



**PLANNING & ZONING COMMISSION
MINUTES February 25th, 2021
PRESCOTT, ARIZONA**

- **MINUTES of the PRESCOTT PLANNING & ZONING COMMISSION MEETING held on February 25th, 2021 at 9:00 AM via ZOOM teleconferencing.**

I. CALL TO ORDER

Chair Don Michelman called the meeting to order at 9:00 a.m.

II. ATTENDANCE

COMMISSIONERS	STAFF MEMBERS
Don Michelman, Chair	Bryn Stotler, Community Dev. Director
Ted Gambogi, Vice Chair	George Worley, Planning Manager
Stan Goligoski	Tammy DeWitt, Community Planner
Thomas Hutchison	Kaylee Nunez, Recording Secretary
Gregory Lazzell	
George Lee	COUNCIL
Butch Tracey	Councilman Steve Sischka, Liaison
	Councilman Phil Goode
	Councilmember Rusing

III. REGULAR AGENDA ITEMS

- 1. Approval of the January 28th, 2021 Meeting Minutes.**

Commissioner Lazzell moved to approve the January 28th, 2021 minutes, Commissioner Lee seconded the motion. Motion passed unanimously (7-0).

IV. DISCUSSION ITEMS

- 1. LDC21-001: Amendment to Land Development Code Article 2, Section 2.4.49. Telecommunications Facilities, to create development criteria to permit these facilities with an allowance for the height to exceed the zoning districts height in commercial and industrial zoning districts, require concealment, and screen equipment compounds.**

Community Planner Tammy Dewitt summarized the last meeting's discussion regarding this agenda item. Ms. Dewitt also reiterated that there are three updates to the City's telecommunications code requested by City Council as result of a special study session held on October 27th, 2020. These requests are:

- 1) Mandatory concealment (stealth design) in residential areas.
- 2) A stated preference for collocation and usage of already compromised sites.
- 3) Requirement to screen ground infrastructure and equipment.

The update also includes: taking out outdated language, adding new definitions from FCC regulations, updating criteria to allow towers to exceed the height allowance of the current zoning district and adding criteria for concealed telecommunications facilities.

The draft that Planning staff has prepared specifically proposes that wireless (telecommunications) facility height allowances are modified to the following:

- a. Concealed Telecommunications Facilities that meet the height limitations for the underlying zoning district shall be permitted in the RE-1, SF-35, SF-18, SF-12, SF-9, SF-6, RT, MF-M, MF-H, SPC, MU, RO, NOB, and DTB zoning districts. The code currently allows:
 - RE, all SF, RT, both MF, MU and NOB districts: 35' height allowed
 - RO: 25' height allowed
 - DTB: 35' height allowed for single family uses and 50' for other uses
- b. Concealed Telecommunications Facilities that are less than 70 feet in height shall be permitted in the Commercial (BG and BR) zoning districts. The code currently allows:
 - BG: 50' maximum height
 - BR: 50' and up to 100' with Special Use Permit (SUP)
- c. New Support Structures up to 80 feet in height (with or without concealment) shall be permitted in all Industrial (IT, IL, and IG) zoning districts. The code currently allows:
 - IT: 40' height allowed
 - IL: 50' height allowed
 - IG: 50' and up to 100' with SUP
- d. In all districts, the City shall have the authority to vary the height restrictions listed in this section through a SUP upon the request of the applicant and a satisfactory demonstration of need for a greater height. With its SUP request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the City Council.

Commissioner Hutchison asked whether the updated code would allow the City to make special provisions for areas where there is no cell coverage. Ms. Dewitt answered that the code would allow provisions; that the applicant could use the Special Use Permit (SUP) process to address areas with little or no coverage. Ms. Dewitt then presented three questions for each Commissioner to consider:

1. *Should the City consider creating an allowance for Telecommunications Facilities to exceed the zoning district height in any zoning district, or should all height exceptions require a SUP?*
 - a. Tracey: Not ready to comment at this time, not enough info.
 - b. Lee: Unclear on the question. *Ms. Dewitt provided further explanation that the new height allowances aim to incentivize applicants to place cell towers in commercial and industrial districts, as the permitted height by right will be higher in those areas*
 - c. Lazzell: Thinks we're on the right track by keeping the SUP process in residential districts and more leeway in others.
 - d. Hutchison: Is strongly in favor of hearing the voice of the citizens and believes all applications should still go through the SUP process.
 - e. Goligoski: Really likes the new draft; specifically maintaining the requirement for SUPs for residential districts and providing incentive to place cell towers in commercial districts via an increased height allowance. He does not believe we should make concealment mandatory, however.
 - f. Gambogi: Thinks we have a lot of work to do; specifically in educating the public on the advances in cell tower technology.
 - g. Michelman: Likes the concept of giving incentive to carriers to place facilities outside of residential districts. Still needs more time to make a final decision.

2. *Should the process to exceed the allowed height allowance in commercial and industrial districts be through the SUP process to be approved by City Council or through the Variance process to be approved by the Board of Adjustment?*

Ms. Dewitt summarized that the consensus of staff and Commissioners was to keep the SUP process that is currently in place and not diverting applications to the Board of Adjustment.

