similar fact pattern in *Murphy v. Town of Chino Valley*, 163 Ariz. 571 (App. 1989). Like the facts here, the Murphys used a roping arena on their property to host events that attracted up 30-40 people on a regular basis and over 100 people at certain times. The Appeals Court concluded, similar to the Camp Verde Zoning Code, that:

"A roping arena, where the owners and numerous others participate in competitive roping is not expressly within the scope of any of the listed uses for the zoning district. If the roping arena is to be considered a permitted use, it must come under the definition of an accessory use."

The Town's Zoning Code defines "Accessory Use" as a use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal use. Regarding the keeping of animals, Section 305 of the Zoning Code states, "Keeping of **farm animals** in appropriate locations and circumstances is regarded as being consistent with the Town's rural character." Farm animals are animals used for agricultural purposes, meaning the production, keeping or maintenance, for sale, lease or personal use, animals useful to man, including the breeding and grazing of any or all of such animals.

The Court of Appeals (in *Murphy*) found that it would be reasonable to conclude that a roping arena where friends and community members are invited for competitive and practice cattle roping events is not an accessory agricultural use. *Murphy*, 163 Ariz. 571, 577.

While the Mansker arena may be a lesser scale than the Murphy arena, the extent of the impact of this activity on the neighborhood is not disputed. There are complaints that the arena activities are noisy, result in flies, dust and unwanted odors.

Mansker's use of the roping arena for friend and community member cattle roping events is more aligned with the Town's agritourism use, which is defined as "the act of visiting a working farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle. Visitors may participate



in events and services related to agriculture which may take place on or off the farm or ranch, and that connect consumers with the heritage, natural resource or culinary experience they value.”

Ultimately, given the cap on animals and type of activities conducted on the Mansker property, the Town recommends that the Manskers apply for and obtain an Agritourism use permit which is better suited to addressing the impact of the current and future roping arena uses. Inviting large numbers of people and holding events is best addressed by use permit with the ability to put conditions on the approved use.

**Conclusion:**

The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot.

Owners that wish to increase their number of animals have options, including to purchase or lease contiguous areas or apply for an Agritourism use permit if located in the Residential-Rural area which may allow an increase in the total animal count with the approval of conditions that limit the impact on neighbors. Specifically, Section 203, subsection D “R-R District” has rules for rural, large lot residential uses that allow for Agritourism uses with a Use Permit that can mitigate negative impacts by requiring adequate separation requirements, mitigation against noise, traffic, dust and other environmental factors on nearby residential uses, and other provisions for public health and safety.

**Approvals:**

Interpretation:

By: John Knight  
Title: Community Development Director

Date: February 9, 2023

Copy: Gayle Mabery, Interim Town Manager  
Trish Stuhan, Town Attorney

**Attachments:**

- Map of Affected Properties
- Letters from neighbors allowing use of their property
- Murphy v. Town of Chino Valley decision
- Relevant Zoning Code Sections (103 – Definitions, 203 – D. R-R Use District, 305 – Animals)

Revised 06/05/18

Application #: 20230176

RECEIVED  
MAR 23 2023



R1E70  
Yes Flood

# Land Use Application Form

1. Application is made for:

- |                                           |                     |                      |
|-------------------------------------------|---------------------|----------------------|
| Zoning Map Change                         | Use Permit          | Temporary Use Permit |
| Conceptual Plan Review                    | Preliminary Plat    | Final Plat           |
| PAD Final Site Plan Review                | Variance            | Appeal               |
| Street Abandonment                        | Minor Land Division | Wireless Tower       |
| Administrative Review                     | Lot Line Adjustment | Zoning Verification  |
| Development Standards Review (Commercial) | Other: _____        |                      |

2. Project Name: Zoning Interpretation

3. Contact information: (a list of additional contacts may be attached)

Owner Name: _____	Applicant Name: <u>Stephen Magoon/Jill Irvin</u>
Address: _____	Address: _____
City: _____ State: _____ Zip: _____	City: <u>Camp Verde</u> State: <u>AZ</u> Zip: <u>86322</u>
Phone: _____	Phone: _____
E-mail: _____	E-Mail: _____

4. Property Description: Parcel Number 404-11-027A Acres: 4.18

Address or Location: \_\_\_\_\_

Existing Zoning: \_\_\_\_\_ Existing Use: \_\_\_\_\_

Proposed Zoning: \_\_\_\_\_ Proposed Use: \_\_\_\_\_

5. Purpose: (describe intent of this application in 1-2 sentences)

To appeal the portion of the Zoning Interpretation that allows for the transfer of animals points by lease, license or any mechanism.

6. Certification:

I certify that I am the lawful owner of the parcel(s) of land affected by this application and hereby consent to this action. I have also attached a completed Permission to Enter form for consent to access the property regarding this action.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

I certify that the information and attachments I have submitted are true and correct to the best of my knowledge. In filing this application, I am acting with the knowledge and consent of the property owner(s). I understand that all materials and fees required by the Town of Camp Verde must be submitted prior to having this application processed.

Applicant: [Signature] Date: 3/23/2023

404-11-028  
Jill Irvin & Stephen Magoon  
RES: BOA Appeal; Animal Counts  
3510 S Sierra Ln  
20230176

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MAR 23 2023

March 23, 2023

We are requesting an appeal of the Zoning Ordinance, signed and dated February 9, 2023 by John Knight, for the reasons set forth herein

We live at APN 404-11-027A ("Irvin Property"), which is across the street from two parcels Trampus Masker owns: [REDACTED] Mansker routinely exceeds the farm animal count at the Mansker Property. Irvin, in turn, has complained to the Town of Camp Verde ("Camp Verde") on several occasions, but to date Camp Verde has taken no action to remedy Mansker's repeated violations.

As a result of Mansker's violations of the animal count limits contained in the Ordinance, Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although, a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use animal points from a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing property or licensing animal points from the owner(s) of contiguous property and then using the acquired animal points to house and care for the farm animals on the original Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by leasing contiguous property or obtaining a license for the animal points and "using" that property's animal points to countenance having an excessive number of farm animals on Mansker's own Property.

The part of the Interpretation authorizing a landowner to increase its animal count points by leasing property from a contiguous landowner or by obtaining a license transferring those animal points is unavailing, lacks serious merit and is not supported by the relevant terms and conditions of the Ordinance. If this Interpretation is allowed to stand it would have the effect of creating a transferable asset, in this case Animal Points, where one did not otherwise exist. Camp Verde and the Board of Adjustment should reverse that portion of the Interpretation permitting a landowner to increase its animal's points on a given parcel by obtaining a license assigning those points or acquiring them by leasing contiguous property of a neighboring landowner. A more detailed analysis from our attorney will be submitted in advance of the meeting.

Signed,



Stephen Magoon



Jill Irvin

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MAR 23 2023

Subject: Appeal to Board of Adjustment & Appeals  
Re: Animal Count Interpretation

We have lived at [REDACTED] in Camp Verde for the past twelve years on 3.6 acres. The point system in our Town Code regulating kinds and numbers of animals, allows us to enjoy a rural life style with adequate restrictions to have the animals we love without negatively impacting the land or our neighbors. We bought our property with this understanding and believe that the Town has an obligation to enforce these restrictions to protect people, animals, and property values.

