



**PLANNING & ZONING
COMMISSION MINUTES**

**PLANNING & ZONING COMMISSION
REGULAR MEETING
THURSDAY, OCTOBER 27th, 2022
9:00 a.m.**

**Virtual Zoom Meeting + Council Chambers
201 S. CORTEZ ST.
PRESCOTT, AZ 86303
928-777-1207**

Minutes of the Planning & Zoning Commission on October 27th, 2022, on a Virtual Zoom Meeting and in Council Chambers at 201 S. Cortez St. Prescott, Arizona.

1. CALL TO ORDER

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

2. ROLL CALL

Members:

Don Michelman, Chairman
Ted Gambogi, Vice-Chairman
Stan Goligoski
Susan Graham
Thomas Hutchison
Thomas Reilly
Butch Tracey

Staff:

George Worley, Planning Manager
Tammy Dewitt, Community Planner
Kaylee Nunez, Recording Secretary
City Attorney, Joseph Young
Assistant City Attorney, Matt Podracky

City Leadership:

Councilman Brandon Montoya, Liaison, Absent
Councilmember Cathey Rusing
Councilman Clark Tenney
Mayor Phil Goode

3. REGULAR AGENDA

A. Approval of Regular Session Minutes from October 13th, 2022.

Commissioner Reilly to approve the October 13th, 2022 executive session minutes, seconded by Commissioner Tracey: Passed (7-0).

B. LDC22-001: Continuation of Public Hearing for Land Development Code Amendment to Section 2.1.4 and Section 5.2 to replace the Airport Noise Overlay District (ANO) with a new Airport Vicinity Overlay (AVO) District criteria and create district boundary.

Chairman Michelman opened the meeting by inviting public comment, noting that all speakers would be limited to three minutes with a total of thirty minutes for public comment.

Ronald Layman, resident of Saddlewood, voiced his opposition to the AVO. He asked Commissioners to consider the negative, financial impacts the AVO might have on residents within. He also commented that the noise in his subdivision is already quite high due to overflight and nearby Willow Creek Rd. He asked for the public hearing for the AVO to be extended and that no retroactive zoning be applied to existing owners.

Lionel GiGuere, resident of Saddlewood, voiced his opposition to the AVO. He specifically voiced concerns about the passing of the AVO lowering property values within, including his own. He also shared concerns about Embry Riddle overflight being excessive and inconsiderate.

Resident TK Morand had Recording Secretary Kaylee read their statement of opposition [to the AVO] into the record.

Stephen Polk, Attorney for James Deep Well Ranch, began by urging the Commission to vote no on the AVO. He referred to Deep Well's DA & Master Plan which cannot be changed without consent by Deep Well, per State & Federal law. Mr. Polk stated that Deep Well's MP & DA conform with the City's 2015 General Plan and Airport Specific Area Plan (ASAP). He also shared a Land Use Noise Sensitivity Matrix off the FAA's website, which indicates that every land use (including residential) is appropriate up to 65 DNL. He concluded by requesting that the entire Deep Well Ranch (DWR) Master Plan area be exempted from the AVO.

Commissioner Hutchison asked Mr. Polk if a DA can be waived for matters of safety.

Mr. Polk answered that the applicable governing rules—that is, state, federal or local law. If there is a future change to any of these laws having to do with safety, then it [the DA] can be changed.

Jenna James, representative of Deep Well Ranch, asked that the Commission make a no recommendation to Council. She reiterated that the City does not have the consent of DWR to enact the AVO. She voiced concern about the drafts of the AVO continually changing. She stated that the Commission is being asked to evaluate information outside their scope and to be party to a condemnation. She concluded by requesting that the entire Deep Well Ranch Master Plan area be exempted from the AVO.

Jonathan Millett, Attorney for Yavapai Regional Medical Center (YRMC) stated that the City is breaking its promises that it made to the Hospital—more specifically, that it will be taking about 20% of their property away. He also asks that YRMC be exempt from the conditions of the AVO.