3. *Should all telecommunications facilities, regardless of zoning district, be required to be concealed?*

Ms. Dewitt presented the draft language for concealment requirements, which states that 'antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to the casual observer' as well as 'existing structures utilized to support the Antennas must be allowed within the underlying zoning district'. She clarified that these requirements would apply to all districts except for Industrial.

Commissioner Lazzell asked whether municipalities can dictate concealment designs; Ms. Dewitt answered that we can discuss and recommend designs with applicants.

Assistant City Attorney Matt Podracky also explained that the Federal Telecommunications Act of 1996 left some local zoning authority in place to allow for determinations of scope and design, so long as the standards are not discriminatory.

- a. Tracey: Agrees with concealment requirements and would like to see the requirements apply to Industrial districts as well.
- b. Lee: Agrees with Commissioner Tracey.
- c. Lazzell: Agrees with Commissioners Tracey & Lee.
- d. Hutchison: Likes the idea of concealment but doesn't believe all districts need concealment requirements; might be overly restrictive in certain areas.
- e. Goligoski: Agrees with Commissioners Tracey, Lee & Lazzell.
- f. Gambogi: Agrees with Commissioners Tracey, Lee, Lazzell & Goligoski; he believes that we should aim for 'good' design and not 'perfect'.
- g. Michelman: Agrees with Commissioner Tracey, Lee, Lazzell and Goligoski. More specifically, that all towers in all districts should have some elements of concealment. He also asked whether we can require that all new cell towers in the city be reviewed for design.

Ms. Dewitt answered that staff does review design for all new cell towers through the building permit process, with the exception of ones built in the Right Of Way (which are exempt per State law).

Director Bryn Stotler clarified that if this ordinance is approved by Council, it would go into effect 30 days after Council's action.

Ms. Dewitt concluded the presentation by reiterating that there will be no voting today, that this item is still under discussion

Ann Friday, resident of Prescott, asked for further clarification on the request from Council for 'a stated preference for collocation and usage of already compromised site(s)'. More specifically, she asked what constitutes 'compromised'. Ms. Friday also cited issues with NEPA requirements, determination of service gaps, and the classification of Multi-family areas as 'more disturbed areas' during the prior Planning & Zoning meeting. Ms. Friday concluded that she believes the City's current code is well written and that the proposed draft compromises residents' ability to be able to participate in application processes, as well as several other items of dissension. She believes the new draft is an 'open door' for cell tower companies.

Wendy Ratner, resident of Prescott, expressed her support for incentivizing development of cell towers in commercial and industrial zones. Ms. Ratner stated that she agrees with all the comments made by Ms. Friday; specifically that the residents do need more education on cell towers and that protections for residential areas should be written into the new code. More specifically, that the City could place requirements on signal strength and increase the fall zone requirements.

Ms. Dewitt asked Assistant City Matt Podracky for clarification on the Arizona state Proposition regarding municipalities' inability to write stricter codes than that of the state. Mr. Podracky answered that it was formerly referred to as Prop 207, which discusses the diminution of private property value(s) as a result of a local land use law. In the instance that a municipality does change a land use law which results in negative monetary effect upon private property, said property owners have the ability to collect against the City. As such, the City tries to avoid writing or enacting laws that would have that effect.

Chair Michelman asked whether the new code would make it easier for cell towers to be placed in residential areas. Ms. Dewitt stated that it would not. Mr. Michelman asked whether Planning staff could write a definition for 'compromised site' to place in the code. Ms. Dewitt explained that it might create further confusion and that we should just take things on a case by case basis through the SUP process.

Planning Manager George Worley clarified that the term 'compromised site' is not included in the proposed draft of the code, and that it isn't necessary in making decisions regarding wireless facilities.

Chair Michelman also asked whether separating Multi-family from residential protections would be discriminatory. Ms. Dewitt clarifies that the current draft does not separate the two zoning designations, that multifamily districts have the same, 35' high allowance as residential districts and both require a SUP to exceed that height.

Rory Levy, resident of Prescott, stated that he feels the rewrite of the code will not help the application process for residents and that public participation should continue. Ms. Dewitt clarified that the public participation process will not be changing at all; noting that it will remain in place for all residential and multifamily districts via the SUP process.

Commissioner Gambogi stated that he feels the residents may not understand the new code proposal and that further education is imperative.

Commissioner Hutchison followed up on Commissioner Gambogi's statement, stating he agrees that this comes down to an issue of community vs. individual and that further education will help to solve it.

IV. STAFF UPDATES

Ms. Dewitt explained that the next meeting will be in person at City Hall on March 11th; an option to attend via Zoom will still be available. Ms. Stotler further clarified that the maximum number of members of the public in the Council Chambers is thirty (30).

V. ADJOURNMENT

Chair Michelman adjourned the meeting at 10:10 AM



Kaylee Nunez, Recording Secretary



Don Michelman, Chair