The allowable points are attached to a particular property to insure that the owners can enjoy their property without adversely impacting the quality of life of their neighbors and/or the surrounding community. These points are not something that can be traded, bought, sold or gifted. They come with and remain with the property. Limiting the kinds and numbers of animals that can reside or be kept on any particular property, also results in limiting the amount of manure, urine, and vermin, thus promoting a safe, healthy, and positive environment for people and animals alike.

The point system must be enforced as intended. Failure to do so is a dereliction of the responsibility on the part of the planning and zoning department to insure a safe, healthy, and peaceful community. The inconsistency, the hesitation, and the failure to enforce the Animal Count restrictions results in frustration, favoritism, unrest, and lack of confidence in governance throughout our town.

Respectfully,

Nils and Janet Anderson

*Nils A. Anderson*  
*Janet S. Anderson*

RECEIVED

MAR 23 2023

DI & PI Grondin

Town of Camp Verde  
Board of Adjustments/Appeals

RE: 'Administrative Decision'

Please accept this letter, with respect to the 'Administrative Decision' recently made, and the reason for this appeal, as our letter in total opposition to the 'Decision' as rendered. The decision is to allow for the transfer of points from one property to another, thereby allowing a property owner to exceed the total number of points allowed per town code on any given piece of property.

The following points have been numerically placed to better define our opposition.

- 1) Per the Town of Camp Verde 'best practices' guidelines, page 5; para 3: "Actions requiring approval by ordinance include...adopting code or code amendments". A 'transfer of points' certainly meets the definition of a code amendment.
- 2) The conclusions by the Community Development Director in his own 'record of interpretation' states the following; page 1: "certain livestock are prohibited in residential areas....other conditions are imposed to limit negative impacts..."; page 2: animals which are cared for by the property owner or occupant are subject to the animal points per zoning code"; page 3: "...purpose of the zoning code is to limit animals to avoid nuisance..." page 3: "...nothing in the zoning code supports a reading that 'letters' are sufficient to increase the animal count"; page 5: Conclusion..."it is not enough to have permission to use or temporarily move animals around on a neighbors lot". Seems the CDD has determined himself that the property in question has violated the Town Code.
- 3) Town Code 305(A): "...the number, size, type or manner in which the animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties..." Seems pretty obvious there is a violation given the complaints.

So all of this begs but one question, WHY are we here? The property in question has been and continues to be in violation of the town code pertaining to animal points, period. This so called "transfer of points" is neither legal nor allowable in any Arizona State, Yavapai County, or Town of Camp Verde ordinance.

We urge the Board of Appeals to negate this current administrative decision & subsequently force the Town Code Enforcement officer to do 'due diligence' with respect to enforcing current zoning codes and restrictions.

All due respect;

David J. Grondin



Patricia J. Grondin





RECEIVED

MAR 23 2023



RES: BOA Appeal:  
Calculations of animal  
Appeal points

Staff Use Only	
Application Number:	
Received By:	JK
Date:	
Fees Paid:	\$540.75
Complete:	<input checked="" type="radio"/> Y <input type="radio"/> N

### Application Instructions

*Even with the most careful drafting of a Planning & Zoning Ordinance, unforeseen complications can arise. Planning & Zoning Ordinances are often long and complex and even with the most experienced and well-trained Enforcement Officer or Community Development Director, disagreement regarding interpretations of the Zoning provisions may result.*

### Required for an Appeal

**Complete sets of these documents are required at the time of application.**

**The required quantities are shown next to each item. (See Part 6 Section 602 B)**

Staff Use only

- |    |                                                                             |                                                            |
|----|-----------------------------------------------------------------------------|------------------------------------------------------------|
| 1. | Application submittal made within 45 days after decision has been rendered. | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 2. | Letter of request for appeal specifying the grounds.                        | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 3. | Application fee as per the current fee code.                                | <input checked="" type="radio"/> Y <input type="radio"/> N |
| 4. | Completed <i>Land Use Application</i> .                                     | <input checked="" type="radio"/> Y <input type="radio"/> N |

#### Appeals from Administrative Decisions

The Board of Adjustment & Appeals, on deciding appeals from decisions of the Community Development Director (Zoning Administrator), is responsible for interpreting the meaning and equitable application of the Zoning Ordinance.

1. Appeals to the Board of Adjustment & Appeals may be filed by persons aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the Community Development Director, within a period of 45 days by filing, in writing, with the Community Development Director and with the Board, a notice of appeal specifying the grounds thereof.
2. The Community Development Director shall immediately transmit all records, pertaining to the action appealed, to the Board of Adjustment & Appeals.
3. An appeal stays all proceedings in the matter appealed, unless the Community Development Director verifies to the Board of Adjustment & Appeals after the notice of appeal is filed, that by reason of facts slated in the certificate, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed other than by a restraining order granted by the Board or by a court of record on application and notice to the Community Development Director.
4. A person aggrieved by a decision of the Board of Adjustment & Appeals, or a taxpayer or municipal officer may, at any time within 30 days after the Board has rendered the decision, file a complaint in the Superior Court to review the decision. Filing of the complaint shall not stay proceedings upon the decision appealed, but the court may, on application, grant a stay, and on final hearing may reverse or affirm wholly or partly, or may modify the decision received.

#### Hearings

The Board of Adjustment & Appeals shall fix a reasonable lime for the public hearing of an appeal; and shall give public notice thereof, by both publication in a newspaper of general circulation in accordance with ARS 9462.04 as it exists now or as it is amended from time to time, and by posting notices in conspicuous places close to the property affected, as well as due notice to the parties in interest, including first class mail notice to all owners of record of properties located within 300 feet of the subject property.

1. At the public hearing, any applicant may appear in person or by representative, and may present their appeal orally or by documentary materials and submit rebuttal as may be necessary.
2. The chair shall have the power to administer oaths and take evidence in accordance with ARS 9462.06, as may be amended.
3. The Board shall reach its decision within a reasonable time.

## **PART 6 Section 602 B**

### **B. Appeals from Administrative Decisions**

The Board, on deciding appeals from decisions of the Community Development Director (Zoning Administrator), is responsible for interpreting the meaning and equitable application of the Zoning Ordinance.

1. Appeals to the Board may be filed by persons aggrieved or by any officer, department, board or bureau of the Town affected by a decision of the Community Development Director, within a period of 45 days by filing, in writing, with the Community Development Director and with the Board, a notice of appeal specifying the grounds thereof.
2. The Community Development Director shall immediately transmit all records, pertaining to the action appealed, to the Board.
3. An appeal stays all proceedings in the matter appealed, unless the Community Development Director verifies to the Board after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification, proceedings shall not be stayed other than by a restraining order granted by the Board or by a court of record on application and notice to the Community Development Director.
4. A person aggrieved by a decision of the Board, or a taxpayer or municipal officer may, at any time within 30 days after the Board has rendered its decision, file a complaint in the Superior Court to review the decision. Filing of the complaint shall not stay proceedings upon the decision appealed, but the court may, on application, grant a stay, and on final hearing may reverse or affirm wholly or partly, or may modify the decision received.

### **C. Hearings**

The Board shall fix a reasonable time for the public hearing of an appeal; and shall give public notice thereof, by both publication in a newspaper of general circulation in accordance with ARS 9-462.04 as it exists now or as it is amended from time to time, and by posting notices in conspicuous places close to the property affected, as well as due notice to the parties in interest, including first class mail notice to all owners of record of properties located within 300 feet of the subject property.

