

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
PLANNING & ZONING COMMISSION
July 28, 2016**

Chairman Archambault opened the meeting at 6:30 p.m.

ROLL CALL:

The following Commissioners were present: Chairman Michael Archambault, Vice-Chairman Eugene Mikolajczyk. Commissioners: Jeremy Strohan, Howie Jones, Stan Connick, Susan Dempster, and Roger Owers. Also in attendance were Robert Rodgers, Interim Development Services Director, Town Attorney Andrew McGuire, and Paula Woodward, Executive Assistant and Recorder of the minutes.

Chairman Archambault requested participation in the Pledge of Allegiance and a moment of silent reflection.

CALL TO THE PUBLIC

No one wished to speak.

AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE PLANNING AND ZONING COMMISSION MEETING MINUTES DATED July 14, 2016.

Commissioner Connick **MOVED** to **APPROVE** the meeting minutes dated Thursday, July 14, 2016 as written. Commissioner Jones **SECONDED** and the **MOTION CARRIED UNANIMOUSLY** (7/0).

Chairman Archambault turned the meeting over to Vice-Chairman Mikolajczyk. Chairman Archambault excused himself from the meeting due to a potential conflict regarding agenda item number 2 and left the room. Vice-Chairman Mikolajczyk announced agenda item #2.

AGENDA ITEMS #2 - CONSIDERATION OF A CONCEPT PLAN FOR THE PROPOSED "PARK PLACE, PHASE I", A MIXED-USE DEVELOPMENT PROPOSAL LOCATED AT 16725 & 16845 E. AVENUE OF THE FOUNTAINS. (CASE #CP2016-02)

Bob Rodgers, Interim Development Services Director, gave a PowerPoint presentation about the Park Place application submitted by Bart Shea of N. Shea Group LLC, for approval of the Phase I Concept Plan of the Park Place development proposal to be located at 16725 – 16845 E. Avenue of the Fountains in the Downtown area. The zoning entitlements, the General Plan amendment, and the replats for this project have all been approved. The application tonight is for the Concept Plan approval.

The Concept Plan approval deals with the site design, zoning compliance, architectural review and compliance with the provisions of the Development Agreement which include things like streetscape improvements, parking allowances, building height restrictions, and other improvements both on-site and off-site. Mr. Rodgers referred to the slide showing Phase I consisting of Buildings C & D., which contain a total of 230 apartments and about 35,000 square feet of commercial office, retail and restaurant space. Buildings C and D are basically mirror images of each other. Besides the two buildings, Phase I will include a new parking lot on the town property just east of the Sheriff's parking lot, with connections to the town lot and the project, a small pocket park, streetscape improvements along the Avenue to match the opposite side, parallel parking spaces on Verde River Drive, Free public Wi-Fi, and public art donations. On the slide, Mr. Rodgers showed the building's floor plan as described;

Bottom - Commercial space facing the Avenue and Verde River Drive. Each building has a bit over 16,000 sq ft of commercial space. The rest of the area is surface parking.

Middle – 2nd floor containing

- Residential apartments fronting on the streets,
- The internal area will include the pool and ramada area and the Parkade, or the second level of parking.

Top – the 3rd and 4th floors both have apartments all around with a central courtyard looking down toward the pool area. Each building has 115 apartments. For a total of 230 units in Phase I.

Mr. Rodgers displayed one of the architectural elevations to show that the buildings have been designed to comply with the development agreement's height restriction. The building may not exceed 54' in height above existing grade. Mr. Rodgers showed the most recent artist's rendering of what the building facades along the Avenue will look like. A modern southwest design is being used with lots of façade offsets to break up the mass and provide some visual interest. The Colors and Materials to be used on the buildings are on the color palette. Mr. Rodgers provided a color board that was passed around for Commissioners to review.

In conclusion, Mr. Rodgers stated that staff has reviewed the Concept Plan and determined that the proposal is in compliance with zoning, and with the requirements of the project's prior approvals. Therefore, staff recommends that the Planning & Zoning Commission approve the Concept Plan as presented and subject to the stipulations outlined in the staff report and include the Town Engineer's stipulation as noted in his letter dated July 27, 2016. It should also be noted that normally the Planning and Zoning Commission's approval of a Concept Plan is all that's required. However, in this case, the previously approved Development Agreement requires that the Concept Plan be brought before the Town Council for their approval also.

