



# Town of Camp Verde

## Community Development Department

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MP

Dec. 11th  
Publish

## Notice of Decision

Decision Date: November 8, 2016 Application Number: 20140178

This notice concerns a Planning Director Decision on the Verification of an Existing Nonconforming Use application by Verde Fair and Recreation Association, Inc. (Owner & Applicant) on their Arena property located at 1738 N. Arena Del Loma, APN 404-18-178Q, Zoning District R1-70 (Residential; Single Family).

### Applicant's Existing Nonconforming Use Request:

1. Livestock boarding and equine events since 1964.
2. All existing structures to include arena, announcer stand, bleachers, storage buildings and various corrals for the holding and boarding of livestock.
3. Allowance for an on-site care taker temporarily residing in a recreational vehicle.

### Planning Director's Decision:

1. The Director finds that equine uses and events have been occurring on the subject property on a continual basis since May 25, 1968 (Start of Use). The subject property was purchased by Verde Fair and Recreation, Inc. on August 13, 1970 as verified by the evidence, both dates being prior to the adoption of detailed zoning by Yavapai County of September 20, 1970. Eighteen (18) affidavits were provided by the applicant that affirm equine uses, events and livestock animal numbers. Livestock numbers will be determined based on Verde Fair and Recreation's ability to control nuisance related issues. Violations may result in the reduction of allowed animals housed on the property per Town Code Section 305(C)(3)(c,d).
2. Structures which include the arena, announcer stand, bleachers, storage buildings and various portable corrals for the holding and boarding of livestock, have been a part of the equine uses and events for an undetermined amount of time. The Parcel file records, that are a permanent record of the Town of Camp Verde Community Development Department, were reviewed with a finding that there are no records of building permits or zoning clearance permits issued for any of the existing permanent or portable structures on the subject property. One storage building and two (2) cargo containers have been placed on the subject property sometime this year and do not meet the pre-existing condition.
3. Recreational Vehicles would have to have been on the Arena Property continuously and in one location since before September of 1970 to enjoy any grandfathered rights. The Director has determined that this use is not a lawfully established Nonconforming use and therefore is not allowed. 10 DAYS

### OPPORTUNITY TO REVIEW THE RECORD:

A copy of the Planning Director Decision and all evidence submitted associated with this application, is available for inspection, at no cost, in the Town of Camp Verde Community Development Department during normal business hours. Copies may be purchased for \$.25 per page. The Planning Director Decision contains the findings, conclusions and conditions upon which the decision is based, along with the evidence used to



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determine this decision. For further information, contact Carmen Howard, Community Development Director, at 928-554-0054 or [Carmen.howard@campverde.az.gov](mailto:Carmen.howard@campverde.az.gov)

**APPEAL:**

Per Section 102, Item B.5, first paragraph "Any person aggrieved by the decision of the Community Development Director may request an appeal to the Board of Adjustment and Appeals. Appeals shall be made as prescribed in Part Six, Section 600-B. An appeal requires a \$500.00 fee and must specify the grounds with which it is based. The appeal time requirements will start 45 days from the date of publication of the decision. The deadline to file an appeal is January 26, 2017.

Unless appealed, this decision is effective January 26, 2017 at 5:00 PM.

*Michael Jenkins*  
By: Michael Jenkins, Community Development Director Date 11-10-16



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**Verification of a Non-Conforming Use**  
**Formal Written Notice of Action**

Approval Date: \_\_\_\_\_ Permit Number: 20140178

**Identification of the effective date for the detailed zoning adoption used in the determination of a prior lawful use:**

Per Section 102, Item 5 (Verification of an Existing Nonconforming Use) of the Town of Camp Verde Planning and Zoning Ordinances the following is stated "A Lawful use of any building, structure, or Land existing at the time of the effective date of the adoption of this ordinance may be Continued" or Per Section 102, Item 1.a (Continuation) "The date upon which the Yavapai County Zoning Ordinance became effective, September 20, 1970".