1. At the public hearing, any applicant may appear in person or by representative, and may present their appeal orally or by documentary materials and submit rebuttal as may be necessary.
2. The chair shall have the power to administer oaths and take evidence in accordance with ARS 9-462.06, as may be amended.
3. The Board shall reach its decision within a reasonable time.

**Yavapai County Print Parcel**



<b>Parcel ID</b>	404-11-027A	<b>Check Digit</b>	7	
<b>Owner</b>	Magoon Stephen T &			
<b>Owner's Mailing Address</b>	[REDACTED]			
<b>Secondary Owner</b>	Irvin Jill D RS			
<b>Recorded Date</b>	N/A			
<b>Last Transfer Doc Docket</b>	N/A	<b>Last Transfer Doc Page</b>	N/A	
<b>Physical Address</b>	3510 S Sierra Ln 3460 S Sierra Ln		<b>Incorporated Area</b>	Town of Camp Verde

<b>Assessor Acres</b>	4.18	<b>Subdivision</b>	Sierra Verde Estates	<b>Subdivision Type</b>	M
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<b>School District</b>	Camp Verde Unified SD #28	<b>Fire District</b>	Copper Canyon Fire And Medical
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<b>Improvements (2)</b>	<b>Local Zoning</b>
<b>Type:</b> Single Family Residential <b>Year Built:</b> 1993 <b>Floor area ? :</b> 2874 <b>Multi Level:</b> Yes <b>Below Grade Area ? :</b> None <b>Basement ? :</b> No	Town Of Camp Verde R1L-70
<b>Type:</b> Stable <b>Year Built:</b> 1999 <b>Floor area ? :</b> 2200 <b>Multi Level:</b> No <b>Below Grade Area ? :</b> None <b>Basement ? :</b> No	

**Assessment**  
 Starting with the 2015 tax year, the Limited Property Value is the only value considered for taxation purposes, the Full Cash Value is no longer used for taxation.

Tax Year	2024	2023
Assessed Value(ALV)	\$36,949	\$43,436
Limited Value(LPV)	\$352,789	\$374,713
Full Cash(FCV)	\$650,620	\$667,194
Legal Class	Mixed	Mixed
Assessment Ratio	10.5%	11.6%
Usage Code	0130 ?	0130 ?

<b>Taxes</b>	<b>2022 Taxes Billed</b>
<b>Tax Area Code</b>	2877
	\$

**Recorded Documents & Sales (0)**  
 No Recorded Documents were found.

**Disclaimer:** Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. Users should independently research, investigate and verify all information.

By using this website, the user knowingly assumes all risk of inaccuracy and waives any and all claims for damages against Yavapai County and its officers and employees that may arise from the use of this data and agrees to indemnify and hold harmless Yavapai County and its officers and employees to the fullest extent permitted by law. By using this website, the user also agrees that data and use of this website may not be used for commercial purposes.

## ATTACHMENT C

2. Ensure that citizens, property owners and neighbors have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve potential concerns at an early stage of the process; and
3. Facilitate ongoing communication between the applicant, interested citizens, property owners, and town staff, throughout the application review process.

The Public Participation Plan is not intended to produce consensus on all applications, but will encourage all applicants to be good neighbors and to allow for an informed decision-making process enabling the Town Council to meet its commitment to ensure that public participation is used in enhancing development and uses throughout Camp Verde.

### Public Participation Results:

A series of presentations were conducted from January – March of 2016 to gather public input for the General Plan amendment process. During that time, nine presentations were given. Listed below are the main concerns voiced by members of the public who attended the presentations and provided input:

**TABLE 1.1 – General Plan Public Participation Results:**

2004	2016
GENERAL PLAN PUBLIC PARTICIPATION RESULTS:	GENERAL PLAN PUBLIC PARTICIPATION RESULTS:
<b>Top Qualities To Preserve:</b>	<b>Top Qualities To Preserve:</b>
1. Friendliness	1. Friendliness; Historic; Western Rural Character
2. Historic	2.
3. Western/Rural Character	3.
4. Small Town	4. Maintained Roads
5. Maintained Roads	5. Small Town
<b>Top Assets/Characteristics For The Future:</b>	<b>Top Assets/Characteristics For The Future:</b>
1. More Business	1. More Business
2. Job Opportunities	2. Job Opportunities
3. Health/Medical Care	3. Health/Medical Care
4. Verde River Access; Wildlife/River Protection	4. Verde River Access
5.	5. Wildlife/River Protection
<b>Three Greatest Needs:</b>	<b>Three Greatest Needs:</b>
1. Job Opportunities	1. Job Opportunities
2. Preserving Open Space	2. Neighborhood Upkeep
3. Neighborhood Upkeep	3. Preserving Open Space
<b>Three Biggest Future Concerns:</b>	<b>Three Biggest Future Concerns:</b>
1. Water Quality/Quantity	1. Water Quality/Quantity
2. Increase In Traffic	2. Lack Of Medium Priced Homes
3. Lack Of Medium Priced Homes	3. Increase In Traffic
<b>Three Strongest Assets:</b>	<b>Three Strongest Assets:</b>
1. Verde/River	1. Verde/River
2. Western/Rural Lifestyle	2. Open Space/Scenery
3. Open Space/Scenery	3. Western/Rural Lifestyle
<b>Top Five Attributes You Want Camp Verde Recognized For By 2026:</b>	<b>Top Five Attributes You Want Camp Verde Recognized For By 2026:</b>
1. Western/Rural Character	1. Verde River Wildlife Protection
2. Visually Attractive	2. Visually Attractive
3. Historic Preservation	3. Western/Rural Character
4. Verde River Wildlife Protection	4. Historic Preservation
5. Open Space/Scenic Views	5. Open Space/Scenic Views

## Goals & Implementation Strategies:

### **A. Goal: Preserve and enhance the prehistoric and historic past.**

#### **Implementation Strategy:**

- A. 1. Continue to support and promote organizations such as the Camp Verde Historical Society, Verde Valley Archaeology Center, Fort Verde State Historic Park, and others to preserve and interpret Camp Verde's agricultural heritage and unique historical past.
- A. 2. Continue to work cooperatively with the Yavapai-Apache Nation and other Native American cultures to preserve and interpret our collective past.
- A. 3. Enhance the Town's "sense of place" by promoting projects throughout the community that recognize, interpret and preserve our prehistory, history, arts and culture.
- A. 4. Encourage the identification of historic buildings, residences and landscape features with descriptive markers which recognize their place within our community's past.
- A. 5. Support the continued designation, preservation and interpretation of historic trails, districts and landmarks.
- A. 6. Encourage the restoration and reuse of historic properties.
- A. 7. Encourage new development to be compatible with the Town's history and architecture.

### **B. Goal: Support and enhance arts and culture.**

#### **Implementation Strategy:**

- B. 1. Support and encourage local art.
- B. 2. Support programs which preserve and enhance cultural events.
- B. 3. Support and encourage recognition of our agricultural heritage.
- B. 4. Develop cooperative programs with citizens, groups, schools, businesses, governmental agencies and non-profit organizations with the goal of celebrating our prehistory, history, arts and culture.

## **ATTACHMENT D**

### **PART SIX. ADMINISTRATION AND PROCEDURE**

#### **SECTION 600 - DEVELOPMENT DECISION AUTHORITY**

##### **C. Town Council**

As the governing body, the Town Council determines and oversees Town development policies for consistency with the adopted General Plan, considering public testimony, recommendations from the Planning and Zoning Commission or other advisory bodies, and staff where applicable. Council exercises the Town's legislative authority.