Mr. Rodgers said the applicants are available for a presentation and questions.

Vice-Chairman Mikolajczyk asked about the empty lot next to the law enforcement parking lot & may the town use that in the future for a police station.

Mr. Rodgers said the lot is currently a retention basin which will become a parking lot for this project and for public use.

Attorney McGuire stated the lot becomes a public parking lot. The DA creates rights to use that property for parking. If the parking was removed it would have to be determined the value of the parking.

Vice-Chairman Mikolajczyk asked who pays for the independent 3rd party inspections.

Mr. Rodgers stated the developer would pay for the 3rd party inspections and this is in the development agreement.

Commissioner Owers asked if the Commission was to approve the Concept Plan tonight would that also include the twenty percent reduction in the parking.

Mr. Rodgers said the 20 % reduction in parking was already approved in the Development Agreement.

In response to Commissioner Jones, Mr. Rodgers stated the 27 parking spaces mentioned in the packet are the diagonal spaces on the Avenue of the Fountains and each residential unit will have one on-site designated space within 300' and the remainder is open parking.

Bart Shea stated the residential parking is excluded from the commercial areas and Avenue of the Fountains. Three bedroom units may be designated with two parking spaces. Mr. Shea went on to say that they are in agreement with what Mr. Rodgers presented tonight. A lot of the stipulations in the staff report tonight are already covered and approved under the Development Agreement. The Town Engineer's letter regarding stacking for a left hand turn is more detailed and the N-Shea Group would like

more time before stipulating to it. Mr. Shea said building will not take place with an at risk permit and confirmed Willdan is the third party inspector.

Commissioner Jones inquired about the property drainage details.

Mr. Shea detailed and referred to the overhead to show the storm drains, underground storage tanks and the flow process.

Vice-Chairman Mikolajczyk asked for architectural design clarification and why it changed.

Mr. Shea said clientele is all over the board. There will be 30%-40% of young professionals. Average stay in an apartment such as this is two years. There will be an older more mature renter who is downsizing and then some who need a place to live while they build their dream home.

Vice-Chairman Mikolajczyk asked if the apartments could turn into condos down the road and referred to the apartments converted to condos across from Safeway. Vice-Chairman Mikolajczyk said since the conversion, young families were forced out and caused children to drop out of the FHUSD and move elsewhere.

Mr. Shea said 75% of those consulted liked the modern architectural look.

Commissioner Connick commented that a lot of the questions from the last meeting were answered today and commended the project.

Commissioner Jones asked what was the selection process for the 3rd party inspection choice.

Attorney McGuire answered this is the Town's contractor with the obligation of the developer to pay.

Chairman Archambault acknowledged there was no further discussion and asked for a motion.

Commissioner Jones **MOVED** to **APPROVE** the Concept Plan for Phase I, as presented and subject to the stipulations outlined in the staff report and to include the stipulation recommended in the Town Engineer's letter. Commissioner Owers **SECONDED** and the **MOTION CARRIED UNANIMOUSLY** (7/0).

Vice-Chairman Mikolajczyk retrieved Chairman Archambault from the Town Hall Lobby.

AGENDA ITEM #3 - PUBLIC HEARING OF ORDINANCE #16-05, TO AMEND ARTICLE II, SECTION 2.07 OF THE FOUNTAIN HILLS SUBDIVISION ORDINANCE TO ALLOW THE ADMINISTRATIVE APPROVAL OF MINOR REPLATS SUCH AS LOT LINE ADJUSTMENTS, LOT SPLITS AND LOT JOINS. CASE #S2016-14

Public Hearing opened at 7:06 p.m.