*Note: Per the legal opinion of the Town Attorney (Moyes, Sellers and Sims), as established in a previous litigation concerning a non-conforming use (Yavapai County Superior Court Case v1300cv82008-0289, Zellner et al. v. Town of Camp Verde) the following was determined:*

*The effective date for determining prior lawful uses of buildings, structures and land is the date that Yavapai County approved its detailed zoning. That effective date is September, 1970. Judge Bluff concluded that the effective date was September, 1970.*

**Current Parcel Number and Owner (Applicant) of subject property requesting this Verification of an Existing Nonconforming Use:**

<b>CURRENT PARCEL NUMBER</b>	<b>CURRENT OWNER OF RECORD (Applicant)</b>
404-18-178Q	Verde Fair and Recreation Association, Inc. (At the time of the application for this verification (May 30, 2014), Catherine Webster (Applicant for Verde Fair and Recreation Association, Inc.), was listed on the Corporation Annual Report (Evidence Document #2) as the Chief Executive Officer for the Verde Fair and Recreation Association, Inc.)

**Legal Description and START OF USE of subject parcel 404-18-178Q:** \*Note: Legal Description provided is taken directly from a Warranty Deed showing Verde Fair and Recreation Association, Inc. as the Grantee and recorded under Book 613, Page 102 of the Yavapai County Recorder Official Records and dated August 13, 1970 (Evidence Document #2. (Start of Use) is May 25, 1968 as determined by Evidence Document #1, (Forest Service Aerial Photograph) showing equestrian arena in existence.

The West One Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 19, Township 14 North, Range 5 East of the Gila and Salt River Base and Meridian.

**CURRENT ZONING OF PARCEL 404-18-178Q:** R1-70 (Residential, Single Family)

**Applicant's listed request of nonconforming uses and structures being verified and their specific nature:**

- Livestock boarding and equine events since 1964.
- All existing structures to include arena, announcer stand, bleachers, storage buildings and various corrals for the holding and boarding of livestock.
- Allowance for an on-site care taker temporarily residing in a recreational vehicle.  
*Note: This item was requested verbally by Tye Redell, President and Posse Captain, Bruce Morrow (Member, Verde Fair and Recreation, Inc.)*

**Evidence Provided by Applicant, in the Community Development Records or other government agencies as stipulated in Section 102 (Applicability and Exemptions), Item B.5 (Verification of an Existing Nonconforming Use) of the Town of Camp Verde Planning and Zoning Ordinance:**

<b>Section 102.B, Item 5.a.2 Evidence Requirements</b>	<b>EVIDENCE PROVIDED</b>	<b>Evidence Document Number</b>
<b>Records of use of land or structures in the Town Community Development Department or other government agency with sufficient information to show that the use predates applicable zoning;</b>	<ul style="list-style-type: none"> <li>A. Forest Service Aerial Photograph dated 5-25-1968. Community Development Archive. Aerial Photograph shows the arena. The currently existing structures / buildings nor livestock could be determined on the aerial photo.</li> <li>B. Warranty Deed showing Verde Fair and Recreation, Inc. as Grantee dated August 13, 1970 and Recorded as an Official Record with the Yavapai County Recorder under Book 613, Page 102. (Provided by Verde Fair &amp; Recreation, Inc.)</li> <li>C. E-mail response to a request by the Community Development Director to verify any existing sewage septic systems permitted for the subject property by the Yavapai County Development Services – Environmental Unit dated September 20, 2016.</li> </ul>	<p>#1</p> <p>#2</p> <p>#21</p>
<b>Similar, credible evidence from Utility Companies, business or Private Records;</b>	A.	
<b>Affidavit(s) from Individual(s) testifying that the property was and has been used for a purpose that predates adoption of the zoning in question.</b>	A. There were (18) Affidavits submitted as evidence. The signature on each Affidavit was notarized. (See Summary of Affidavits below)	#3 - #20

**Community Development Director's Findings:** (Written Notice of Action)

Note: Per Section 102, Item B.5.a.2 of the Town of Camp Verde Planning & Zoning Ordinance there are two (2) or more of the following types of evidence required to verify a non-conforming use and that these types of evidence were determined to be in place at the time of this verification.

Evidence type, reference 1: Records of use of land or structures in the Town Community Development Department or other government agency with sufficient information to show that the use predates applicable zoning;

Evidence type, reference 2: Similar, credible evidence from utility companies, business or private records;

Evidence type, reference 3: Affidavit(s) from individual(s) testifying that the property was and has been continuously used for a purpose that predates adoption of the zoning in question.

