

City of Prescott
Planning & Zoning Commission

October 12, 2023 | 9:00 AM
201 N. Montezuma Street
Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Chairman Michelman called the meeting to order at 9:00 A.M.

2. ROLL CALL

Don Michelman, Chairman
Ted Gambogi, Vice-Chairman
Susan Graham
Thomas Hutchison, Absent
James Kleczewski
Thomas Reilly
James Whiting

Chelsea Walton, Interim Community Development Director
George Worley, Planning Manager
Tammy DeWitt, Community Planner
Sarah Hilton, Recording Secretary
Robin Sobotta, Airport Director
Councilmember Cathey Rusing
Councilwoman Connie Cantelme

3. DISCUSSION & ACTION ITEMS

- A. Approval of the September 28, 2023 Planning & Zoning Commission Meeting Minutes.

MOTION BY COMMISSIONER REILLY TO APPROVE SEPTEMBER 28, 2023, MEETING MINUTES; SECONDED BY COMMISSIONER GRAHAM: (5-0) WITH CHAIRMAN MICHELMAN ABSTAINING AS HE WAS NOT PRESENT AT THE MEETING.

- B. **SITE22-004** - Site Plan Review for a 223-unit Residential Rental Complex on Approximately 28.6 Acres. Zoning: SPC and LUG is V. Owner: Deep Well Ranches #1 LLC. Applicant: Terrascope Consulting. Location: APN 102-05-324N. George Worley, Planning Manager stated that this project has been before the Commission at a previous meeting. After questions came up at the last meeting, the applicant requested more time to make some modifications and provide additional information.

Mr. Worley presented an aerial map showing the project site. He stated that the subject property is located on the northwest corner of Pioneer Parkway and

Willow Creek Road. The area was designated as part of the Deep Well Ranch Master Plan for multi-family or residential uses. The Land Use Group (LUG) is Village, which is a higher density land use that allows for multi-family projects like the one presented.

Mr. Worley presented a zoning map which shows that the project is in a Specially Planned Community (SPC) area. This designation allows for the Master Plan to control land uses within the Deep Well Ranch Master Planned Area.

Mr. Worley then presented a map that shows the Airport Impact Zones. He stated that the developers have worked with the airport to ensure that most of the project is out of the area of highest concentration of over flights. There is some parking in that area, which is in Impact Zone 4. The rest of the development will be in Impact Zone 6.

Mr. Worley stated that the project is split between 55 DNL and 60 DNL, which are two noise contour areas where there is a lot of noise created by aircraft. Mr. Worley stated that there is an adverse impact on property owners and residents in both areas.

Mr. Worley presented a chart from the Deep Well Master Plan that showed the allowances for the Village designation. He stated that it allows for relatively small lots and a relatively dense development. The proposed project meets those requirements as they are proposing 223 dwelling units on 28.6 acres, which is 7.7 units per acre. This is comparable to other subdivisions in the area. Much of the site has open space and parking. Mr. Worley stated that the project is distributed well within the property.

Mr. Worley presented a site plan which showed the unit locations, driveway locations, parking, and the major drainage that runs through the south one-third of the project. Mr. Worley stated that one of the items that was addressed at the previous meeting was the height of the tallest building in the community, which is the community center at 30'-5". He stated that typical single-family zoning allows up to thirty-five feet in height.

Mr. Worley presented a video from the developer showing the showing a drive-through rendering of what the property will look like including the inside of one of the units.

Mr. Worley stated that the project director has been in contact with Airport Director Robin Sobotta and there were a number of agreed upon conditions from the Airport.

Robin Sobotta, Airport Director, stated that before grading permits are issued, they will complete a 7460 process. A 7460 process is an airspace evaluation through the FAA (Federal Aviation Administration) for temporary obstructions. She stated that the site plan will be updated to indicate limitations for the portion of the site that is within Airport Impact Zone 4. They must indicate on the site plan that there will be limitations of fourteen feet in height and there will be unoccupied structures only. The height restrictions for natural growth are that vegetation will

never exceed the height of the community center, which is thirty-five feet. She stated that airport disclosure documents will be made a part of the rental agreement. Ms. Sobotta stated that this disclosure will inform residents that there are 877 takeoffs and landings per day at Prescott Regional Airport. She stated that the rental agreement will include a clause allowing residents to terminate their lease within the first three months without penalty due to aircraft noise and overflights.