Mr. Rodgers addressed the Commission stating that ordinance #16-05 is a proposed amendment to the Subdivision Ordinance that was originally recommended by staff as a time-saving measure. If this amendment is approved; applications for lot line adjustments, lot splits, lot joins, and similar minor replats that don't result in more than two lots, or any new roads being created will no longer be required to receive Town Council approval at a public meeting. These items are virtually always placed on the Council's consent agenda and approved without discussion. In order to save time (sometimes up to three weeks), staff will be able to review, approve, and record such re-plats administratively as soon as they are in proper form. This amendment addresses one of many routine processes that currently take longer than may be necessary to conclude under the current regulations. Staff recommends that the Commission forward a recommendation to Town Council to Approve this amendment as proposed.

No one from the public wished to speak.

Public Hearing closed at 7:08 p.m.

AGENDA ITEM #4 - CONSIDERATION OF ORDINANCE #16-05, TO AMEND ARTICLE II, SECTION 2.07 OF THE FOUNTAIN HILLS SUBDIVISION ORDINANCE TO ALLOW THE ADMINISTRATIVE APPROVAL OF MINOR REPLATS SUCH AS LOT LINE ADJUSTMENTS, LOT SPLITS AND LOT JOINS. CASE #S2016-14

Chairman Archambault asked the Commissioners if they wished to discuss the consideration.

Vice-Chairman Mikolajczyk asked, when would the surrounding land owners receive notification during the application process and can the existing view be protected.

Mr. Rodgers said that the process does not require notification and views are not protected by the Town Ordinances.

Vice-Chairman Mikolajczyk **MOVED** to **RECOMMEND** that the Town Council approve Ordinance #16-05 a text amendment to Article II, Section 2.07 of the Fountain Hills Subdivision Ordinance, to allow the administrative approval of minor replats. Commissioner Jones **SECONDED** and the **MOTION CARRIED UNANIMOUSLY (7/0)**.

AGENDA ITEM #5 - PUBLIC HEARING OF ORDINANCE #16-03, A TEXT AMENDMENT TO THE FOUNTAIN HILLS ZONING ORDINANCE, SECTION 1.12, SECTION 6.08.CC, AND CHAPTER 8, RELATING TO OUTDOOR LIGHTING CONTROLS. CASE #Z2016-01

Public Hearing opened at 7:13 p.m.

Mr. Rodgers said that the Ordinance #16-03 was originally proposed by staff in order to update the town's outdoor lighting ordinance (Chapter 8 of the Zoning Ordinance) to bring it up to today's standards. That update quickly ballooned into a full re-write of the Chapter and what you have in front of you tonight. In order to take into account the CFL and LED light equivalents to the standard bulbs that are called out in the current ordinance we needed to revise the whole ordinance and change the methodology of testing, and of the enforcement of outdoor lighting in a uniform manner regardless of the type of light fixtures being looked at. Staff received a lot of information and support from the Dark Sky Committee during this process as well. The Committee has been very influential regarding some sections of the revised ordinance you have before you tonight.

Some Highlights:

- References to watts were changed to their equivalents in "lumens".
- Definitions have been updated.
- Shielding requirements have been modified.
- The correlated color temperature of lights has been set at a maximum of 3,000 Kelvin
- A maximum Non-residential lumen density cap (lumens per acre) has been proposed
- Prohibits light trespass onto adjoining properties
- Modifies the sign code as it relates to electronic and LED illuminated signage.
- Provides for some exemptions for municipal uses, emergencies, holiday lighting, and Special Events

Staff has recommended approval of the ordinance amendments in the staff report. However, we still have two concerns about including the non-residential density cap which limits the amount of lumens PER

NET ACRE, regardless of property lines or commercial needs. Once the limit is reached in an area, no more lights can be installed. Or, some will have to be dimmed or removed to accommodate the new ones.

First, staff is concerned that such a cap could negatively impact the business community, especially new businesses in the downtown area.

Second, Staff can see no way of actually enforcing such a cap and still allowing the commercial areas to grow.

Therefore, staff is modifying our recommendation in the staff report.

The modified recommendation is: That the Commission forward a recommendation to the Town Council to remove Sections 8.02.01 and 8.02.D.2 from this proposal and then approve the ordinance revisions, as amended. The Dark Sky Committee has representatives here who have indicated that they wish to speak as well.