1. The Town Council, responsible for considering and acting upon applications for development entitlements may, from time to time, after public hearings and Planning and Zoning Commission report as prescribed herein, amend, supplement or change zoning boundaries, zoning text or subdivision text regulations. Any such proposed amendments may be initiated by the Planning and Zoning Commission, the Town Council or by application of property owners.

2. Council exercises final decision-making authority on recommendations received from advisory bodies or staff pertaining to applications including, but not limited to:

- a. Use Permits; and
- b. Subdivision plats.

3. Council appoints development guidance advisory bodies, the Planning and Zoning Commission (See Section 600D), with a membership of seven members, and the Board of Adjustment and Appeals (See Section 600E), with a membership of five members, appointed for terms of three years as stated in Article 4-1 of The Town Code.

- a. The Council shall establish regular meeting dates, times and meeting place by Resolution in January of each year for the Commission and Board. The Chair of either body may schedule special meetings and work sessions subject to approval by the Town Manager.
- b. Meetings of the Commission and Board are held as stated in Article 4-3 of the Town Code and shall be open to the public, with minutes of its proceedings, showing the votes of each member and records of its determinations, recommendations and other official actions kept and filed in the Community Development Department as a public record. The secretary of the Commission and Board shall be a member of the Community Development Department staff.

- 1) For the Planning and Zoning Commission, at least four members shall be present to conduct a meeting.

2) For the Board of Adjustments and Appeals, at least three members shall be present to conduct a meeting.

3) In the event a quorum of four members or three members, respectively, are the total members present, then a unanimous vote must be cast to recommend approval or denial.

### **E. Board of Adjustment and Appeals**

The Board of Adjustment and Appeals, established by Ordinance 89-A33 of the Town of Camp Verde, serves in a quasi-judicial capacity, hearing and deciding appeals from the decision of the Community Development Director, or designee, pursuant to (Ord. 95-A107) and ARS 9-462.06, as may be amended.

Duties of the Board of Adjustment and Appeals, as set forth in ARS 9-462.06, include:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the Community Development Director, or designee, in the enforcement of the Zoning Ordinance by reversing or affirming, wholly or in part, or modifying the order, requirement, decision appealed from and make such order, requirement, or decision or determination as necessary.
2. Hear and decide appeals for variances from the terms of the Zoning Ordinance in accordance with the requirements and criteria of Section 602-A.



# Town of Camp Verde

## Community Development Department

◆ 473 S. Main Street, Suite 108 ◆ Camp Verde, Arizona 86322 ◆  
◆ Telephone: 928.554.0050 ◆ [www.campverde.az.gov](http://www.campverde.az.gov) ◆

April 5, 2023

Dear Landowner:

You are receiving this letter because a landowner within 300 feet of your parcel has submitted an application to the Town of Camp Verde, or you have personally expressed interest in this issue. This appeal will be heard by the Board of Adjustments and Appeals on:

**Tuesday, May 9<sup>th</sup>, 2023, at 3pm**  
**in the Council Chambers, 473 S. Main Street, Camp Verde, AZ.**

**Application No:** 20230176

**Applicant/Owner:** Jill Irvin and Stephen Magoon

**Request:** The applicants have applied to the Board of Adjustments and Appeals regarding an interpretation of the Animal Count on contiguous property that was rendered by the Community Development Director.

The agenda with accompanying documentation will be available on the Town website approximately 1-week prior to the meeting. It may be found at: <https://www.campverde.az.gov/departments/boards-commissions/board-of-adjustments-appeals>

This is a public meeting which you may attend and be heard regarding this matter.

Additional information may be obtained by contacting the Community Development Department at (928) 554-0050, or by emailing [john.knight@campverde.az.gov](mailto:john.knight@campverde.az.gov). Written comments may be dropped off at the Community Development Office, located at 473 S. Main Street, Suite 108, or may be mailed to the Department at 473 S. Main Street, Suite 108, Camp Verde, AZ 86322.

Comments received by close-of-business Monday, May 1st, 2023, will be included in the packet for the Board Members. Comments received after the above date will be given to members at the meeting.

Respectfully,

A handwritten signature in blue ink that reads "John Knight".

John Knight, Director  
Community Development, Town of Camp Verde  
[John.Knight@campverde.az.gov](mailto:John.Knight@campverde.az.gov) or (928) 554-0053

cc: Project File





**Gail Pate**

MAY 01 2023

To: The Camp Verde Board of Adjustments and Appeals

RE: Appeal to Zoning Interpretation – Record of Interpretation 2023-01

The premise that the Town Code listing of animal points allows for "points" to be traded is false. No points go with a deed. They are restricted to the actual land on which the animals reside and are managed. Points are not a tradable commodity.

The point system was designed to set limits on carrying capacity of acreages to regulate best livestock husbandry practices, sanitary protections for neighboring properties, protection of wells on adjacent properties, air quality, vermin and insect control, noise control and any other nuisances which may arise due to overstocking of animals on a parcel. The points are not in any way to be considered as a commodity to trade to another parcel. There is no such thing as points under these codes to be loaned to an owner of another property. Points are used as a simple way to quantify different species of domestic animals fairly and equitably based upon body size, manure quantity, urine quantity, the animal's needs for movement, etc.

If an adjacent property actually houses the animals on that property full time then that parcel's point system and only that parcel's point system applies. The allowance for that parcel cannot be used to go over the code limits on any adjacent property. Unless the animals are most of the time resident on a property they are not considered to be housed under that parcel's points. The entire reasoning for points is to avoid overstocking. In reading the enclosed request it appears the property owner wants to grossly overstock his acreage to keep for extended periods of time far more animals than is reasonable for 4.7 acres and in numbers far in excess of the existing Town Code. It defeats the entire purpose of the Town Code to allow animals to be overcrowded on one parcel and claim that points were given from other parcels. Points cannot be traded as a commodity. They are simply a regulatory system to measure animal holding allowances.



Gail Pate

## Opposition to Zoning Interpretation Record of Interpretation 2023-01

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March 23, 2023

RECEIVED

MAY 01 2023

To Whom It May Concern:

On February 9, 2023, Community Development Director, John Knight issued the Zoning Interpretation, Record of Interpretation, 2023-01. This document addresses how the Calculation of Animal Points would be interpreted, not only for the property in question, but all properties in Camp Verde moving forward.

In the summary of the document, Mr. Knight stated: "The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot." Section 305 clearly indicates that the animal count is based on a specific parcel. The leasing or purchasing of additional parcels would not change the number of animals allowed on the specific parcel. The Animal Code was written to ensure that large numbers of animals were not allowed to congregate on any one parcel. It does not allow for you have several parcels of land and share the points between parcels, but allows for an individual who owns a larger parcel to have more animals.

The concept that one could purchase or lease other parcels to increase the animal count on one parcel defeats the intent of the Animal Code, which is "the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject."

Additionally, the document indicates that the acquisition of an Agritourism Use Permit may allow for a larger animal count. Nowhere in the Town Ordinance does it indicate that an individual can request a larger animal count by simply acquiring or applying for an Agritourism Use permit.

We have been told that if this document is allowed to stand as written it will be the mechanism that the calculation of animal points moving forward will be used. This sets precedence for our entire community without the benefit of public input and was never the intent of the actual ordinance.

