

**APPROVED BY PLANNING AND ZONING COMMISSION ON
JUNE 23, 2010**

**MEETING MINUTES – PRESCOTT
Yavapai County
Planning and Zoning Commission
June 9, 2010
9:30 A.M. Session**

Hearing Location: 1015 Fair Street, Prescott, Arizona
*10 S. 6th Street, Cottonwood, AZ via video-conference**

Commissioners Present: Tom Reilly, Chairman
Jim Stewart, Vice Chairman
*Joan McClelland, Secretary**
Gene Kerkman
*Curtis Lindner**
*Curt Garner **
Tex Province
Joe Jackson

Commissioner Absent: Jon Barnert

Staff Present: Steven Mauk, Development Services Director
Elise Link, Planning Manager
Randy Schurr, Deputy County Attorney
Boyce Macdonald, Land Use Manager
Nicole Russell, Planner
Margie Bryan, Transcriptionist/Recording Secretary

Pledge of Allegiance

1. Yavapai County Planning and Zoning Commission is conducting this meeting in accordance with the Arizona Open Meeting Laws, pursuant to A.R.S. § 38-431.02 (A) (2).
2. Chairman Reilly conducted the roll call of Commissioners noting that Commissioner Barnert was absent and there was a quorum present.
3. Approval of the Minutes of May 19, 2010 Planning and Zoning Commission meeting; Commissioner Kerkman made the motion to approve the minutes as written and Commissioner Jackson seconded it. The vote was unanimous.
4. Selection of Commission member for representation at the Board of Supervisors Hearing on July 6, 2010. Commissioner Kerkman volunteered to attend.
5. Explanation of Meeting Procedures.

6. Zoning Ordinance Amendment to Section 410 (R1L District), Section 301 (Definitions) and Section 432 (M2 District) to Establish Standards for Solar and Wind Energy Production; HA# H9138

THESE MINUTES CONTAIN PUBLIC COMMENT

Applicant: Development Services Staff

Request: Consideration of a text Amendment to the Zoning Ordinance Section 410 (R1L District), Section 301 (Definitions) and Section 432 (M2 District). Staff: Nicole Russell

P&Z Recommendation: On May 19, 2010, the Planning and Zoning Commission heard this item. No action was necessary.

Nicole Russell, Planner, opened the Staff presentation by addressing some of the issues raised at the last Commission meeting. She said this proposed amendment would clarify the difference between on-site use and power generating facilities as well as regulate the setbacks and height. If a proposed solar or wind installation does not meet the required setbacks or height limitations the property owner would need to go through the administrative review/comment process. Currently there were no regulations for these types of facilities nor did the Ordinance state that solar or wind turbines had to meet setback or height regulations. This proposed amendment would be placed in the most restrictive zoning district R1L (Residential; Single Family Limited), so that it would be applicable in residential or commercial zoning as long as the power generated is for on-site use. She presented photos of residential and commercial on-site use and wind turbines for residential and commercial on-site use. If the energy generated is not for on-site use and would be transported elsewhere via transmission lines then it would be considered a power generating facility, which is proposed to be first allowed in the M2 (Industrial; Heavy) zoning. Any other zoned district in which a power generating facility might be proposed would require a use permit. There is a portion of the Ordinance under the Zoning Clearance section that has been interpreted by the Land Use Division that solar equipment is considered a structure which must meet setbacks and height limitations; the proposed amendment would clarify this and not leave the issue open to interpretation. Another concern of the Commission was the reflectivity of the solar panels. Solar panels were encased by glass, the frames of most panels were brushed aluminum which was non-reflective. She stated the Section 558 of the Ordinance addressed nuisances and hazards such as noise, vibration, heat, glare or toxic fumes to such an extent as to constitute a nuisance. Noise from the turbines was another concern. As stated at the last meeting, industry standards for small scale (or non-power generating utility scale) the decibel range is between 20-58 decibel (dB). The newer turbines used for a wind power generating utility could be 100 dB at the level of the HUB (which is the gears near the blades), however, this type of turbine could be 400 ft. tall or more. Ms. Russell said that noise from a turbine was caused by friction; friction causes inefficiency and property owners who purchased wind turbines were looking to have an efficient wind turbine, not inefficiency with frictional noise. She played a video for the Commission demonstrating the minimal noise created by some existing wind turbines. She also provided the Commissioners a list of locations of existing wind turbines that they might visit on their own time if they chose. She said there were professionals here today to answer any questions; staff hoped to have industry professionals make a presentation to the Commission at their next meeting on June 23 in Cottonwood.