Per the requirements of the Town of Camp Verde's Planning and Zoning Ordinance, Section 102, Item B (Non-Conforming Uses and Structures) it is hereby found by the Community Development Director that the subject property, hereby described as the Yavapai County Assessor's Parcel Number 404-18-178Q (Legal Description above), has continuously utilized (Per the best available evidence) the following land uses and these land uses are VERIFIED as **Legal Non-Conforming Uses** as follows:

- A. That equine uses and events have been occurring on the subject property on a continual basis since May 25, 1968 (Start of Use) as verified by evidence document #1 and the subject property was purchased by Verde Fair and Recreation, Inc. on August 13, 1970 as verified by evidence document #2, both dates being prior to the adoption of detailed zoning by Yavapai County of September 20, 1970. Also, 18 affidavits were provided by the applicant that affirm equine uses and events and livestock animal numbers. (Three forms of evidence used) Two from reference 1 and One from reference 3) (See attached summary of affidavits from individuals testifying that the property was and has been continuously used for a purpose that predates adoption of the zoning in question.)
- B. All existing structures, which include arena, announcer stand, bleachers, storage buildings and various portable corrals for the holding and boarding of livestock, have been a part of the equine uses and events for an undetermined amount of time. The Parcel file records, that are a permanent record of the Town of Camp Verde Community Development Department, were reviewed with a finding that there are no records of building permits or zoning clearance permits issued for any of the existing permanent or portable structures on the subject property. These existing buildings and structures on the subject parcel were reviewed for compliance with the existing R1 zoning district dimensional standards using the Yavapai County GIS mapping system and by some field measurements as follows: (See attached Building Location map.)

BUILDING NAME	FRONT SETBACK 20' REQUIRED	INT. SIDE SETBACK 7' REQUIRED	EXT. SIDE SETBACK 10' REQUIRED	REAR SETBACK 25' REQUIRED	CURRENT STATUS
BLEACHERS	381'	134'	115'	229'	Meets or exceeds District Setback requirements.
ANNOUNCER STAND	450'	236'	49'	160'	Meets or exceeds District Setback requirements.
STORAGE #1	395'	68'	216'	211'	Meets or exceeds District Setback requirements.
STORAGE #2	38'	12.5'	289'	233'	Meets or exceeds District Setback requirements.
STORAGE #3	511'	10'	295'	106'	Meets or exceeds District Setback requirements.
STORAGE #4	610'	242'	37'	13.5'	Meets or exceeds District Setback requirements. Structure set after 2009. This accessory structure must be removed. See OPTIONS listed below.
CORRALS #1					See MAINTENANCE OF LIVESTOCK FACILITIES below.
CORRALS #2					See MAINTENANCE OF LIVESTOCK FACILITIES below These corrals have been removed per site inspection on 10-12-16

*Note: Per Section 102, Item B.5, first paragraph, of the Town of Camp Verde's Planning and Zoning Ordinance the following is stated "Nothing in this paragraph shall be construed to mean that any use is exempt from regulations enacted to protect the public health, safety or welfare." This would include for nuisances as defined in the Town Code, Building Codes and Planning & Zoning Ordinance.*

*Note: MAINTENANCE OF LIVESTOCK FACILITIES, Section 305, Item C.3.b of the Planning and Zoning Ordinance states as follows:*

*"b. Stables, barns or structures used for housing or feeding animals must observe the same setbacks or yards as the dwelling unit."*

**FINDING:** As set by precedence and prior interpretations of the requirements of Section 305, Item C.3.b, corrals, if used for the housing or feeding of animals must observe the same setbacks or yards as the dwelling unit. If the existing corral #1 is ever moved to another location on the property and used for the housing or feeding of livestock animals, they will need to meet the same setbacks or yards as the dwelling unit.

Additionally, Storage Building #4 and the two (2) shipping cargo containers have been placed on the subject property sometime this year and do not meet the pre-existing condition and must be removed. These shipping containers are not allowed for use per Section 203 (first paragraph) of the Planning & Zoning Ordinance unless engineering is provided showing that the cargo containers meet safety and/or building standards for use as an accessory structure. Also, per Section 301, Item C.1 of the Planning and Zoning Ordinance the following is stated:

“Accessory Uses and Structures are allowed prior to installation of the principal structure only when a construction permit is issued for the principal structure and construction of same is commenced within six months. On lots of two acres or more in size, an accessory structure may be constructed for the purpose of storing machinery or other miscellaneous Equipment without a primary structure being required. A building permit must be Obtained and all structures must be built to conform to the International Building Codes and Zoning District setback requirements.”