I am asking that the Board of Appeals and Adjustments review the written document and remove any statements that are not based on the actual Town Ordinances or official case law. The decision of this body will be setting precedence for the future of our Town and the facts should be carefully weighed.

Respectfully,



Cheryl (Cheri) Wischmeyer

# Wischmeyer Review of Zoning Interpretation 2023-01

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RECEIVED

MAY 01 2023

## Purpose

The purpose of this document is to provide a review and analysis of Zoning Interpretation 2023-01 (the interpretation) that was issued by Camp Verde Community Development Director John Knight.

In Mr. Knight's document he states the purpose is "To provide clarification regarding the maximum number of livestock allowed on a lot."

The purpose of appealing this Zoning Interpretation is that Mr. Knight has misinterpreted the Animal Code and the Agritourism Definition. If this interpretation is allowed to stand it will have long reaching effects throughout the entire community and it will set the precedence for how the Animal Code is enforced moving forward.

Mr. Knight has the authority to issue administrative decisions; however they may not contraindicate laws or codes that are already in place. It is our opinion that this Zoning Interpretation does not make an interpretation that coincides with the Animal Code or the definition of Agritourism, but rather rewrites those actual meanings. This type of action would require a vote of the Council in a public meeting, and this has not occurred.

At a recent joint work session with the Town Council and Planning and Zoning Commission, Mr. Knight admitted that the Camp Verde Animal Code is already the least restrictive of all Towns in the area, as well as Yavapai County. If that is the case, why is he attempting to make it even less restrictive through this Zoning Interpretation?

## Review and Analysis

In order to review this document, we must first identify some definitions. These terms are used throughout Section 305 of the Planning and Zoning Ordinance, referred to as the Animal Code in this document. The definitions are:

**Lot:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**Parcel:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

# Wischmeyer Review of Zoning Interpretation 2023-01

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The animal code clearly identifies the number and type of animals allowed on a lot or parcel of land by assigning points. The first ½ acre to one acre of land receives 24 points and each additional ¼ acre receives 6 points for each additional, contiguous quarter acre.

**It is important to note that the Animal Code clearly identifies this as a lot for the purpose of the contiguous quarter acre and does not anywhere indicate that this may incorporate multiple lots into the animal points for a specific lot.**

The mere idea that the owner of a small parcel could lease a neighbor's contiguous property to increase the animal points on their property totally defeats the purpose of the Animal Code – "Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject."

It is also important to note that the issue at hand is not the keeping of farm animals. The right to keep farm animals is part of what Camp Verde is and those rights should be maintained. What we are opposing is the interpretation's false premise that someone can legally lease or license neighboring property that is contiguous to their property and then use those animal points to increase the number of animals on their property. Mr. Knight's interpretation even indicated that the Town has suggested at one point that he (Mansker) move some of his animals to adjacent neighboring properties to decrease the concentration of animals. This would have been an acceptable solution as long as the increased animal counts did not place the neighbors in violation of the Town's Animal Code. However, the Town did not follow through with this solution and therefore the excessive animal counts have continued.

Leasing land has been used in ranching communities for years, but that process has involved placing the animals on the land that is leased. In fact, a review of past animal count violations within Camp Verde indicates that for years this has been the suggested solution. When a property owner had too many animals on his property, he just asked his neighbor if he could use their pasture to house the excess animals. This has always worked, ensuring that there were no excess animals on any lot/parcel of land.

This is not the process that Mr. Knight is suggesting in his interpretation. He states "Owners that wish to increase their number of animals have options, including to purchase or lease contiguous areas ..." This statement is false as it does not accurately interpret the existing Animal Code.

The idea that animal points from contiguous property can be transferred from one property to another through a lease or license insinuates that animal points are a transferrable asset. This could not be further from the truth. Animal points are not an asset, but a benefit that is assigned to a specific lot/parcel of land of a certain size for the purpose of measuring the number of animals that can be housed on the lot based on its size. The points go with the land and are not transferrable.

## Wischmeyer Review of Zoning Interpretation 2023-01

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Mr. Knight has determined, based on the Animal Code calculations, that the maximum number of large animals on Mr. Mansker's property is nine, yet the Community Development Department admits that Mansker has had animal counts ranging between 15-34 animals – far in excess of the number Mr. Knight has identified as the allowed number and in two years they have never taken any enforcement action.

### Conclusion

In the conclusion of the Zoning Interpretation provided by Mr. Knight he states "The allowed livestock on a lot is only increased under Section 305 where a property owner owns or leases the contiguous area. It is not enough to have permission to use or temporarily move around animals on a neighboring lot."

We do agree that the temporary moving of animals from lot to lot is not an acceptable solution, however, the fact that Mr. Knight intimates that the animal count numbers could be increased by a lease is not an acceptable interpretation of Section 305. Section 305.A.1&2 consistently refers to a lot and all contiguous additional acreage should be included in that particular lot/parcel.

Additionally, in the conclusion, Mr. Knight also indicated that if Mr. Mansker acquires an Agritourism permit he could increase his animal count. This too is an erroneous interpretation of the Town Code. The Town Code definition of Agritourism states "Is the act of visiting a working farm, ranch, agricultural or horticultural agribusiness operation for the purpose of enjoyment, education or active involvement of visitors to experience a rural lifestyle." Mr. Mansker's property is not a working farm, ranch, agricultural or horticultural agribusiness, and therefore does not meet the criteria for an Agritourism Use Permit.

Mr. Mansker's property is primarily a residential property with a roping area that is utilized for recreational activities. Mr. Mansker has repeatedly stated that he has no intention of operating a commercial enterprise on his property. Additionally, nowhere in the Town Planning and Zoning Ordinance does it indicate that an individual may increase their animal count above the allowed amount in the Animal Code simply by applying for this type of permit.

It is requested that the Board reverse this zoning interpretation due to the numerous flawed perceptions it provides and the fact that it will dramatically change the intent of the existing animal code.

RECEIVED

MAY 01 2023

Subject: Appeal to Board of Adjustment & Appeals  
Re: Animal Count Interpretation

We have lived at 1587 S. Rio Verde Lane in Camp Verde for the past twelve years on 3.6 acres. The point system in our Town Code regulating kinds and numbers of animals, allows us to enjoy a rural life style with adequate restrictions to have the animals we love without negatively impacting the land or our neighbors. We bought our property with this understanding and believe that the Town has an obligation to enforce these restrictions to protect people, animals, and property values.

The allowable points are attached to a particular property to insure that the owners can enjoy their property without adversely impacting the quality of life of their neighbors and/or the surrounding community. These points are not something that can be traded, bought, sold or gifted. They come with and remain with the property. Limiting the kinds and numbers of animals that can reside or be kept on any particular property, also results in limiting the amount of manure, urine, and vermin, thus promoting a safe, healthy, and positive environment for people and animals alike.

The point system must be enforced as intended. Failure to do so is a dereliction of the responsibility on the part of the planning and zoning department to insure a safe, healthy, and peaceful community. The inconsistency, the hesitation, and the failure to enforce the Animal Count restrictions results in frustration, favoritism, unrest, and lack of confidence in governance throughout our town.