Chairman Reilly opened the discussion to the Commission. He said they were discussing two different types of things: the photo-voltaic which could be remote from the structure but were typically located on the structure's roof or immediately adjacent to the building. With wind turbines they were more concerned with the height limitations. He said in commercial applications, photo-voltaic had become very popular in parking structures and asked if this amendment would affect the ability of people to use photo-voltaic in parking structures.

Ms. Russell replied that the parking structure itself would still have to meet setbacks and have structural engineering to show that they could maintain the weight of the photo-voltaic. The height limitations would apply more to the wind turbines.

Commissioner Jackson expressed concern with the number of these wind turbines being allowed in a subdivision because a large number of them in a subdivision would be very aesthetically obstructive. He asked about any regulations limiting the number of wind turbines in an area.

Ms. Russell said the purpose of this amendment was to lesson our dependency on foreign oils, so this was an effort to make Yavapai County more sustainable rather than limiting it.

Manager Link replied that the experts present today would be able to respond to his question, but there were no State or Federal standards limiting the number, but an area's CC&Rs might have some restrictions.

Attorney Schurr noted that this amendment would address height and setback restrictions and if there was any opposition received then the property owner would need to apply for a use permit.

Commissioner Jackson said he read where some solar panels were made of reflective glass and had staff considered this as this might also be a disturbance to the neighbors.

Chairman Reilly said that most people do not want to use the reflective glass because the last thing they want to do on a solar panel is reflect the sun. He said they were normally covered with a black covering and the reflection was no more than that of a glass window.

Commissioner McClelland felt that a field trip would be beneficial and she was glad that this would be heard again in the Verde where the public would have another chance to comment.

Manager Link said this would be heard at the next Commission meeting in Cottonwood on June 23, and they were taking public comments both today and at that meeting. As far as a field trip, Ms. Russell had passed out a list of the local wind turbines so that the Commissioners could visit the ones in their area, time wise staff felt that was a better way to go.

Commissioner Kerkman asked if the notification for an administrative review would be the same as typically considered based on the size of the parcel (100-300 acre) and asked what amount of opposition would trigger a use permit. He asked if the free standing turbines had a fall zone such as that of short wave towers, etc.

Ms. Russell said the notification would be the same and based on the size of the parcel; if even one property owner opposed then they would need to apply for a use permit. She said they did not require a fall zone as they were structurally engineered to withstand a Category 5 hurricane and were constructed to collapse on themselves.

Chairman Kerkman asked if there was any consideration without going through a use permit, to limit the free standing turbines to a particular property size.

Attorney Schurr said this amendment was a starting point and had not been thoroughly explored but limiting free standing turbines might be considered at a future time.

Commissioner Province said he could not see the viability of this in the subdivisions with smaller lots, the cone for the wind had to be twice what the height was on a free standing turbine and he did not see how this would work on a small lot.

Commissioner Lindner commented that this process precludes to having as much public input as possible and he would like to hear from some of the community organizations.

Chairman Reilly agreed and said that notification had been done, some community organizations responded and some had not. He felt the Commissioners should talk to their contacts, friends and

neighbors to get their comments. He said he would contact the local paper and suggested one of the Verde Commissioners contact the Verde Independent and ask to have some mention of this item in the paper and maybe that would produce some additional public comment.

Mike Siavels, Sunrise Energy Alternatives, said ideally on a single family home, the wind turbine should be 50 ft. or above, you would lose efficiency when you come down. He said the wind in this area was more seasonal than constant. He felt the biggest thing the County should be looking at is a limit on the dB level, dBs for so many linear feet. He said a licensed contractor could not install any system that was not UL approved. The County also might want to consider a limit on the number of kilowatts (kW) and much kW could be put on a residence because one could get 10 kW windmills. He noted that windmills produce more than electricity; some were use as water pumping windmills and asked if these would also be height regulated.