Rector Philip Shaw of St. Luke's Episcopal Church shared that he used to practice in Land Use Planning and that he is specifically concerned about the City's Hold Harmless Agreement that will be required for all landowners within the AVO. He also asks that St. Luke's be exempt from conditions of the AVO, including the Hold Harmless Agreement.

Cindra Garthwaite, resident of Saddlewood, emphasized that she believes Embry Riddle is a for profit institution. She also shared that removing the non-conforming label from existing structures is not a satisfactory solution.

Commissioner Gambogi asked for the four AVO options to presented by Airport Director, Dr. Robin Sobotta.

Dr. Sobotta presented a table containing key characteristics of all four options, which are in order from least restrictive (Option 1) to most restrictive (Option 4). She clarified that the Avigation Easement requirement has been in place since 2002. Dr. Sobotta also shared that all four options closely align with the existing ASAP, General Plan and the 2008 Land Use Plan (Airport Master Plan). She concluded by stating that none of the options have changed since the last meeting.

Commissioner Hutchison expressed concern about all the options presented, specifically in terms of affordability for the City as they will likely cost a lot of money.

City Attorney Joseph Young reminded the Commission that they are making recommendations from a lens of land use, that they are not a contract recommending body. He stated that they can exclude areas with pre-existing Development Agreements from the AVO. Mr. Young commented that the Commission can decide whether this [the AVO] is essential for safety.

Mr. Young also explained that the AVO's impact on property value should be minimal as the non-conforming status that would be placed on many structures, particularly residential, was removed from the AVO draft language. Instead, they would be able to continue and expand into the future. Mr. Young shared that the Avigation Easement has been in place since 2002 for all properties in the proposed AVO area.

Commissioner Gambogi asked whether the Commission's decision is to move forward based on land use and to leave the money and legal decisions up to City Council and City Legal Staff.

City Attorney Joseph Young answered yes, particularly money as it relates to contractual issues. He reiterated that Planning & Zoning is not a contract making body.

Commissioner Hutchison expressed his opinion that it is difficult to completely separate land use and fiduciary responsibilities.

City Attorney Joseph Young answered that he doesn't think you [the Commission] want to outside of where there are Development Agreements and that the Commission can make stipulations on how much land is "condemned". He also clarified that they are not looking at existing residential areas for condemnation, rather, they are looking at open land.

Commissioner Reilly commented that this whole thing is a "wreck" and moved to table the item to such a time that land use decisions have been cleared up.

Commissioner Goligoski shared that this whole document does not seem right and that it is not ready for public presentation.

Planning Manager George Worley explained that staff has provided the Commission with all complete, current drafts of the AVO and would like for the Commission to provide written comments on such.

Commissioner Reilly responded that such a request is unreasonable, and that staff and elected officials need to do the work.

Commissioner Hutchison requested that we proceed in a manner that its trusting and respectful to all parties involved.

Commissioner Gambogi commented that the 2017 contract for DWR changed the Airport protections as presented in the 2015 General Plan. He also stated that he feels this is ready to move forward to Council.

Commissioner Graham expressed concern about being able to separate legal & financial issues from land use. She wants to protect the landowners but also

Commissioner Reilly moved to table the public hearing for LDC22-001 to such a date where the outstanding land use decisions are resolved, Planning & Zoning Commission, seconded by Commissioner Goligoski. Passed (5-2).

Chairman Michelman explained his dissent as he feels that this issue should've been resolved years ago and that we need to stop "kicking the can down the road."

4. UPDATE OF CURRENT EVENTS OR OTHER ITEMS OF NOTE

No updates.

5. ADJOURNMENT

There being no further business to discuss, Chairman Michelman adjourned the meeting at 10:00 AM.



Kaylee Nunez, Recording Secretary

ATTEST:



Don Michelman, Chairman