



# City of Apache Junction, Arizona

## Meeting Minutes Planning and Zoning Commission

Meeting location:

City Council Chambers  
at City Hall  
300 E Superstition Blvd  
Apache Junction, AZ  
85119

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Tuesday, April 25, 2017

7:00 PM

City Council Chambers

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### 1. Call to Order

Chair Nesser called the meeting to order at 7:00 pm.

### 2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

### 3. Roll Call

Staff present:

City Attorney Joel Stern

Director Larry Kirch

Senior Planner Rudy Esquivias

Assistant Planner Stephanie Bubenheim

Planning Intern Suleima Barrera

Planning Intern Lindsay Bresnahan

**Present**                      7 -      Chairperson Nesser  
   Commissioner Buzzin  
   Vice Chair Heck  
   Commissioner Howard  
   Commissioner Frank  
   Commissioner Schroeder  
   Commissioner McGraw

### 4. Consent Agenda

Vice Chair Heck made a motion to accept the Consent Agenda and approve the minutes of the March 28, 2017 and April 11, 2017, meetings as presented. Commissioner Buzzin seconded the motion. The Planning and Zoning Commission accepted and approved the Consent Agenda and the minutes as presented.

**Yes:**                              7 -      Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

**No:**                                0

[17-162](#) Consideration of approval of agenda.

[17-163](#) Consideration of approval of regular meeting minutes for March 28, 2017 and April 11, 2017.

**5. Call to the Public**

None.

**6. Public Hearings**

17-172

Public hearing, presentation, discussion and consideration of case PZ-1-17, a city-initiated corrective rezoning to rezone Evelyn Subdivision on Main Drive between W. 1st Avenue and W. Broadway Avenue from Medium Density Single-Family Residential, Conventional Housing Permitted (RS-10) to Medium-High Density Single-Family Residential by Planned Development, Conventional Housing Permitted (RS-5/PD). The rezoning proposes to correct non-conforming lots, setbacks, and lot widths through the use of a Planned Development Overlay.

Planning Intern Bresnahan gave a presentation on case PZ-1-17, a city-initiated corrective rezoning to rezone Evelyn Subdivision on Main Drive between W. 1st Avenue and W. Broadway Avenue from Medium Density Single-Family Residential, Conventional Housing Permitted (RS-10) to Medium/High Density Single-Family Residential by Planned Development, Conventional Housing Permitted (RS-5/PD). The rezoning proposes to correct non-conforming lots, setbacks, and lot widths through the use of a Planned Development Overlay.

Chair Nesser asked why the seven conditions are worded so they specify that new buildings cannot encroach in the setbacks. Planning Intern Bresnahan explained situations such as these would be covered in Condition #6 of the proposed motion in the Staff Report. Chair Nesser asked that not making them move structures, but not allowing new ones would be confusing. City Attorney Stern explained that this is covered in the definition of non-conforming lots and believes there is sufficient language if someone questions it in the future. Director Kirch added that most properties are covered under the new regulations, but there are a few exceptions. The goal is to reduce the number of non-conforming structures. Chair Nesser asked if any of the structures and buildings that are now classified as non-conforming and are older, and if the owner wanted to them fix up, if they will be discouraged from doing so. Director Kirch explained that normal maintenance is allowed. What isn't allowed is expansion. Chair Nesser asked how the homeowners are notified of the corrective rezonings. Director Kirch replied that all the property owners were notified by the normal process of the rezoning hearings and meetings, the ordinance is also published. There wasn't a lot of interest by the property owners. He also explained that when property owners apply for a building permit, staff goes over the setbacks of the property with the applicant. City Attorney Stern informed the commission that they could add in a condition of their motion that all property owners would be notified, once approved, of the setbacks for their property. Commissioner Heck asked what would happen if a resident wanted to replace a shed that wasn't meeting the setback requirements. Director Kirch explained if permits were required, the new setbacks would apply.

The commission discussed the item.

Vice Chair Heck asked how many properties out of the 105 were non-conforming. Director Kirch replied that there were more issues with setback, in the Hughes Place subdivision than in the Evelyn subdivision.

Chair Nesser asked if the red area on the maps is where they can't build. Director Kirch stated this is correct.

Chair Nesser opened the public hearing portion of the item.

Having no one wishing to make a comment, Chair Nesser closed the public hearing.

The commission discussed the item.

Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission recommend to the city council the approval of rezoning case PZ-1-17, a city-initiated corrective rezoning request for Evelyn Subdivision located on S. Main Drive between W. 1st Avenue and W. Broadway Avenue, from RS-10 (Medium Density Single-Family Detached Residential; Conventional Home Permitted) to RS-5/PD (Medium/High Density Single-Family Detached Residential by Planned Development; Conventional Home Permitted), subject to the following conditions of approval: all seven of the conditions as outlined in the staff report of April 19, 2017 with the addition of an eighth condition stating that all of the current homeowners within the Evelyn Subdivision receive formal notice related to this rezoning which includes an explanation relative to what they can and cannot do relative to their non-conformity and limitation to what they can do. Commissioner Schroeder seconded the motion. The commission approved the motion with a 7 - 0.