For Storage Building #4 and the two Cargo Containers or any structure constructed or set on the Arena Property, a Zoning Clearance Permit and possibly a building permit, based on the size or use of the structure, may be required.



**SUMMARY OF AFFIDAVITS TESTIFYING TO LAND USES AND  
LIVESTOCK (Horses and/or Cattle) Numbers**

<b><u>AFFIANT'S NAME &amp; Evidence Document Number</u></b>	<b><u>Number of Livestock On-Site Animals- Typical Cattle &amp; Horses</u></b>	<b><u>Date that the Affiant moved to or started living in the area.</u></b>	<b><u>Did Affiant move or start living in the area prior to the adoption of the zoning in question? September 20, 1970</u></b>  <b><u>YES or NO</u></b>
Glen E. Allen #3	5-20	1997	<b><u>NO</u></b>
Don Murdock #4	10-50	1955	<b><u>YES</u></b>
Billy Port Parker #5	10-275	1939	<b><u>YES</u></b>
John T. Gray #6	200-500	1946	<b><u>YES</u></b>
Danny Dee Parker #7	5-250	1943	<b><u>YES</u></b>
Justin Macdonald #8	5-20	1985	<b><u>NO</u></b>
Bill Teague #9	12-110	<b><u>Undetermined</u></b>	<b><u>Undetermined</u></b>
Hoyt Lee Moore #10	10-50	1974	<b><u>NO</u></b>
Bruce Morrow #11	10-75	1970	<b><u>YES</u></b>
James Williams #12	5-150	1979	<b><u>NO</u></b>
Gary Roth #13	10-160	1996	<b><u>NO</u></b>
Catherine Webster #14	<b><u>Undetermined</u></b>	<b><u>Undetermined</u></b>	<b><u>Undetermined</u></b>
Joe Butner #15	10-60	1994	<b><u>NO</u></b>
George Pugh #16	10-200	1994	<b><u>NO</u></b>
Dana L. Butner #17	10-60	1994	<b><u>NO</u></b>
Tim Roth #18	25-200	1996	<b><u>NO</u></b>
Debra Anderson #19	10-300	1981	<b><u>NO</u></b>
Rick Anderson #20	5-300	1981	<b><u>NO</u></b>

Note: All Affidavits submitted by the applicant were presented a single form type on evidence document numbers 3-20. This form identified the numerous, routine, uninterrupted and regular presence of the following land uses:

- Special Events
- Roping
- Barrel Races
- Horse Shows
- Equine Training
- 4H and FFA Events
- Horse Events and Training
- Boarding of Horses and Cattle
- Affiant's testimony that they have observed firsthand the numerous, routine, uninterrupted and regular presence of livestock and animals in the Arena as well as up to 13 recreational vehicles, equipment, trailers and temporary structures added to the property. Also, the uninterrupted and regular presence of a caretaker and others residing at the Arena property. Also, the routine and regular temporary storage of trailers and other items on the Arena property, resembling an equipment and vehicle storage lot, the corrals at the east of the property in their current location and the off-loading of over 20 large hay bales and activities resembling commercial hay sales on the property.

**FINDING: (Uses and Livestock numbers)** Based on the 18 affidavits provided and additional evidence as determined by evidence document 1, as described above, the land uses that have been attested to as being numerous, routine, uninterrupted and regular are determined by this verification as being Pre-Existing Non-Conforming uses as follows:

- Special Events
- Roping
- Barrel Races
- Horse Shows
- Equine Training
- 4H and FFA Events
- Horse Events and Training
- Boarding of Horses and Cattle

Further: The maximum and minimum number of Livestock Animals that were reported on the 18 affidavits submitted ranged from 5 to 500 respectively. Livestock Animals that are brought to any of the events or activities and then taken away by their owners after the event or activity, are not considered as being "cared for by the property owner or the occupant" and are not counted in the Animal Point system as outlined in Section 305, Items A & B. Aerial photos showing a continual occupancy and number or livestock being cared for on the subject property are not available to the Community Development Department nor were they provided by the applicant. Therefore, the best available evidence at this time are the 18 affidavits as provided by the applicant. If the standard requirements for the Arena Property were applied, a total number of livestock animals allowed for the 4.39 acre parcel would be 8, either cattle or horses or combination thereof. Since the Arena Property is a pre-existing non-conforming use and based on the Affidavits provided for this verification, it will be left up to Verde Fair and Rec. on how many livestock animals will be housed on the Arena Property with the

following conditions:

Under Section 305, Items C.3.c & d of the Planning & Zoning Ordinance the following will apply:

- c. "Where the keeping of such animals becomes a nuisance, as defined in the current Town Code, the Code Enforcement Official shall have the authority to determine a reduction in the number of and/or removal of the animals as necessary to comply with the current Town Code."
- d. "The Code Enforcement Official has the authority to determine that removal of the animals in circumstances where they constitute a health or safety hazard to human beings is necessary to comply with the current Town Code."