Respectfully,

Nils and Janet Anderson

*Nils A. Anderson*  
*Janet S. Anderson*

John J. Browder  
602-234-7800  
jjb@jhkmlaw.com

April 28, 2023

VIA E-MAIL: [jill.irvin@mc.com](mailto:jill.irvin@mc.com)

Ms. Jill Irvin  
Mr. Stephen Magoon  
3510 S. Sierra Lane  
Camp Verde, Arizona 86322

Re: Legal Opinion

Dear Jill and Stephen:

## I. INTRODUCTION

Stephen Magoon and Jill Irvin live at APN 404-11-027A (“Irvin Property”), which is across the street from two parcels Trampus Masker owns: APNs 404-12-422D and 404-12-422C (“Mansker Property”). Mansker routinely exceeds the farm animal count at the Mansker Property. Irvin, in turn, has complained to the Town of Camp Verde (“Camp Verde”) on several occasions, but to date Camp Verde has taken no action to remedy Mansker’s repeated violations.

As a result of Mansker’s violations of the animal count limits contained in the Ordinance, Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although, a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing or licensing property from the owner(s) of contiguous property and then using the lessor’s animal points to house and care for the farm animals on the lessee’s Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by leasing contiguous property and “using” that property’s animal points to countenance having an excessive number of farm animals on Mansker’s own Property.

For the reasons set forth herein, the part of the Interpretation authorizing a landowner to increase its animal count points by the use of some form of legal instrument (for example, a lease, license or enforceable contract) from a contiguous landowner is unavailing, lacks serious merit and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the





Ms. Jill Irvin  
Mr. Stephen Magoon  
April 28, 2023  
Page 2

Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points with the use of a lease, license or enforceable contract of contiguous property of a neighboring landowner.

## **II. RELEVANT PROVISIONS OF CAMP VERDE'S PLANNING & ZONING ORDINANCE (THE "ORDINANCE")**

**LOT:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**-AREA:** The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT LINE:** A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

**LOT OF RECORD:** A lot which existence and dimensions are acknowledged on a plat or deed at the County Recorder's Office.

**PARCEL:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

**SECTION 305 – ANIMALS:** Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject. Any lot where farm livestock are kept must be not less than one-half acre (21,780 sq ft.) in area. 87 Fowl (chickens, ducks, geese, turkeys, and peacocks) rabbits, and guinea pigs, which are cared for the by the property owner or occupant as prescribed in Section 305.C.3, are not limited to a maximum number of animals.

### **A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use

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on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

### B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
Alpacas:	3 Points	Miniature Horses, Ponies and Sicilian Donkeys:	6 Points
Emus:	3 Points	Ostriches:	6 Points
Pygmy Goats:	3 Points	Cattle:	12 points
Sheep, Goats:	4 Points	Domestic Deer:	12 Points
Llamas:	6 Points	Horse, Mules and Donkeys:	12 Points

### III. LEGAL ANALYSIS.

When construing a statute, a reviewing court's "goal is to find and give effect to" the drafter's intent. *Mail Boxes, Etc., U.S.A. v. Industrial Comm'n*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). The court looks "first to the plain language of the statute as the best indication" of the drafter's intent. *Id.* "Each word, phrase, and sentence must be given meaning so that no part will be [void], inert, redundant, or trivial." *City of Phoenix v. Yates*, 69 Ariz. 68, 72, 208 P.2d 1147, 1149 (1949). Although a statute's language must be consulted first, uncertainty about the meaning of the statute's terms may require the court to apply "methods of statutory interpretation that go beyond the statute's literal language." *Estancia Dev. Assoc., L.L.C. v. City of Scottsdale*, 196 Ariz. 87, 90, ¶ 11, 993 P.2d 1051, 1054 (App. 1999). These methods must include "consideration of the statute's context, language, subject matter, historical background, effects and consequences, and spirit and purpose," *id.*, as well as "the evil sought to be remedied." *Scenic Ariz. v. City of Phx. Bd. of Adjustment*, 228 Ariz. 419, 426, 268 P.3d 370, 377 (Ct. App. 2011), quoting *McElhaney Cattle Co. v. Smith*, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982).

By applying these principles to the Interpretation, it is amply clear that it is a fatally flawed analysis of the Ordinance's relevant terms. The first step in understanding why is to look at the pertinent language of the of the Ordinance itself:



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1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

As the Interpretation acknowledged, the definition of “lot” is critical to the Interpretation. This is because the allowable number of animal points may increase by six (6) points for every contiguous quarter acre increase in the lot’s area, provided the lot is at least one acre in size.

The core premise of the Interpretation is that a lease, license or enforceable contract of contiguous property increases the size or area of the “lot.” The premise is flawed. “Lot” is defined in pertinent part as “[a] parcel of land established by plat, subdivision, or otherwise permitted by law . . . .” It adds that the “area” within a lot is the “total area within the lot lines of a lot, excluding any street rights-of-way.” The definition of “lot line” is a “line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.” “Parcel,” in turn, is defined as “real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

Under these definitions, a “lot” is “real property with a separate or distinct number or other designation shown” on a “plan recorded in the office of the County Recorder,” or otherwise delineated on a recorded “survey, parcel map or subdivision plat,” and which abuts at least one public right of way. The “area” of the lot, which is necessary for computing the allowed number of animals on it, is the “total area” within its “lot lines,” or as defined by the Ordinance, “the line of record bounding a lot...”

Because the leasing, licensing or use of an enforceable contract of contiguous property does not increase the “area” of a “lot,” the Interpretation’s conclusion that owners may increase the number of animals in this way is legally invalid. After a purported “lease” or “license” of the contiguous lot, the lessee’s “lot” has exactly the same “area” as it did before the purported lease. Concomitantly, the “area” of the lessor’s “lot” also is exactly the same size as it was before the lease. In terms of the Ordinance’s definitions, the “area” of the lessee “lot” does not increase by leasing or licensing the contiguous property because the “line[s] of record” bounding it are exactly the same after the lease as they were before the lease. Leasing contiguous property is not legally sufficient to increase the lot’s “area” because leasing the ground does not increase the size of the

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lessee lot, i.e., its “area.” A review of the respective lots’ “line[s] of record bounding” at the County Recorder after the execution of any lease will reveal the exact same sized “lots” as they were before the lease or license of contiguous property. Because a lease of contiguous property does not enlarge the “lot” as the Ordinance defines that term, the Interpretation’s conclusion to the contrary is unavailing and contrary to the law.

By contrast, if Mansker purchased property from a contiguous landowner and then adjusted his property’s “line of record bounding” his property, then Mansker’s “lot” would have increased in “area” such that he may be afforded additional animal points under the Ordinance. But “leasing” ground to purportedly obtain animal points without actually increasing the lot’s “area” is not supported by the plain terms of the Ordinance.

Besides the fact that the Interpretation is not supported by the relevant plain terms of the Ordinance, the Interpretation contravenes the purpose of the Ordinance. The purpose of the Ordinance is “to conserve and promote the public health, safety, convenience and general welfare, by guiding and accomplishing a coordinated and harmonious town development for future growth.” Ordinance, at § 101. Although the keeping of farm animals in “appropriate locations and circumstances” is consistent with Camp Verde’s nature, the “number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties . . .” Ordinance, at § 305.

The Interpretation, which acknowledges it is an “expansive” reading, flies in the face of the stated purpose of the Ordinance. First, and significantly, the Interpretation does not analyze the effect that Trampus Mansker’s roping activities have on the nearby properties, including the Irvin Property. Indeed, the Interpretation concedes that Mansker’s “roping activities routinely exceed the allowable number of large animals,” with numbers “often” ranging from 15 to 34 animals. As such, Mansker has not complied (and is not complying with) the Ordinance. But instead of reigning in Mansker’s non-compliance, the Town appears ready and willing to reward him for violating the Ordinance based on the unavailing Interpretation. The message to the rest of the Town’s citizens is (a) their interests may not, and in the case of Irvin, do not matter; and (2) the Town would rather forgive and reward non-compliance instead of taking appropriate action to prevent the impairment of Irvin’s right to use and enjoy their Property.