**Yes:**                    7 -     Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

**No:**                    0

17-173

Public hearing, presentation, discussion and consideration of case PZ-2-17, a city-initiated corrective rezoning to rezone Hughes Place Subdivision on Ocotillo Drive between W. 1st Avenue and W. Broadway Avenue from Medium Density Single-Family Residential, Conventional Housing Permitted (RS-10) to Medium-High Density Single-Family Residential by Planned Development, Conventional Housing Permitted (RS-5/PD). The rezoning proposes to correct non-conforming lots, setbacks, and lot widths through the use of a Planned Development Overlay.

Planning Intern Barrera gave a presentation on case PZ-2-17, a city-initiated corrective rezoning to rezone Hughes Place Subdivision on Ocotillo Drive between W. 1st Avenue and W. Broadway Avenue from Medium Density Single-Family Residential, Conventional Housing Permitted (RS-10) to Medium/High Density Single-Family Residential by Planned Development, Conventional Housing Permitted (RS-5/PD). The rezoning proposes to correct non-conforming lots, setbacks, and lot widths through the use of a Planned Development Overlay.

Commissioner McGraw asked what the reasons for setbacks are. Director Kirch replied that setbacks provide uniformity at the front of the homes. It allows privacy for neighbors and also safety as far as fires are concerned. Commissioner McGraw asked how fire personnel will handle fires with 3-foot setbacks. Director Kirch said fire personnel would have to battle them from the street for some of these lots.

Chair Nesser asked if parking spaces are encroaching on the street and asked if it is a safety hazard. Director Kirch replied that they are actually in the public right-of-way. He added that future street improvements may affect some of these lots. City Attorney Stern added that non-conformity does not extend into the right-of-way. Chair Nesser said that these photos can help people see issues on their property.

Vice Chair Heck asked about the changing lot lines in the past. Director Kirch replied that it happened without the city's knowledge. Going forward into the future, rear lot lines can no longer be moved and interior lot lines can be moved if it brings the lot into compliance or does not create a non conforming lot.

Commissioner McGraw asked why there are differences between recommended setbacks between this subdivision and the previous subdivision presented. Planning Intern Barrera explained that the lot dimensions are different between the two subdivisions. This subdivision has smaller lots. Director Kirch added that this happened years ago and there were different standards.

Commissioner Schroeder asked how the lot sizes and setbacks were acceptable to the city. Director Kirch replied that staff is working on improving our ordinances and property maintenance standards.

Commissioner Buzzin asked why the setbacks are being reduced from 5 feet to 3 feet. Director Kirch replied that staff recommends 3 feet and based on the situation, 3 feet seemed appropriate to resolve issues in this neighborhood.

Vice Chair Heck asked if a homeowner were to sell their property if it would have to be brought into code. Director Kirch replied that the opposite is true. By law, the city can't hold a new owner responsible if the previous owner did work without permits.

Commissioner Buzzin asked if the homeowners owned the land or lease it. Director Kirch replied that the land is owned, not leased.

Chair Nesser opened the public hearing portion of the item.

Liz DeFir, 506 S. Palo Verde, Apache Junction, addressed the commission regarding the current city codes. Her neighbors have tried to improve their homes, but do not understand the codes. The changes tonight makes her nervous. Anything the commission can do to make things better is really appreciated.

There being no one else wishing to be heard, Chair Nesser closed the public hearing.

Vice Chair Heck moved that the Planning and Zoning Commission recommend to the city council the approval of rezoning case PZ-2-17, a city initiated corrective rezoning request, for Hughes Place Subdivision located on S. Ocotillo Drive between W. 1st Avenue and W. Broadway Avenue, from RS-10 (Medium Density Single-Family Detached Residential, Conventional Home Permitted) to RS-5/PD (Medium/High Density Single-Family Detached Residential by Planned Development; Conventional Home Permitted), subject to the following conditions of approval: all eight of the conditions as outlined in the staff report of April 19, 2017 with the addition of a ninth condition stating that all of the current homeowners within the Hughes Place Subdivision receive formal notice related to this rezoning which includes an explanation relative to what they can and cannot do relative to their non conformity and limitation to what they can do. Commissioner Schroeder seconded the motion. The commission approved the motion with a 6 - 1 vote.

**Yes:**                    6 -     Chairperson Nesser, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

**No:**                    1 -     Commissioner Buzzin

17-174

Public hearing, presentation, discussion and consideration of proposed conditional use permit case CUP-3-17, a request by SBA Communications on behalf of Verizon Wireless, represented by Alexander Novak of Novation Group Consulting LLC, for approval of a 65' tall mono-eucalyptus cell tower and its appurtenant structures at Acacia Villa Mobile Home Park located at 1770 N. Valley Drive zoned Manufactured Home Park by Planned Development (MHP/PD).