Chairman Archambault asked Ms. Woodward if there were any speaker cards besides Ms. Bill, and Ms. Woodward answered there were no cards received on this item.

Chairman Archambault invited Nancy Bill, Chairman of the Dark Sky Committee to address the Commission. Mrs. Bill provided the Commission with an information packet about the Dark Sky Committee's recommendations to update the current lighting and sign ordinances.

Mrs. Bill introduced herself and listed the other committee members; Ted Blank, Joe Bill, Craig Gimbel, Paul McElligott, Jackie Miles, Jerry Miles, Jay Schlum and Bob Wilson.

Mrs. Bill reviewed the information provided in the packet emphasizing what the current sign and lighting ordinances already have in place; shielding requirements, brightness limitations, height restrictions, light trespass limitations and hours of operation limitations. Mrs. Bill reviewed what the Dark Sky Committee feels needs to be addressed; electronic message displays, light density, LED lighting and high correlated color temperature. She explained that brightness is defined by lumens not watts. Mrs. Bill said the committee proposes to see that the maximum light density for commercial and multi-family residential be defined and the maximum brightness is 100 NITS for electronic message signs.. Mrs. Bill concluded the key reasons to support the updates to the ordinances are they will address new technologies, protect against glare and minimize light trespass and preserve the night sky.

Public Hearing closed 7:25 p.m.

AGENDA ITEM #6 - CONSIDERATION OF ORDINANCE #16-03, A TEXT AMENDMENT TO THE FOUNTAIN HILLS ZONING ORDINANCE, SECTION 1.12, SECTION 6.08.CC, AND CHAPTER 8, RELATING TO OUTDOOR LIGHTING CONTROLS. CASE #Z2016-01

Chairman Archambault asked Commissioners if they had any questions.

Vice-Chairman Mikolajczyk asked Ms. Bill what is the committee's position on Bob Rodgers recommendation to drop Sections 8.02.D.1 and 8.02.D.2?

Mrs. Bill stated she has a problem with this because it is very easy to calculate on plans the density of lights in lumens for commercial or multi-family projects. The information is on the plans. We tested this out on three different projects which resulted in well below the amount of lumens density that would be allowed in the ordinance. The question is how do you define per acre? If there are parcels less than an acre but may be part of an acre, how is the light allocated?

Chairman Archambault asked Attorney McGuire if the wording in chapter 8.02.D, paragraphs 1 and 2, creates a problem with prop 207?

Mrs. Bill asked if the lumen densities would be pro-rated?

Attorney McGuire stated the value of the property is lit to these maximums on an acre, if the property owner divided up the property so that the last person coming in would have less or zero left, it would not be a proposition 207 claim because the it would not be a land use decision by the public body.

Chairman Archambault asked for clarification on the 3,000 Kelvin's light range and what are NITS?

Mr. Rodgers stated less than 3,000 kelvins would be in the amber ranges.

Mr. Bill addressed the council and said 3,000k would be similar to soft light incandescent bulbs.

Mr. Bill explained that NITS is a term used in the ordinance and everyday language. It is defined as brightness per unit area.

Chairman Archambault asked, What does 5,000 lumens look like?

Mr. Bill answered it would be over a 300 watt incandescent bulb. It describes the brightness.

Mr. Bill said they evaluated three sets of plans; the Tractor Supply Store (including parking lot lights), The MorningStar and The Hemingway. All the lighting density information was pulled from the lighting section of the plans. The three projects are well within the 50,000 or 100,000 density guideline.

Vice-Chairman Mikolajczyk asked where did the lumen density cap come from that is listed in section 8.02D?

Mr. Bill stated it came from the International Dark Sky Association guidelines. They work internationally to update the ordinances.

Vice-Chairman Mikolajczyk asked are there any municipalities that have adopted this identical standard?

Mr. And Mrs. Bill said they understand this is in the Sedona and Flagstaff ordinances but would check with those cities to confirm.

Commissioner Connick asked if there are 4 lots within an acre and lumens cap is met on one lot, where does that leave the other three lots?