Second, the Interpretation leads to the absurd result that, under the Ordinance, Mansker or a similarly situated landowner could enter into an agreement to house many, many more animals on a lot than would be allowed under the actual terms and conditions of the Ordinance. Put simply, if Mansker (a) had a neighbor who owned a contiguous parcel of property the size of which would permit the landowner to care and house, for example, a hundred head of cattle, and (b) Mansker leased the neighbor’s contiguous property, Mansker could house and care for an additional 100 head of cattle on Mansker’s 4.7 acres of property. It is absurd to conclude the Interpretation



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contemplates such a result. But that is exactly the door the Interpretation has opened. Ineluctably, the intent of the Ordinance is not to permit landowners such as Mansker to make an end-run around the animal count limits contained in the Ordinance simply by entering into a lease, license or other enforceable contract with an adjacent landowner. This is especially true because, as analyzed above, the plain terms of the Ordinance do not support the Interpretation.

Very truly yours,

John J. Browder

JJB:rba

MAGOON-IRVIN  
APPEAL OF ZONING RECORDING INTERPRETATION 2023-01  
BASED ON LEGAL ANALYSIS PROVIDED BY JOHN J. BROWDER OF JHKM LAWYERS

## I. INTRODUCTION

Stephen Magoon and Jill Irvin (collectively, “Magoon-Irvin”) live at APN 404-11-027A (“Magoon-Irvin Property”), which is across the street from two parcels Trampus Mansker owns: APNs 404-12-422D and 404-12-422C (“Mansker Property”). Mansker routinely exceeds the farm animal count at the Mansker Property. Magoon-Irvin, in turn, has complained to the Town of Camp Verde (“Camp Verde”) on several occasions, but Camp Verde has taken no action to remedy Mansker’s repeated violations.

As a result of Mansker’s violations of the animal count limits contained in the Ordinance, Magoon-Irvin requested that Camp Verde issue a zoning interpretation to clarify how to calculate animal points under the Ordinance. Camp Verde issued its Interpretation on February 9, 2023, concluding in part that, although a property owner such as Mansker could not exceed the animal count restrictions simply by obtaining permission to use the animal points appurtenant to and a contiguous parcel of property, the landowner could exceed the prescribed farm animal count in the Ordinance by leasing or licensing property from the owner(s) of contiguous property and then using the lessor’s animal points to house and care for the farm animals on the lessee’s Property. Stated differently, the Interpretation purports to authorize a scenario where a landowner such as Mansker makes an end run around the animal count limits in the Ordinance simply by obtaining a license from or leasing contiguous property and “using” that property’s animal points to countenance having an excessive number of farm animals on Mansker’s own Property.

This is significantly different from leasing a piece of property and then distributing animals across the properties which is a long-standing practice in the farming and ranching community. If the intent of this Administrative Interpretation was to clarify that position it does not. This interpretation asserts that it is now the animal points that transfer from one property owner to another not that the animals have been distributed across multiple lots.

For the reasons set forth herein, the part of the Interpretation authorizing a landowner to increase its animal count points by leasing property from a contiguous landowner or by obtaining a license is unavailing, lacks serious merit, and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points via a license or by leasing contiguous property of a neighboring landowner.

## II. RELEVANT PROVISIONS OF CAMP VERDE’S PLANNING & ZONING ORDINANCE (THE “ORDINANCE”)

The following definitions and sections are relevant to the issue presented by the Interpretation.

**LOT:** A parcel of land established by plat, subdivision, or otherwise permitted by law, having its principal frontage on a dedicated street or street easement. A half-street dedicated from such parcel shall be qualification for street frontage.

**-AREA:** The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT LINE:** A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.

**LOT OF RECORD:** A lot which existence and dimensions are acknowledged on a plat or deed at the County Recorder's Office.

**PARCEL:** Real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

**ACCESSORY USE:** A use of land or of a building or portion thereof customarily incidental and subordinate to and located on the same lot with the principal.

**PRINCIPAL OR PRIMARY:** The primary or predominant use of Lot or parcel.

**SECTION 305 – ANIMALS:** Keeping of farm animals in appropriate locations and circumstances is regarded as being consistent with the Town's rural character. However, the number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties or violate other legal restrictions to which the properties are subject. Any lot where farm livestock are kept must be not less than one-half acre (21,780 sq ft.) in area. 87 Fowl (chickens, ducks, geese, turkeys, and peacocks) rabbits, and guinea pigs, which are cared for the by the property owner or occupant as prescribed in Section 305.C.3, are not limited to a maximum number of animals.

#### **A. Allowed Livestock**

Any of the species listed below which are cared for by the property owner or occupant according to the following Animal Points. All livestock activity within the Town limits will be considered an accessory use to the principal use on any parcel except in the Agriculture District.

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.
2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

### B. Animal Points Allowed per Acreage

The allowable type and number of animals permitted on a particular property is computed by the following allotment table:

SPECIES (or associated types)	POINTS	SPECIES (or associated types)	POINTS
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Emus:	3 Points	Ostriches:	6 Points
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Sheep, Goats:	4 Points	Domestic Deer:	12 Points
Llamas:	6 Points	Horse, Mules and Donkeys'	12 Points

### III. LEGAL ANALYSIS.

When construing a statute, a reviewing court's "goal is to find and give effect to" the drafter's intent. *Mail Boxes, Etc., U.S.A. v. Industrial Comm'n*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). The court looks "first to the plain language of the statute as the best indication" of the drafter's intent. *Id.* "Each word, phrase, and sentence must be given meaning so that no part will be [void], inert, redundant, or trivial." *City of Phoenix v. Yates*, 69 Ariz. 68, 72, 208 P.2d 1147, 1149 (1949). Although a statute's language must be consulted first, uncertainty about the meaning of the statute's terms may require the court to apply "methods of statutory interpretation that go beyond the statute's literal language." *Estancia Dev. Assoc., L.L.C. v. City of Scottsdale*, 196 Ariz. 87, 90, ¶ 11, 993 P.2d 1051, 1054 (App. 1999). These methods must include "consideration of the statute's context, language, subject matter, historical background, effects and consequences, and spirit and purpose," *id.*, as well as "the evil sought to be remedied." *Scenic Ariz. v. City of Phx. Bd. of Adjustment*, 228 Ariz. 419, 426, 268 P.3d 370, 377 (Ct. App. 2011), quoting *McElhaney Cattle Co. v. Smith*, 132 Ariz. 286, 290, 645 P.2d 801, 805 (1982).

By applying these principles to the Interpretation, it is amply clear that it is a fatally flawed analysis of the Ordinance's relevant terms. The first step in understanding why is to look at the pertinent language of the of the Ordinance itself:

1. Lots of one-half acre to one acre in area may maintain animals totaling up to 24 points as set forth below.



2. Lots of one acre or more may increase the allowable number of points by an increment of six points for each additional, contiguous quarter acre.