Commissioner Jim Kleczewski asked if the development would impact any future plans for the Airport as they expand.

Ms. Sobotta stated that she feels confident that residents who move in will have proper notification as well as the opportunity to vacate due to the disclosures. She stated that there are 2021 & 2024 projected noise contours that residents will have access to as well.

Commissioner Ted Gambogi asked to confirm that zone four cuts across the parking lot shown on the site plan.

Mr. Worley stated that it does and that it will be used as parking for the facilities as well as overflow parking for residents.

Commissioner Gambogi asked about a grey structure that is not living quarters that is shown on the site plan.

Mr. Worley stated that it is a mechanical or storage building.

Commissioner Gambogi stated that the video showed a lot of grass and non-native species.

Mr. Worley stated that code requires plant species that are low water usage, drought tolerant, and native species. The applicant will be bound to use these for landscaping.

Mr. Worley stated that there were questions asked by the commission at the last meeting on this project about traffic impact in the area. Specifically, what impact the 223 rental units would have on existing Willow Creek Road as well as proposed Jenna Lane, which will be the primary access into the community. Jenna lane will also give access to properties and roadways south of the community.

Ian Mattingly, City of Prescott Traffic Engineer stated that this community is part of a larger traffic impact analysis submitted by Deep Well called The South Ranch Development which includes this development, a commercial development going in across the street to the East, and further to the North and West which will include future housing.

Mr. Mattingly stated that this development will generate about 1390 trips over a twenty-four-hour period and will have an impact of approximately one hundred peak hour trips in the A.M. or P.M. He stated that there is a single access point

on Jenna Lane as well as gated emergency access off of Willow Creek Road.

Mr. Mattingly stated that Jenna Lane and Willow Creek Roads will be improved in this area. Willow Creek Road will be improved to a four-lane section from the South at Pioneer Parkway and north through Jenna Lane where the intersection will be widened to its full width which is a five-lane roadway on Willow Creek and a five-lane roadway on Jenna Lane. He stated that the roadway system is being built to handle this development as well as future developments. Mr. Mattingly stated that the intersection at Willow Creek Road and Jenna Lane will have a signal conduit and all infrastructure for a future signal which will be triggered when one of the future single-family developments is built. He stated that he is confident in the roadway system and the ability for it to carry the traffic created by these developments. Jenna Lane will be built to a three-lane interim configuration with one lane in each direction and dedicated turn lanes and then will be widened to five lanes when the development continues to the North. The Traffic Impact Analysis was submitted approximately a year ago and was approved by staff.

Commissioner Gambogi stated that when the Commission heard another project, they heard from residents of Pinon Oaks on their concerns about traffic. He stated that this is similar to Pinon Oaks. He asked how the areas discussed by Mr. Mattingly will be better than the Pinon Oaks area.

Mr. Mattingly stated that Jenna Lane is anticipated to have signalized control, whereas Pinon Oaks does not. He stated that the traffic study looked at impacts down Pioneer Parkway. He stated that there will be dedicated improvements to easily handle the traffic. There is no access from Willow Creek Road. He stated that a median has been put in on Willow Creek Road to help control traffic as well.

Chairman Don Michelman asked why a traffic signal and not a roundabout.

Mr. Mattingly stated that if there is a higher capacity than could be handled by a signal, they might put in a roundabout. He stated that a traffic signal will provide good operational service through the build-out that is planned for this area. Mr. Mattingly stated that the improvements including the widening of Willow Creek Road, the construction of Jenna Lane, and the future traffic signal will be paid for by the developer.

Dave Grounds, founder and owner of The Great Street Company and developer of this project, stated that their clientele will be long term renters. He stated that in order to get financing for a project of this magnitude, they cannot put a clause in the contract allowing residents to move out after three months. He stated that they will have the disclosures and possibly a presentation to let potential renters know of the number of overhead flights so that they are well informed.