Commissioner Kerkman asked if an installer would come on site and do an analysis of the cost vs. returns as this might eliminate some concerns.

Mr. Siavels felt that solar was more efficient in this area as there was more sun than wind, but there were all types of salesman out there, and if the property owner had made up his mind that he wanted wind turbines, the salesman was not going to talk him out of it.

Commissioner Jackson said that he read that solar panels used a lot of water and asked if that were true.

Mr. Siavels said that depended on the angle of the panels. The sterling units (reflectors) use mirrors and those needed to be kept clean and that was the only water used. Photo-voltaic was washed by the natural rain fall and did not need to be washed so the water usage was minimal.

Commissioner Province asked what the minimal amount of wind was required for the turbines to work.

Mr. Siavels said wind about 25 knots or roughly 28 miles per hour. High efficiently wind mills start at 3 knots, the standard windmill starts at 5-7 knots.

Commissioner Province noted you would need 7-10 miles per hour wind before it worked at all.

Chairman Reilly asked if the current height restrictions were standing in the way of wind turbines as a viable source of energy.

Patrick Cannon, Cannon Solar and Wind, LLC, said typically towers were manufactured at 33.5 ft., 45 ft. or 60 ft. They used a monopole configuration; they were free standing and did not require any additional support cable that would reach out from the tower. He said on a 33.5 ft. tower the overall height would be approximately 39.5 ft. including the rotor tips of the propeller, so they should consider this from hub or tip of blade, depending on the site conditions. A true renewable energy professional would evaluate the site and where the wind mill should be located to maximize its production. He said a typical turbine should be installed 30 ft. above any existing obstruction and approximately 250 ft. from any additional obstruction. He said this would apply to a horizontal axis turbine which rotates similar to an airplane propeller. Vertical axis turbines rotate at the top and could withstand turbulent winds from any angle. He proposed the vertical turbines at 25 ft. to 35 ft. tower with an over all height of approximately 46 ft. to top of turbine sails (propellers).

Commissioner Garner said one of his neighbors lost their tower in a recent windstorm, and put it back up with guide wires, so sometimes the manufactured towers do not always withstand the force of nature. He asked Mr. Cannon to elaborate on the vertical axis towers.

Mr. Cannon replied they were monopole configured, heavy gauged galvanized steel, mounted on civil engineered concrete re-enforced foundation and certified to withstand wind speeds of 245 mph (Category 5 hurricane).

Commissioner Garner said if the County maintained the building height restrictions (30 ft.) and applied that to the issue discussed would that limit the number of customers and prohibit them from selling their products.

Mr. Cannon asked if they regulated the height from the top of the blade, yes that would be difficult. The standard towers could be manufactured to any height, but the horizontal axis turbines would be most efficient at a minimum height of 33.5 ft. with the diameter of the propellers of 11 ft. so the ideal height would be 40 ft.

Commissioner Garner said this height restriction would limit the community at large that wanted to use these turbines.

Commissioner Kerkman asked Mr. Macdonald would they consider the overall height of the turbine at the top of the propellers or somewhere in the middle.

Boyce Macdonald, Land Use Manager, replied that currently the way they were permitting, there was no restriction so if they chose to set a height limitation then that should be at the top of the blade as it went around.

Commissioner Kerkman felt that limiting this amendment to the building height limitation would be shooting it in the foot before it really got started.

Mr. Macdonald noted the way the Ordinance currently reads, putting a height limitation on the building rather it be a residential or commercial structure, if it was less than 25% of the roof coverage then there was no height limitation.

Commissioner Province asked if there was a limit on the decibel amount that was allowed to go outside one's property. He said he had gone through wind farms and he knew how loud they could get.

Mr. Macdonald replied there was no noise ordinance in Yavapai County.

Manager Link said there was no mechanism to enforce noise; air conditioning units have similar or more decibel levels than wind turbines so she did not feel a noise limit was necessary. She said wind turbine farms were different than on-site generation and those would have to go through the use permit process.

