

- **MINUTES of the PRESCOTT PLANNING & ZONING COMMISSION MEETING held on March 11th, 2021 at 9:00 AM via ZOOM TELECONFERENCING & COUNCIL CHAMBERS, CITY HALL, and 201 S. CORTEZ STREET, PRESCOTT, ARIZONA.**

I. CALL TO ORDER

Chair Don Michelman called the meeting to order at 9:01 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	Matt Podracky, Assistant City Attorney
George Lee	COUNCIL
Butch Tracey	Councilman Steve Sischka, Liaison
	Councilman Phil Goode
	Councilmember Rusing

III. REGULAR AGENDA ITEMS

1. Approval of the February 25th, 2021 Meeting Minutes.

Commissioner Gambogi moved to approve the February 25th, 2021 minutes, Commissioner Lazzell seconded the motion. Motion passed unanimously (7-0).

2. CSP21-001: Proposed Comprehensive Sign Plan for Calvary Prescott Chapel; 2313 E State Route 69; Property Owner: Calvary Chapel of Prescott; Applicant: Lance Pelton of Core Displays. APN 112-05-024H.

Community Planner Tammy Dewitt presented aerial and zoning maps of the subject property, which is zoned BR (Business Regional). Ms. Dewitt explained that there is no change to the square footage of the monument sign proposed (78 sq ft) and that the animated portion would be limited to 40 sq ft per code. The message rotation allowed per the current sign code is once every 30 seconds, the applicant is requesting once every 10 seconds. ADOT had no issues with the proposed (10 second) rotation. The sign will also be required to turn off one hour after closing of business or by 10 pm, whichever is later.

Chair Michelman asked whether any other churches have requested a deviation in their sign (animation) rotation; Ms. Dewitt answered that she doesn't believe so. Mr. Michelman asked the applicant asked whether this sign would eliminate the need for banners for the church, as is stated in the application. Raj Ahuja, Senior Pastor at Calvary Church answered that it would.

Commissioner Lazzell moved to approve CSP21-001 with the stipulations that the message rotation be allowed to change every 10 seconds and sign to be turned off one hour after closing of business or by 10 pm, whichever is later. Commissioner Tracey seconded the motion. Motion passed unanimously (7-0).

3. Proposed Annexation (**ANX20-003**), Rezoning (**REZ20-001**), and General Plan Amendment (**GNP21-001**) for Prescott Regional Wellness Center consisting of 20 acres and located east of Willow Creek Road, slightly North of the intersection of Willow Creek Road and Whispering Rock Road; Parcel Number: 106-02-009K; Owner: Hojat Askari MD; DOYAR INC. County Zoning is R1L-35 residential.

Community Planner Tammy Dewitt presented aerial, zoning and general plan designation maps of the subject property which is approximately 20 acres. Ms. Dewitt explained that the site will first be zoned to a city zoning district (Single Family 35 (SF-35)) which will be compatible with the previous, county zoning designation of R1L-35 and will then be rezoned to Business General (BG). She also explained that City's General Plan currently designates the east half of the property as residential zoning and the west half as commercial. The application also requests a Minor General Plan Amendment to change the designation of the entire parcel to Commercial/Employment.

Commissioner Hutchison asked for clarification as to whether the Commission is being asked to approve residential development of this property as the application refers to residences for medical staff. Ms. Dewitt clarified that information would be presented and voted upon when the Preliminary Plat is submitted. Chair Michelman asked whether there are any concerns regarding the site access to Willow Creek Rd. Project engineer Scott Lyon answered that they plan to create a 4 way intersection to the south of the property at intersection of Wellness & Whispering Rock roads

Commissioner Gambogi moved to approve ANX20-003 with initial County equivalent zoning to be Single Family 35 (SF-35), Commissioner Lee seconded the motion. Motion passed unanimously (7-0).

Commissioner Lazzell moved to approve GNP21-001, Commissioner Lee seconded the motion. Motion passed unanimously (7-0).

Commissioner Goligoski moved to approve REZ20-001 from Single Family (SF-35) to Business General (BG), Commissioner Hutchison seconded the motion. Motion passed unanimously (7-0).