Commissioner Tom Reilly asked for clarification from the applicant that he would like to remove the clause in the rental agreement that allows renters to leave after three months if the noise from the airport is too much.

Mr. Grounds stated that they did a lot of research and that they cannot practically

agree to it. They did agree to all the other stipulations presented by the Airport.

Commissioner Tom Reilly asked for clarification that the Airport Vicinity Overlay (AVO) has not been adopted by council.

Mr. Worley replied that it has not.

Commissioner Reilly stated for clarification that the DNL contours are a recommendation at this point and not a binding stipulation.

Mr. Worley replied that the noise contours are created through studies but there has been no formal adoption through the AVO.

Commissioner Reilly asked if there is a law that states that this has to be.

Mr. Worley stated that there is no zoning law that states that this has to be.

Commissioner Kleczewski stated that last time this project came before the Commission, the applicant was asked if artificial turf could work instead of grass for water conservation.

Mr. Grounds stated that they will only use artificial turf and all plants would comply with regulations for landscaping. They will be drought tolerant.

Commissioner Susan Graham asked if the rental lease will be one year.

Mr. Grounds replied yes.

Commissioner Graham stated for clarification that if renters are unhappy, they can leave after one year.

Mr. Grounds stated that is correct and stated that renters can leave whenever they want, but there will be a cancellation fee.

Commissioner Graham asked what the cancellation fee will be.

Mr. Grounds stated that he does not know the amount of the fee.

Chairman Michelman stated for clarification that the only change to the stipulation about a renter being able to leave before their lease is up is that a fee was added. He asked if there is a rough idea on what the fee will be.

Mr. Grounds stated that he does not know and does not want to try and guess.

Commissioner Reilly asked for clarification on which of the Airport comments are requirements and which are suggestions.

Ms. Sobotta stated that the 7460 process is required. The site plan item on Airport Impact Zone Four was an agreed upon decision that was made so that they do not seek acquisition and appraisal of the land. They agreed that it would

be uninhabited. The height restrictions for natural growth is a grant assurance that is a requirement of the FAA. The disclosure documents are part of the Avigation Easement and are an attachment.

MOTION BY COMMISSIONER REILLY TO RECOMMEND APPROVAL OF SITE22-004 SITE PLAN REVIEW PER THE SITE PLAN AND THE FIRST FOUR AIRPORT COMMENTS; SECONDED BY COMMISSIONER KLECZEWSKI: (6 - 0)

- C. **PLN23-002** - A Revised Preliminary Plat for South Ranch Unit 2. Location: APN 102-05-036G. Parcel Size: 18 Acres. Zoning: SPC. Owner: ASH-Dorn, LLC. Mr. Worley stated that the Commission has seen this proposal before in the form of the original Preliminary Plat. This proposal is to revise the original Preliminary Plat. Mr. Worley presented an aerial view of the property. The section of the Plat that was brought to the Commission last time was a much bigger section. The presented section is one of several units in the community.

Mr. Worley then presented the original Preliminary plat and stated that it is split into two phases. Unit two with 2A being in the south half and 2B being in the north half. The area was originally laid out with approximately forty-five-foot-wide lots. The request is to change the width of most of the lots in Unit 2A from forty-five feet to thirty-five feet width, which results in twelve additional lots. Mr. Worley stated that because it results in additional lots, this requires a review and revision of the Preliminary Plat.

Mr. Worley then presented the proposed revision of the Preliminary Plat. Requested changes:

- Decrease lot width from 45' to 35'
- Unit 2A density increase from 26 to 37 lots
- Overall Unit 2 density increase from 96 to 108 lots

Mr. Worley stated that the thirty-five-foot width is not uncommon in the Deep Well Ranch area. He then presented an aerial map that showed all Airport Impact Zones. He stated that there are some lots affected by Airport Impact Zone four that are in Unit 2B. The area is within the 60 DNL contour and residents will experience significant overflight/noise from the Airport. Airport operations currently average 877 take-offs and landings per day. This development has already agreed to and included many of the same requirements of notification and Avigation Easements that have been applied throughout Deep Well Ranch.