Mr. Bill said as it is written, he thinks it would be pro-rated. It would be 50,000 divided by four as it is written.

Mr. Rodgers said his understanding is this is a moving target. This has to do with a number of lumens in a given acre, not any given project.

Commissioner Connick stated there must be a way of clarifying the usage among an acre.

Chairman Archambault stated there seems to be some ambiguity with the lumen density cap in section 8. He said he would like to see this removed from Section 8 for the present time and further research on the subject for clarification. I don't want to create a problem in our downtown area where a large global look at the acreage violates lumen usage.

Mr. Rodgers stated this seems to be written so that it can't be enforced. There are guidelines already in place for projects why would this be necessary?

Chairman Archambault asked about using a project as an example of how a project meets current requirements.

Mr. Rodgers stated a good example is the Tractor Supply store. They were required to provide a lighting plan. The lighting schematic showed wattage, area coverage and proof of no light trespassing. They are lit according to the ordinance. If the new requirement was added it may be acceptable for the Tractor Supply but hinder an upcoming project on an adjacent lot.

Commissioner Connick expressed he would like to see existing commercial grandfathered but new projects adhere to the new lighting ordinance of 50,000 lumens per acre.

Mr. Rodgers stated the current standard is 75 watts within 25 feet of each other. A 75 watt bulb is equivalent to 1,150 lumens.

Mr. Rodgers stated he does not see the need for the second layer in the ordinance.

Chairman Archambault expressed again he would like to see more research and further discussion.

Commissioner Dempster confirmed the holiday lighting usage times on Item E., page 7 is correct.

Mr. Rodgers stated the times should be "daily" rather than as stated since they are the same.

Chairman Archambault asked about enforcement of the lighting code.

Mr. Rodgers said the town would most likely not enforce the code immediately since code enforcement's work schedule is during the day, not night. If there is a call for light code enforcement the sheriff's office would have to be called. Code enforcement may follow up on complaints when they have time.

Commissioner Owers asked if light falling on to one property owner from another property owner is enforceable.

Mr. Rodgers said that the code enforcement officer would see that the light was 75 watts or less and the light is aimed downward. If it is an all night light a shield would be required.

Commissioner Owers asked if emergency services search lights would be prohibited as stated in the ordinance.

Mr. Rodgers referred to the exceptions in the ordinance which includes emergency services.

Commissioner Jones asked if any of the additions to existing ordinances are more restrictive than what is already in place?

Mr. Bill said that they were going to research the light density issue.

Mr. McGuire explained that the types of changes the Commission is recommending will take more than just cleaning this up and then sending off to Council. It would be nice to have time to review and see if the language would work for staff's enforcement.

Chairman Archambault asked Mr. Rodgers to review Flagstaff's and Sedona's ordinances and asked the Commission for a motion to continue.

Commissioner Connick **MOVED** to continue the public hearing. Vice-Chairman Mikolajczyk **SECONDED** and the **MOTION CARRIED UNANIMOUSLY** (7/0).

AGENDA ITEM #7 - DISCUSSION WITH POSSIBLE DIRECTION TO STAFF REGARDING THE INITIATION OF PROPOSED TEXT AMENDMENTS TO THE FOUNTAIN HILLS ZONING ORDINANCE, SECTIONS 5.19.A AND 18.06.B, AND TO THE FOUNTAIN HILLS TOWN CODE SECTION 11-1-7. IF ADOPTED, THE AMENDMENTS WOULD REVISE THE NOISE REGULATIONS SO AS TO BRING THEM INTO CONFORMANCE WITH CURRENT TECHNOLOGY AND TO MAKE THEM EASIER TO ENFORCE. DISCUSSION MAY ALSO INCLUDE DIRECTION TO STAFF REGARDING PROPOSED AMENDMENTS TO THE FOUNTAIN HILLS ZONING ORDINANCE AND ZONING MAP FOR A DOWNTOWN ENTERTAINMENT OVERLAY DISTRICT WHICH OVERLAYS PORTIONS OF THE C-2, C-3 AND TCCD COMMERCIAL ZONING DISTRICTS IN THE DOWNTOWN AREA.