Commissioner Garner felt that both the aesthetics of the height and sound intrusion would be problematic issues.

There being no further questions of staff, Chairman Reilly opened the floor to public participation.

Mike Siavels, Sunrise Energy Alternatives, said the older turbines did have guidelines every 20 ft., and were noisy when off balance and when the bearings went bad. The guidelines could break if there was not enough weight on the end, so there were a lot of things that could go wrong with the older models. He said those models would not be installed in a residential area, they should only be installed on a minimum 40 acre parcel.

Patrick Cannon, Cannon Solar and Wind, said he would like to address the question of the efficiency and power production of a small scale wind turbine. He said with an average wind speed of 11 mph that would produce between 300-500 kilowatt hours per month. He did feel that height restrictions were important regarding wind turbines; these could be extremely efficient within those guidelines, there were

professionals that did site evaluations that took into consideration possible ramifications visually and audibly from these turbines, but given thoughtful forethought they could establish sustainable renewable energy in the residential situation.

Commissioner Kerkman noted that all houses were not solar panel friendly, wasn't it defined by the roof slope and grade, and northern or southern exposure. The wind turbines were depended on the physical characteristics of the property.

Mr. Cannon replied yes, if the roof top was not a good candidate then the alternative would be a fixed ground mount on the property or tracking units which were pole mounted, so there were several different ways to address the issue.

Duane Gann, 8855 Live Oak Drive, stated he lives next door to a wind turbine. He said they were noisy, either you hear the wind whip or it whines like a siren. He said this wind turbine was permitted for the rear of the lot but the owner had it in the front of the lot, 85 ft. from the street. He said he had a petition from 12 of the closest neighbors asking the owner to move the turbine to the rear of his property, but the owner had refused. He said these wind generators have no place in a residential community; rural areas yes. He was in favor of the proposed restrictions. He does have solar panels on his house and had done a lot of research, and the solar was much more efficient.

Chairman Reilly said the Commission was not opposed to wind turbines but there were three issues:

1. Height
2. Sound
3. Support of the structure itself

The Commission was in favor of solar but there were some minor concerns with reflectively of the panels.

This item will be re-heard by the Commission in Cottonwood on June 23, 2010. No action was necessary today.

7. Zoning Ordinance Amendment to Section 205 (Enforcement); HA# H10007

Applicant: Development Services Staff

Request: Consideration of a text Amendment to the Zoning Ordinance Section 205 (Enforcement).

Staff: Nicole Russell

THIS ITEM HAS BEEN WITHDRAWN.

**8. Amendment to the Yavapai County General Plan, Criteria for a Major/Minor Plan Amendment;
HA# H10002**

THESE MINUTES CONTAIN NO PUBLIC COMMENT

Applicant: Development Services Staff

Request: Consideration of an amendment to the Yavapai County General Plan, Criteria for a Major/Minor Plan Amendment. Staff: Elise Link

PREVIOUS P&Z RECOMMENDATIONS: On March 3, 2010, the Planning and Zoning Commission recommended deferral of the Text Amendment to the Yavapai County General Plan, HA# H10002, until their next regularly scheduled meeting in Cottonwood on March 17, 2010.

The vote was 5 to 4. Commissioners McClelland, Garner, Lindner, Barnert and Jackson voted in favor of the motion for deferral. Chairman Reilly and Commissioners Stewart, Kerkman and Province voted in opposition to the motion.

On March 17, 2010, the Planning and Zoning Commission recommended to defer indefinitely the Text Amendment to the Yavapai County General Plan, HA# H10002. The vote was unanimous.