4. **PLN20-004:** Preliminary Plat for Westwood Subdivision, Phases 6 and 7 (Deep Well Ranch 1.48) located west of Willow Creek Road and north of the Westwood Subdivision; Site Zoning: Special Planned Community (SPC); Property owner: Dorn Homes; Applicant: Lyon Engineering, Scott Lyon; APN 102-19-001D, 102-04-001T and 102-19-001C.

Planning Manager George Worley presented aerial and zoning maps of the subject properties. He also presented a vicinity access map that details three street connections into the development (two existing, one under construction); which satisfy requirements per the City's General Engineering Standards (GES). Mr. Worley presented the Preliminary Plat which details 108 residential lots proposed on 38.9 acres; zoning will be Special Planned Communities (SPC) and is subject to the provisions of the Deep Well Ranch Master Plan as well as the City's General Plan.

Chair Michelman asked whether the access point via Amethyst Lane off Willow Creek could cause any (safety) issues as there is a significant turn on Willow Creek to the North of it. Mr. Worley clarified that it is a right in - right out access point only and that the City traffic engineering division has looked at it for safety presuming vehicles are traveling close to or at the posted speed limit. Mr. Worley also stated that there is a flare (shoulder) that allows vehicles to get out of the main traffic lane if necessary.

Commissioner Lee moved to approve PLN20-004, Commissioner Tracey seconded the motion. Motion passed unanimously (7-0).

- 5. 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 previous two meetings' discussions regarding this agenda item and reiterated that we are updating this code as there have been no changes done to it since the adoption of the LDC in 2003. It is also being updated as a result of requests made by Council after a special study session on October 27, 2020. Ms. Dewitt stated that the Special Use Permit process currently in place for cell tower height exceptions would not be altered. She recapped that the new draft aims to: take out outdated language and requirements, add new definitions from FCC regulations, update criteria to allow towers to exceed the height allowance in Commercial (Business Regional (BR) & Business General (BG)) and Industrial districts and to add criteria to require concealed telecommunications facilities in all zoning districts.

The draft 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-2 (Rural Estate 2 Acre) , SF-35 (Single-family 35), SF-18 (Single-family 18), SF-12 (Single-family 12), SF-9 (Single-family 9), SF-6 (Single-family 6), RT (Residential Transition), MF-M (Multi-family Medium Density), MF-H (Multi-family High Density), SPC (Specially Planned Community), MU (Mixed Use District), RO (Residential Office), NOB (Neighborhood Oriented Business) and DTB (Downtown Business) zoning districts. The code currently allows:*
 - *RE-2, 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. *Concealed Telecommunications Facilities 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*

In all districts, the City shall have the authority to vary the height restrictions listed through a Special Use Permit (SUP) upon the request of the applicant and a satisfactory showing 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 additional height to the satisfaction of the City Council.

Commissioner Hutchison asked whether there was an option to discuss and refine the Agenda item further. Chair Michelman answered that further discussion in this meeting would determine how

Commission would like to take action. Planning Manager George Worley gave a presentation to further illuminate the information presented on this Agenda item thus far; including the following points:

- This amendment was based on a request by the City Council, not City staff or by a particular cell tower applicant. A Council workshop meeting was held in October 2020 and staff received direction from the Council to draft possible amendments for their consideration.
- This amendment **does not** change the SUP section of the Land Development Code (LDC) (Section 9.9).
- This amendment **does not** change the requirement to obtain a SUP for proposed cell towers that exceed the district height limit.
- This amendment **does not** remove or reduce the public notice requirements for a SUP.
- This amendment **does not** treat single family zoning different than multifamily zoning.
- This amendment **does not** change the concept of preferring to place cell towers on sites with other improvements. The City has never encouraged placing cell towers on undeveloped sites.
- This amendment **does not** remove the requirement to screen equipment associated with the cell tower.
- This amendment **does** remove some language from the current code relating to the 'Purpose' of the section. Purpose language is not regulatory. Instead, language was added to other regulatory sections of the proposed code, or was already required by other sections of code.
- This amendment **does** remove some language from the current code relating to 'Performance Criteria' because this section does not actually contain performance criteria. It contains a list of preferences, many of which have been incorporated into the regulatory language instead.
- This amendment **does** allow cell towers in Commercial and Industrial zones to gain some additional height automatically as an incentive to locate towers in these zones rather than in residential neighborhoods.
- This amendment **does** require some form of stealth or concealment treatment of towers in all zoning districts.
- This amendment **does** encourage collocation of carriers on towers to reduce the need for more towers.
- This amendment **does** retain the requirement for any cell tower taller than the zoning district height allowance to go through a SUP process to obtain approval.
- This amendment **does** include the allowance for additional height to be added (20 feet or 10%) for collocation of another carrier per FCC 6409.