As the Interpretation acknowledged, the definition of “lot” is critical to the Interpretation. This is because the allowable number of animal points may increase by six (6) points for every contiguous quarter acre increase in the lot’s area, provided the lot is at least one acre in size.

The core premise of the Interpretation is that a lease or license of contiguous property increases the size or area of the “lot.” The premise is flawed. “Lot” is defined in pertinent part as “[a] parcel of land established by plat, subdivision, or otherwise permitted by law . . . .” It adds that the “area” within a lot is the “total area within the lot lines of a lot, excluding any street rights-of-way.” The definition of “lot line” is a “line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space.” “Parcel,” in turn, is defined as “real property with a separate or distinct number or other designation shown on a plan recorded in the office of the County Recorder, or real property delineated on an approved survey, parcel map or subdivision plat as filed in the office of the County Recorder and abutting at least one public right-of-way or easement determined by the Community Development Director or Council to be adequate for the purpose of access.

Under these definitions, a “lot” is “real property with a separate or distinct number or other designation shown” on a “plan recorded in the office of the County Recorder,” or other otherwise delineated on a recorded “survey, parcel map or subdivision plat,” and a which abuts at least one public right of way. The “area” of the lot, which is necessary for computing the allowed number of animals on it, is the “total area” within its “lot lines,” or as defined by the Ordinance, “the line of record bounding a lot....”

Because the leasing or licensing of contiguous property does not increase the “area” of a “lot,” the Interpretation’s conclusion that owners may increase the number of animals by leasing or licensing contiguous areas is legally invalid. After a purported “lease” or “license” of the contiguous lot, the lessee’s “lot” has exactly the same “area” as it did before the purported lease or license. Concomitantly, the “area” of the lessor’s “lot” also is the exactly the same size as it was before the lease or license. In terms of the Ordinance’s definitions, the “area” of the lessee “lot” does not increase by leasing or licensing the contiguous property because the “line[s] of record” bounding it are exactly the same after the lease or license as they were before the lease or license. Leasing or licensing contiguous property is not legally sufficient to increase the lot’s “area” because leasing the ground does not increase the size of the lessee lot, i.e., its “area.” A review of the respective lots’ “line[s] of record bounding” at the County Recorder after the execution of any lease will reveal the exact same sized “lots” as they were before the lease of license of contiguous property. Because a lease of contiguous property does not enlarge the “lot” as the Ordinance defines that term, the Interpretation’s conclusion to the contrary is unavailing and contrary to the law. The “size” of “lot” for purposes of calculating animal points is not determined by a private lease. It is and must be determined by the size of the “lot” as defined by the recorded documents.

By contrast, if Mansker purchased property from a contiguous landowner and then adjusted his property’s “line of record bounding” his property, then Mansker’s “lot” would have increased in “area” such that he may be afforded additional animal points under the Ordinance. But “leasing” ground to

purportedly obtain animal points without actually increasing the “area” of the lot where the animals would be kept is not supported by the plain terms of the Ordinance.

Furthermore, the Interpretation improperly purports to create a transferrable property right severable from the real property to which it is incidental and appurtenant. Preliminarily, the Interpretation provides no legal support whatsoever in favor of the proposition that animal points are an intangible property right that can be transferred via lease or license. Instead, it incorrectly reasons that, for the purpose of determining the number of animal points afforded a “lot,” the size of the “lot” as indicated by the “plat,” “deed” or the “lot line” is entirely irrelevant because the lot owner can mysteriously transfer animal points by lease or license. That proposition, however, fails to account for the fact that except for within the Agricultural District, “livestock activity” within the Town is an “accessory use to the principal use.” This means the “livestock activity” (and the animal points scheme) are “incidental and subordinate to and [must be] **located on the same lot with the principal use.**” See definitions of “accessory use” and § 305 (emphasis added.); see also definition of Use (Accessory)(defining an “accessory use” as a “use incidental to the principal use on the **same lot**”(emphasis added.). The Interpretation does violence to the terms and conditions of the Ordinance, ignoring the fact that “livestock activity” is an “accessory use” which under the terms and conditions of the Ordinance, must be located on the same lot as the principal use. There simply is no support for the Interpretation under the terms and conditions of the Ordinance.

Besides the fact that the Interpretation is not supported by the relevant plain terms of the Ordinance, the Interpretation contravenes the purpose of the Ordinance. The purpose of the Ordinance is “to conserve and promote the public health, safety, convenience and general welfare, by guiding and accomplishing a coordinated and harmonious town development for future growth.” Ordinance, at § 101. Although the keeping of farm animals in “appropriate locations and circumstances” is consistent with Camp Verde’s nature, the “number, size, type or manner in which animals are maintained on any parcel shall not impair the enjoyment or use of nearby properties . . . .” Ordinance, at § 305.

The Interpretation, which acknowledges that it is an “expansive” reading, flies in the face of the stated purpose of the Ordinance. First, and significantly, the Interpretation does not analyze the effect that Trampus Mansker’s excessive animals have on the nearby properties, including the Magoon-Irvin Property. Indeed, the Interpretation concedes that Mansker’s “roping activities routinely exceed the allowable number of large animals,” with numbers “often” ranging from 15 to 34 animals. As such, Mansker has not complied (and is not complying with) the Ordinance. But instead of reigning in Mansker’s non-compliance, the Town appears ready and willing to reward him for violating the Ordinance based on the unavailing Interpretation. The message to the rest of the Town’s citizens is (1) their interests may not and, in the case of Magoon-Irvin, do not matter; (2) the Town would rather forgive and reward non-compliance instead of taking appropriate action to prevent the impairment of Magoon-Irvin’s right to use and enjoy their Property; and (3) the Town will justify its actions with the dubiously reasoned Interpretation.

Second, the Interpretation leads to the absurd result that, under the Ordinance, Mansker or a similarly situated landowner could enter into a lease to house many more animals on a lot than would be allowed under the actual terms and conditions of the Ordinance. Put simply, if Mansker (a) had a neighbor who owned a contiguous parcel of property the size of which would permit the landowner to

care and house, for example, a hundred head of cattle, and (b) Mansker leased the neighbor's contiguous property, Mansker could house and care for an additional 100 head of cattle on Mansker's 4.7 acres of property. It is absurd to conclude the Interpretation contemplates such a result. But that is exactly the door the Interpretation has opened.

Third, the Interpretation creates an asset that would be a transferrable property right severable from the real property to which it is incidental and appurtenant. The absurd result of this is that the property owner adjacent to Mansker could assign a monetary value to his animal points license and put that license up for bid. This would force Magoon-Irvin or other residents of the community into a bidding war in order to protect their property rights. Prior to this Interpretation those rights would have been protected by the Town's enforced zoning ordinances. Again, it is absurd to conclude the Interpretation contemplates such a result, but that is exactly the door the Interpretation has opened.

Ineluctably, the intent of the Ordinance is not to permit landowners such as Mansker to make an end-run around the animal count limits contained in the Ordinance simply by entering into a lease or license with an adjacent landowner. This is especially true because, as analyzed above, the plain terms of the Ordinance do not support the Interpretation.

For the reasons stated above, the part of the Interpretation authorizing a landowner to increase its animal count points by license or by leasing property from a contiguous landowner is unavailing, lacks serious merit, and is not supported by the relevant terms and conditions of the Ordinance. Camp Verde and the Board of Supervisors should reverse that portion of the Interpretation permitting a landowner to increase its animal points via a license, lease or enforceable contract of contiguous property of a neighboring landowner.