Elise Link, Planning Manager, opened the Staff presentation with some background information. She said the State Statutes do require that all General Plans address major or minor amendments to the General Plan and define a major amendment as the substantial alteration of the County land use mixture or balance as established in the County's existing Comprehensive Plan. The Statutes also require that major amendments could only be heard once a year at the same time, but they do leave the criteria as to what constitutes a substantial alteration up to each county. She said currently in Yavapai County's General Plan we define the major amendment as any residential use on 100 acres or more that increases the residential zoning or density on the property by a minimum of 250 units. Also any project 100 acres or more that changes from a residential land use to a different or more intensive land use category. Staff was trying to allow larger developments to be considered throughout the year based on experience and what staff had seen lately having to do with alternative energy facilities, for example. She said at the last Commission meeting, what staff presented changed the threshold of a minimum 100 acres to 5000 acres. The Commission seemed to be OK with that for the most part. The Commission directed staff to look at the same notification for any minor amendment over 100 acres as is required for a major amendment. She read the new proposal to the Commission. Based on the Commission's comments: they were changing the notification from 100 to 5000 acres so minor amendments were anything under 5000 acres, any minor amendment over 100 acres in size must adhere to the notification criteria established for a major amendment. She said included in their packet was a table comparing the different notification requirements set out by State Statute for a major and minor amendment. She said the major amendment did require a broader notification so more agencies were involved, and also gave a 60 day review period where a minor amendment was 30 days. She said the purpose of this proposed amendment was two-fold: improvement to the process by requiring enhanced notification for a minor amendment which would allow the public to be engaged on a broader basis and would also provide a longer timeframe to review the applications, and would also allow the larger development proposals to be considered on a case-by-case basis any time throughout the calendar year. She said in closing, she did get an email from the consultant who prepared the General Plan including the section on the major/minor amendment process, who reviewed the proposal, and stated "it was quite a jump from 100 acres to 5000 acres but I could see the need for the amendment."

Chairman Reilly opened the discussion to the Commission.

Commissioner Lindner said in regard to the need for the amendment, he would like to know the basis for this, was this something discussed at the Joint Session, because this was quite a jump from 100 acres to 5000 acres. He asked why they were even hearing this proposal.

Manager Link said in the past couple of years they had received some inquiries on projects over 100 acres that changed the density or changed the land use and would be considered a major amendment and based on the fact of the timing of the project, it would take over a year to process. For example, if they came in September and wanted their application to be heard for a rezoning and major amendment, because the cutoff was July 31, they would have to wait to submit their application for an entire year and then wait until December of the following year to know whether or not they would be approved by the Board. Manager Link replied this was the basis of the proposed amendment.

Commissioner Lindner replied he heard what she was saying but could she specifically give them the parameters of 100 acres or 150 acres, because 5000 acres – why this high of a number.

Manager Link stated there were several proposals with large acreage and staff felt that 5000 acres would be appropriate.

Commissioner Lindner said this would have helped him if he knew if the proposals were from the Verde side, the northern part of the county, or give him some kind of idea of the locations.

Manager Link replied the number of inquiries staff received were from different locations throughout the County.

Commissioner Lindner asked if the inquiries had been a basic application submitted with specific information or conversations on the phone.

Manager Link said when she said “inquiry” that meant that staff did not get a formal application submitted.

Commissioner Lindner said so if someone called Development Services and said they would like to develop in this area, would that be an inquiry.

Manager Link replied yes and to even give them any information staff would need a certain level of specific information from them to let them know if what they were proposing would require a major plan amendment, and if so, the deadline was July 31st, and that they could only be heard once a year.

Commissioner Lindner asked what other counties were doing, because he did not see this as being a problem.

Manager Link said staff had contacted other counties and most of the urban counties did have the same 100 acre threshold that was currently in the Yavapai County General Plan and that works for the urban counties. She said Maricopa County was the first to prepare their criteria and they used the 100 acres and the other counties followed suit. She said a couple of the rural counties were also considering changing their ordinance as they have had the same experience as Yavapai County.

Commissioner Lindner asked if they would hear more from the public as this moved forward and would staff provide them with more information from other counties.

Manager Link replied certainly and thanked him for bringing this up, as no action was required today as this would be heard again at their next Commission meeting in Cottonwood on June 23rd.

Commissioner Kerkman wanted to make sure he understood some of the changes. When they went from 100 to 5000 acres the minor plan amendment had changed a great deal and this would strengthen the notification requirements for the minor plan amendment and he felt this was a real benefit to this process.