Mr. Worley also presented a direct excerpt of the purpose and performance criteria sections of the current Telecommunications Facilities code (LDC 2.4.49 Sections A & J) as well as a table comparing key aspects of the current and proposed (revised) code.

Commissioner Lee asked whether there is an incentive for the original carrier on a cell tower to collocate with other carriers. Mr. Worley explained that almost all cell towers are leased to carriers by a third party and, as such, the third party has incentive to collocate for additional revenue and to avoid constructing additional towers. Mr. Lee also asked whether there are ever more than two carriers on a tower. Mr. Worley explained that it is possible although FCC regulations only require accepting one additional carrier.

Commissioner Hutchison asked whether applicants desiring to collocate are required to submit an application/information in order to do so. Mr. Worley explained that they would be required to obtain a building permit but not an SUP as they are exempt per FCC 6409 (for the first carrier collocation). Any additional collocations or height adjustments to towers for other issues would have to follow the SUP process. Commissioner Lee asked whether all (new) cell towers are constructed to withstand additional height/collocation. Mr. Worley expressed that it is very likely as FCC requires towers to accommodate (one) collocation so they wouldn't want to re-design or re-construct in that instance.

Eileen Wolfe, a resident of Yavapai Hills, explained that her property is right next to the existing water tank and that the water tank does not affect her but she believes the cell tower will, specifically in triggering worse migraines as suggested by her doctor. She also feels a Citizen's Task Force is needed for cell towers.

Edward Wolfe, a resident of Yavapai Hills, expressed that he thought there was a previous (Planning & Zoning Commission) vote of 5-2 to not allow cell towers in residential areas. He also stated that the City needs stronger codes to protect residents from the increased need for cell towers, specifically in residential areas.

Mr. Worley clarified that the 5-2 vote was for a specific cell tower application, not this general ordinance amendment proposal. Chair Michelman also clarified that the 5-2 vote was against raising a specific cell tower from 35' to 55'.

Sharon Garrison, a resident of Yavapai Hills, requested that the City retain their current code regarding cell towers citing that she believes neighborhood protections will be removed if it is changed. Ms. Garrison also cited concerns of significant property devaluation.

Ann Friday, a resident of the Ranch at Prescott, referred to information she submitted ahead of the meeting referring to specific concerns regarding collocation and compromised sites. Ms. Friday also feels neighborhood protections have been removed.

Larry Springer, a resident of the Ranch at Prescott, stated that he feels the rewrite of the code emasculates neighborhood protections and that cell tower sites are not 'do or die', there is always another option. He believes the City needs to retain more control of the (cell tower application) process.

Ken Garrison, a resident of Yavapai Hills, feels that the rewrite of the codes strips his private property rights and will further erode public trust in government.

Planning Manager George Worley explained that this rewrite does not change any of the public protections currently in place, including rights to complete participation in the public hearing process. He also reiterated that requests for additional height would still need concrete justification, exempting collocation provisions made by FCC 6409. Commissioner Lee asked whether we are eliminating **any** requirements for SUPs in residential areas with the rewrite; Mr. Worley answered that we are not. Mr. Worley explained the automatic height adjustments are only in Commercial and Industrial districts.

Rob Ratner, a resident of Yavapai Hills, expressed that the City's organizational chart depicts that citizens are on top, not developers. He would like the current code to be retained and believes a Citizen's Advisory Committee should be created on the issue of cell towers.

Wendy Ratner, a resident of Yavapai Hills, stated that she believes the City is favoring developers' over residents' rights and that the new draft has unclear language that could create a loophole for mismanagement.

Commissioner Lee asked whether there are any provisions in the current or proposed code that will prohibit cell towers in residential areas. Mr. Worley answered there are not. Mr. Lee stated that what he understands is that the new code in no way changes the direction of residential cell tower applications; Mr. Worley reaffirmed his statement. Mr. Lee asked whether cell towers 35' or under in residential areas warrant public notification. Mr. Worley explained that they do not. Mr. Lee expressed that there should be some sort of notification to neighboring properties whenever a cell tower is proposed, no matter the proposed height. Chair Michelman stated that such a requirement is not in the purview of the Planning & Zoning Commission.