Also, a nuisance complaint was filed with the Community Development Department within the last several months concerning a pile of horse and cattle droppings being deposited at the southwest corner of the property. It has been determined that this complaint is founded and the pile will need to be removed by Verde Fair and Rec. prior to any additional livestock animals being housed at the Arena Property. Further complaints or findings by the Code Enforcement Official may cause a determination by the said official to require a reduction or limit of livestock animals being housed on the Arena Property as referenced above under Section 305, Items C.3.c & d.

It will be up to Verde Fair & Rec. to police all possible nuisance issues to protect their ability to have combined livestock numbers above the normally allowed 8 (Horses and/or Cattle).

**FINDING: (Caretaker)** Based on the Affidavits submitted, it states in the affidavits that there has been an "uninterrupted and regular presence of a caretaker and others residing at the Arena property".

As referenced above, per Section 102, Item B.5, *first paragraph, of the Town of Camp Verde's Planning and Zoning Ordinance the following is stated "Nothing in this paragraph shall be construed to mean that any use is exempt from regulations enacted to protect the public health, safety or welfare."*

This would include for nuisances as defined in the Town Code, Building Codes and Planning & Zoning Ordinance. As has been witnessed by the Community Development staff, a caretaker and others residing at the Arena property are living in one or several Recreational Vehicles. These Recreational Vehicles come and go at different intervals. Per Evidence Document #21, the Yavapai County Development Services Department, Environmental Unit has researched the Arena property for any sewage septic permits. As can be seen in Evidence Document #21, the county has no record of any septic permits being issued for the property. Also, the Town of Camp Verde Community Development Department has no record of any electrical permits being issued for the property to install an electrical pedestal to accommodate any Recreational Vehicles.

In order to protect the public health, safety and welfare, adequate and approved sewage disposal systems must be in place to reside on a property. Also, electrical service connections must be permitted and inspected to protect the public health, safety and welfare.

It must be understood that an individual or individuals bringing a Recreational Vehicle onto the Arena Property for seasonal or short stay periods are not creating any vested rights that would be allowed for a pre-existing non-conforming use. Aside from the public health, safety and welfare, those Recreational Vehicles would have to have been on the Arena Property continuously and in one location since before September of 1970 to enjoy any grandfathered rights.

#### **OPTIONS:**

(CARETAKER): Per Section 306, Item A.1.a the following is required:

“It shall be unlawful for any person to construct, maintain or operate any mobile/manufactured home park or RV park within the limits of Camp Verde unless they hold a valid use permit.....”

Option 1: Since RV parks are not allowed in the R1 zoning district, rezone the Arena Property to RR – Residential Rural, 2 acre minimum. If the zone change is approved Verde Fair and Rec. could then apply for a Use Permit for a small RV Park. The Use Permit is Site Plan specific and Verde Fair and Rec. would need to prepare a Site Plan to scale showing the RV park area meeting all the design criteria as required in the Planning & Zoning Ordinance and other agencies. An on-site waste water system would need to be designed and approved by the Yavapai County Development Services Environmental Unit. 10 to 15 RV spaces could be accommodated reasonably on the Arena Property and would allow for a caretaker living in an RV, guests and paying customers.

Option 2: Apply for a building or set permit for a site-built, modular or manufactured home. Any one of these single family residences are allowed in the R1 zoning district. The Caretaker could then occupy the single family residence while taking care of the facility. RVs would not be allowed under this option.

#### **APPEAL:**

Per Section 102, Item B.5, first paragraph “Any person aggrieved by the decision of the Community Development Director may request an appeal to the Board of Adjustment and Appeals. Appeals shall be made as prescribed in Part Six, Section 600-B. The appeal time requirements will start from the date of publication of the decision.

\_\_\_\_\_  
Signature: Michael Jenkins  
Community Development Director

\_\_\_\_\_  
Date