Manager Link replied at their last meeting the Commission had suggested these changes and staff made the changes because they felt it provided a very good check and balance system. What it actually did was instead of just separating it from a major/minor, there were three levels. There was the minor plan amendment up to 100 acres with a minimum amount of citizen participation (which would be no different than that of a rezoning or use permit); and the minor amendment from 100 to 4,999 acres with an enhanced level of notification and a longer period for public input which is the same process that a major amendment goes through.

There being no further questions of staff, Chairman Reilly opened the floor to public participation. There was no public participation.

This item will be re-heard by the Planning and Zoning Commission in Cottonwood on June 23, 2010.

OTHER BUSINESS:

1. Upcoming hearing agenda items.

Manager Link said the Verde would have on the Board agenda the abandonment of the Villas at Beaver Creek final plat. On the Commission agenda in addition to what was just discussed, there would be two bed and breakfasts, a recycling facility and in July a use permit for the Angel Valley Retreat Center.

2. Chairman's Corner

- Changing the day and dates of the Commission meetings.

Chairman Reilly noted this had been a suggestion from Commissioner Garner.

Manager Link stated it was suggested changing the day of the Commission meeting to Friday and that had to do with schedule conflicts. She did note that the Development Services Department is closed on Friday, but staff may be able to work around that. She presented additional options for consideration such as having one Commission meeting a month, she was not sure if the Board would support that but State Statutes did only require one Commission meeting per month. She said this year's schedule had been approved and distributed so nothing could change until after the first of year. She said one meeting a month could be justified because the agenda items have become smaller or they might consider night meetings.

Commissioner McClelland felt that only having one meeting a month would be great but they should alternate between Prescott and Cottonwood with everyone in the same room and not use the video conference as it did not work very well.

Commissioner Province asked why the change of day.

Commissioner Garner said he could see changing to one meeting per month with the general down spiral of development but the meetings might consume the entire day, and he felt it would be more productive professionally if they did not have to sacrifice an entire day. He said they keep going back to the issue of the public not participating and one reason is that they have jobs and they can't always get off to come to these meetings and he sympathized with that, and that went for professionals that the Commission would like to have present, as well. He said a lot of businesses were going to the four day work week and people would be available on Friday.

Commissioner Jackson felt it would be extremely difficult for him to change the day of the meeting, due to other committees and boards he was on, and he felt other Commissioners also served on various committees and boards. He said in regard to two meetings a month, they could always cancel if they needed to and they might need to go back to two meetings a month in the future.

Commissioner McClelland said Friday meetings would work well for her.

Chairman Reilly said they had heard that changing the day is or is not a problem. He said Commissioner Garner brought up a valid point regarding public input. He asked the Commissioners how they felt about keeping the date on Wednesday but changing the time to a late afternoon starting at 3:00, 4:00 or 5:00, as that would allow the public to take off from work.

Commissioner Jackson said that would work better than changing the day.

Commissioner Lindner said he had been on the Commission for a long time and the system had worked pretty well, the Commission meetings mirrored the Supervisors meetings, a little different time, but mornings were when people were the sharpest and when there weren't a lot of items on the agenda, having the meeting by video was a feature that worked. They could easily combine the meetings if there were not a lot on the agendas, but he liked the way it was.

Commissioner Garner felt they should poll Commissioner Barnert as well. They had heard how it was more conducive to those who would like to participate; they had heard from the applicants how difficult it often was for them. He felt the Commission would have better community involvement if they had evening meetings.

Chairman Reilly said with several committees that he had been on there was the issue of the time of the meeting relative to public participation, when he was on the city council they changed their meeting times to evening to see if it would improve and they found that it did not make a lot of difference in regard to public participation, the issue was more relevant to the amount of public participation.

Commissioner Jackson noted that they needed to consider the imposition on staff to ask them to work at night.

Manager Link said staff appreciated his concern but staff was fairly flexible and could work around what the Commission decided.

Steven Mauk, Development Services Director, said this could be added to the October Joint Session discussion.

ADJOURNMENT

There being no further business to discuss, Chairman Reilly adjourned the meeting at 11:17 a.m.

CHAIRMAN

ATTEST: _____
SECRETARY