
*Doney Park Timberline Fernwood Area Plan Update Topic Paper –
Land Use Planning and the Horseman’s Lodge*

PURPOSE. Recently, County staff has received questions from property owners and residents regarding what the sale of The Horseman’s Lodge to the Navajo Nation Gaming Enterprise (NNGE) might mean for the community. This property is located on State Highway 89 and is within the Doney Park Timberline Fernwood (DPTF) Area Plan boundary. The purpose of this topic paper is to provide information regarding the status of the current land use and based on best available information, options for the future.

WHAT IS THE CURRENT ZONING AND WHAT DOES IT ALLOW? The 2.27-acre property is currently zoned AR 2 ½, a single family residential zoning district. The AR 2 ½ designation is the abbreviation for agricultural residential, 2.5 acre minimum parcel size. Typical land uses would include single family residential, agricultural, public and quasi-public uses, with limited commercial uses limited to home occupation and cottage industries.

WHAT IS THE CURRENT LAND USE? Currently the property is used as a restaurant and bar and has been used in that manner continuously since at least 1981. Because the use was established prior to 1981, when the current zoning district designations were adopted, the current land use is considered to be a legal nonconforming use. In other words, the use is grandfathered under Section 3.13 of the Zoning Ordinance, Nonconforming Uses. This means that while the current use is permitted to operate, very limited or no expansion of the existing commercial use is permitted.

CAN THE CURRENT COMMERCIAL LAND USE BE CHANGED TO ANOTHER COMMERCIAL USE? No. Under County jurisdiction, in order for a new or different commercial use to be conducted on the site a change in zoning would be required. That process requires public hearings with the Planning and Zoning Commission and Board of Supervisors as well as public notification.

DOES THE COUNTY’S ZONING ORDINANCE APPLY REGARDLESS OF OWNERSHIP? Yes, the County’s Zoning Ordinance applies to the use of any “fee simple” property within the unincorporated County, except in instances when land is owned by another government agency (such as the County). Fee simple refers to property that is owned without limitations or conditions.

CAN A CASINO OR OTHER GAMING ACTIVITIES BE CONDUCTED ON THIS PROPERTY UNDER COUNTY ZONING? No. The County’s Zoning Ordinance does not allow gaming activities on any land under County zoning jurisdiction.

HOW IS GAMING REGULATED IN ARIZONA? Gaming, or gambling, is regulated at the State level by the [Arizona Department of Gaming](#). State rules pre-empt or prohibit the County from allowing gaming as a land use in any zoning district.

CAN NNGE CHANGE THE RESTAURANT USE ON THE PROPERTY TO A CASINO? In Arizona, gaming may only be conducted on tribal trust property. In order for NNGE to operate a casino on this property, the land would need to be transferred into trust property. At this time the County is not aware of this process having been initiated. If that process were to occur, our understanding is that it requires approval above the State level.

CAN THE COMMUNITY ENGAGE WITH NNGE TO UNDERSTAND LONG TERM PLANS FOR THE PROPERTY? Yes, County staff has contacted NNGE and informed them that the DPTF Area Plan process is underway. County staff will continue to promote open communications and constructive dialogue with NNGE and will invite their staff to attend area plan meetings.