Assistant Planner Bubenheim gave a presentation on proposed conditional use permit case CUP-3-17, a request by SBA Communications on behalf of Verizon Wireless, represented by Alexander Novak of Novation Group Consulting LLC, for approval of a 65' tall mono-eucalyptus cell tower and its appurtenant structures at Acacia Villa Mobile Home Park located at 1770 N. Valley Drive zoned Manufactured Home Park by Planned Development (MHP/PD).

Chair Nesser asked if the basketball court was going to be moved to build the cell tower. Assistant Planner Bubenheim replied that yes, the basketball court would be moved to build the cell tower. Chair Nesser asked about the pool and play ground. Assistant Planner Bubenheim said both the pool and playground would remain where they are. Chair Nesser asked if the lots are owned or rented. Assistant Planner Bubenheim explained that this is a mobile home park and the spaces are rented.

Chair Nesser commented that she likes the palm tree cell tower and has never seen a eucalyptus cell tower. Assistant Planner Bubenheim showed a picture of this type of cell tower. Chair Nesser also asked about the location on North Valley Drive, if that location would work or not. Assistant Planner Bubenheim explained that the representative will be able to explain why this location was chosen. Assistant Planner Bubenheim explained at this time the code allows for cell towers to be placed in commercial, industrial, and public institutional zones. MHP and RVP zoning districts have recently been added but there are few in this area.

Commissioner McGraw asked how future co-locations reduce the number of cell phone towers. Assistant Planner Bubenheim explained that cell phone carriers can use the same cell phone tower which decreases the need for additional towers to be used by each cell phone provider.

Commissioner Howard asked what is going to be done with the basketball court. Assistant Planner Bubenheim replied that the owner of the property will not replace the court but reminded the commission that they could make it a condition of the CUP request. Chair Nesser asked if the court was being used by the communities residents. Assistant Planner Bubenheim replied that she didn't know if it was being used or not.

Vice Chair Heck asked if co-location means there will be another tower at the location. Assistant Planner Bubenheim said co-locate means they would be using the same tower. A second tower would not be built.

Alexander Novak of Novation Group Consulting, LLC addressed the commission.

Commissioner McGraw asked if there were any other cell carriers interested in co-locating in the near future. Mr. Novak explained that the tower will be owned by SBA Communications and upon zoning and building approval will actively market the site to other companies who would be interested in the location.

Vice Chair Heck asked Mr. Novak what the life expectancy of the cell tower is. Mr. Novak explained that sometimes branches or pieces break off, but they are replaceable. It's in their interest to maintain the stealth appearance. Chair Nesser asked what the city has in place to let a cell tower owner they need to repair their tower. Director Kirch explained the CUP is part of the

process to ensure the site is maintained.

Commissioner Schroeder asked about radio frequency emissions around the neighborhoods, with kids, swimming pools, etc. Mr. Novak explained that the emissions are minimal, a fraction of what the FCC recommends, but cannot be discussed in a public hearing forum per FCC rules created in 1996. City Attorney Stern agreed that the decision of the commission can not be based on the information, only on actual information.

Commissioner Schroeder asked about the location and how it's chosen. Mr. Novak explained that each tower can handle a finite amount of traffic (voice or data). At this time, Verizon's cell towers are over stressed due to too many users ,so they need additional towers to handle their customer traffic.

Chair Nesser opened the public hearing.

There being no one wishing to be heard, Chair Nesser closed the public hearing.

Vice Chair Heck said the current conditions for the CUP does not mention a maintenance provision. City Attorney Stern said a provision for that can be added.

Vice Chair Heck moved that the Planning and Zoning Commission approve case CUP-3-17, a request by SBA Communications on behalf of Verizon Wireless, represented by Alexander Novak of Novation Group Consulting LLC, requesting approval of a Conditional Use Permit ("CUP") for a 65' tall mono-eucalyptus cell tower and its appurtenant structures at Acacia Villa Mobile Home Park, located at 1770 N. Valley Drive, north of the northwest corner of W. Teepee Street and N. Valley Drive, zoned MHP/PD (Manufactured Home Park by Planned Development), subject to the following conditions of approval: all seven of the conditions as listed in the staff report of April 19, 2017 with the addition of an eighth condition stating that maintenance of the mono-eucalyptus cell tower be maintained in accordance with the requirements for the length of time the CUP is enforced. Commissioner Frank seconded the motion. The commission approved the motion with a 6 - 1 vote.

**Yes:** 6 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank and Commissioner McGraw

**No:** 1 - Commissioner Schroeder

## **7. Old Business**

None.

## **8. New Business**

None.

## **9. Information and Reports**

Director Kirch announced that the city may have a draft report from the EPA from the recent infill meeting in the next week or so.

## **10. Director's Report**

None.

**11. Selection of Meeting Dates, Times, Location and Purpose**

Vice Chair Heck moved and Commissioner Buzzin seconded to hold Regular Meeting on May 9, 2017, at 7:00 p.m. in the City Council Chambers located at 300 E. Superstition Boulevard.

Yes: 7 - Chairperson Nesser, Commissioner Buzzin, Vice Chair Heck, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

No: 0

**12. Adjournment**

Adjournment:

Meeting adjourned at 8:31 p.m.

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Theresa Nesser  
Chairperson