Mr. Rodgers stated The Noise Regulations in the packet were the recommendations brought forth in 2010 by a Noise Committee appointed by the P&Z Commission. This ordinance was actually initiated in 2011 but due to an upcoming event in the downtown area the ordinance was temporarily tabled. Then apparently forgotten. Recent noise issues related to events at a local resort have caused staff to resurrect this ordinance proposal and reintroduce it for discussion and possible initiation again. Staff has reviewed the regulations and believes that they are superior to the current regulations in both understandability and enforceability. The regulations have been simplified, illustrations have been added, and enforcement has been provided with a reasonable and easy 2-part process for determining if there is a violation. Staff will recommend that this ordinance amendment be initiated. Mr. Rodgers said a discussion also needs to include the recommendations brought to the Commission by your Downtown Entertainment Review Committee to establish a Downtown Entertainment Overlay District. Which was also initiated by the Commission. Because, during the process of putting these two projects into approvable form, some conflicts between the two became obvious. The Town Attorney is here to outline what the conflicts are, and discuss how the Commission might want to deal with those conflicts.

A discussion took place among the Town Attorney Andrew McGuire, Mr. Rodgers and the Commission. The goal of the discussion was to clarify and identify needed changes to the Noise Ordinance and the proposed Downtown Entertainment Overlay to ensure they do not conflict.

The Commission requested that the Overlay District have the same Outdoor Entertainment entitlements as the TCCD district currently has. The Commission does not want to change anything in other C-2 and C-3 areas, they only want to include portions of these zones that are in the downtown under the overlay to allow for outdoor entertainment. The time frame of lowering volume for an establishment is 11:00 p.m. which the Commission found acceptable. The Commission agreed with Mr. McGuire to amend the ordinances to encourage certain types of uses to concentrate within the Entertainment Overlay District.

Mr. McGuire stated he has enough feedback to bring the Commission's recommendations to fruition.

Two speaker cards were submitted to the call for public.

Kim Anderson, a Fountain Hills resident, addressed the Commission regarding the noise regulation. She pointed out wording on page 2, item D. and Table 2 Measurement Locations contrast to page 3, under "E". She stated the sentence is not consistent with what is written in section D and does not make much sense. She suggested this be revised if the town is implementing a new policy and in order for the town to enforce the ordinance.

Dan Simula, a Fountain Hills resident, agreed with what Ms. Anderson presented. He asked that the inconsistencies be addressed.

Mr. McGuire commented that the town code amendment portion of this particular item would go before the Town Council and the Planning and Zoning Commission would not see the ordinance again. The Planning and Zoning Commission only deals with the zoning amendment portion. He encouraged those interested in ordinance changes to pay attention to the Council agenda for follow up.

AGENDA ITEM #8 - REPORT FROM SENIOR PLANNER AND ZONING ADMINISTRATOR, PLANNING AND ZONING DIVISION OF DEVELOPMENT SERVICES.

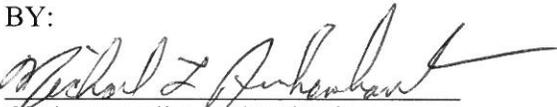
NONE

AGENDA ITEM #9 - ADJOURNMENT.

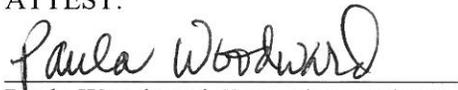
Commissioner Jones **MOVED** to adjourn the meeting at 8:40 p.m. and Vice-Chairman Mikolajczyk **SECONDED** and the **MOTION CARRIED UNANIMOUSLY**. (7/0)

FOUNTAIN HILLS PLANNING & ZONING COMMISSION

BY:


Chairman Mike Archambault

ATTEST:


Paula Woodward, Executive Assistant

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the Fountain Hills Planning and Zoning Commission held on the 28th day of July 2016, in the Town Council Chambers, 16705 E. Avenue of the Fountains, Fountain Hills, AZ 85268. I further certify that the meeting was duly called and that a quorum was present.

Dated this 3rd day of August 2016


Paula Woodward, Executive Assistant