Bryn Stotler, Director of Community Development, explained that the City has an inventory of all the existing cell towers in the area and all but one exceed the permitted height by right and, therefore; all have required the SUP process. Assistant City Attorney Matt Podracky summarized that providing public notice for projects allowed by right would very likely cause consternation that could not be resolved and that it could start a 'dance' with the Federal Telecommunications Act. This invites opportunities for lawsuits which the City would unlikely prevail in.

Jenet Levy, a resident of Yavapai Hills, explained that she understands the proposed changes of the code and she still believes they are 'excising' public protections. Ms. Levy also feels that the presentations given by Staff only served to obscure the issue.

Rory Levy, a resident of Yavapai Hills, expressed concern over the definitions given for compromised sites as well as collocation potential. Mr. Levy asked the Commission to keep the existing telecommunications facilities code.

Heidi Miller, resident of Tucson AZ, stated that collocation is obligatory and that collocation equipment 'needs to fit on an existing tower'. She also stated that (the City) is obligated to use the minimum power necessary for new equipment and that the intent of the code should be to promote public safety.

Paul McGavin of Sausalito, CA explained that the power that comes out of these towers is of particular concern. Mr. McGavin also feels that the 'excisions' to the code should be more carefully studied and that the FCC only regulates telecommunications services; not other information services such as internet, video, streaming and gaming.

Commissioner Lazzell left meeting at 11:32 am

Jeff Nolan, a resident of Yavapai Hills, urged that the Commission vote no on this item and that a Citizen's Advisory Committee on cell towers should be created. He also stated that the setbacks for fall zones need to be increased.

Russell Witte, resident of Tucson and Professor at University of Arizona, who has worked with microwave radiation for 20 years, stated that he fully supports measures to limit effective radiated power as even low level microwave radiation is hazardous to all forms of life. Mr. Witte feels the City should establish a Citizen's task force including health officials to monitor cell

tower applications. He also stated that the power should be capped at the minimum level necessary per 47 U.S. Code 324.

Commissioner Gambogi stated that this meeting was to evaluate LDC21-001 which involved cell towers in commercial and industrial zoning districts. It applies to all of Prescott. Yet, the only community input we received was from those living in Yavapai Hills or their surrogates living elsewhere objecting to LDC21-001 even though they are unaffected by the amendment. Mr. Gambogi went on to solicit more community participation so all of Prescott is represented in the decisions of the Planning & Zoning Commission.

Commissioner Hutchison stated that he feels regulations are failed designs and that setting specific guidelines is not helpful as sites and situations vary. Mr. Hutchison expressed concern about protecting the 5-2 vote for SUP20-001 against the proposed code revision. Ms. Dewitt explained that the SUP20-001 application and process will **not** be affected and that we are not permitted to speak on it any further as it is not on the Agenda. Commissioner Hutchison also stated he'd like to see some language about unprofitable solutions and being able to challenge technical cases via a third party.

Commissioner Goligoski explained that he has particular concern about omitting Paragraph A item two (LDC 2.4.49.A.2), which states a purpose of '*Encouraging the location of wireless facilities in nonresidential areas*'. Goligoski proposed we retain the bulk of the 'Purpose' section in order to continue to provide protections to residential areas.

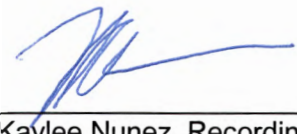
Commissioner Gambogi moved to approve LDC21-001 with modifications to reinstate the 'Purpose' section excluding item 9, Commissioner Goligoski seconded the motion. Motion passed (6-0). *Commissioner Lazzell left meeting prior to vote.*

IV. STAFF UPDATES

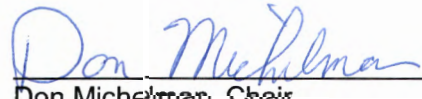
None

V. ADJOURNMENT

Chair Michelman adjourned the meeting at 11:58 AM



Kaylee Nunez, Recording Secretary



Don Michelman, Chair