Ms. Sobotta stated that they are concerned that if the comments are not on the Final Plat, that there will be omissions in disclosure. The comments include:

- All disclosures and easements must fully comply with the Deep Well Ranch Master Plan and Development Agreement.
- The City has asked for the disclosure and easement documents for review.
- The CCRs must include the necessary documents as per the Deep Well Master Plan agreement.

- The timing for document delivery is important so that the residents can make an educated decision prior to a financial impact such as a cancellation of a contract.
- In regards to the OEI Splay protection; there needs to be a note on the Plat that says no structure or planting mature growth that will exceed ten feet in height shall be permitted in tract AA. The only equipment that can be in the OEI Splay area is low profile sports equipment such as soccer goals.
- Utility poles, lighting standards, and City or State traffic signs and other similar uses are permitted under the discretion of the City of Prescott.
- An additional note added that is a notice of noise and aviation disclosure on the Plat map.
- Height restriction for natural growth. Applicant must provide evidence to confirm that the vegetative growth will be appropriately limited, possibly in the landscape plan to ensure that landscaping heights do not exceed FAA approved structure obstruction level.

Ms. Sobotta stated that these items are required prior to approval of the Final Plat.

Mr. Worley stated that the airport items are advisory so that the applicant knows what the City will be looking for when they submit their Final Plat.

Chairman Michelman stated that, although the AVO has not been adopted by Council, part of this project would be in violation of it. He asked for clarification on if approving this project would mean they are not in agreement with the AVO

Mr. Worley stated that in the Commissions motion to recommend the AVO to Council, they did not include the Deep Well Ranch area in the recommendation. He stated that they left it for negotiation between Council and Deep Well Ranch and he believes those negotiations are ongoing. He stated that recommending this change does not negate the benefits of the AVO. Planning staff is strongly in favor of Council taking action on it when it is time.

Commissioner Reilly asked if the additional twelve units would impact utilities or traffic.

Mr. Worley stated that there is minimal impact on traffic with the twelve additional units. He stated that the utility systems are oversized and designed to accommodate additional growth and changes in use. Mr. Worley stated that he does not expect any infrastructure plans to change as a result of the additional units.

Commissioner Gambogi stated that although water usage is not in the Commission's purview, this will increase water usage.

Mr. Worley stated that there is a separate agreement with Deep Well Ranch on water and additional units would reduce the available water from their pool of water. He stated that it will be accommodated by Deep Well Ranch's water

allocation.

Mr. Gambogi asked how wide the lots at the nearby community Saddlewood.

Mr. Worley stated that they are a mix of thirty-five and forty-five feet in width.

Lindsay Schube with the law firm of Gammage and Burnham stated that they are aware of the conditions, and they will be part of the Final Plat.

**MOTION BY COMMISSIONER REILLY TO RECOMMEND APPROVAL OF
PLN23-002 REVISED PRELIMINARY PLAT FOR SOUTH RANCH UNIT 2;
SECONDED BY COMMISSIONER WHITING: (6 - 0)**

- D. **SUP23-002** - A Special Use Permit Allowing for the Construction of a 100-foot Wireless Tower Next to the Existing Water Tank Exceeding the Allowed Height Limitation of 35-feet for the Zoning District. Location: APN 800-20-034S, 3599 Williamson Valley Road. Zoning: Rural Estate 2 Acre (RE-2 Acre). Applicant: SmartLink Communications LLC.

Tammy DeWitt, Community Planner, presented an aerial view of the subject property as well as an overview of the proposal. She stated that the property is located at the Southeast intersection of Pioneer Parkway and Williamson Valley Road. The property is owned by the State Land Department. The applicant will obtain a lease from the State Land Department.

Ms. DeWitt stated that the proposed location is north of the existing water tank. She stated that there is currently a communication tower on site. There is access to the property off Pioneer Parkway.

Ms. DeWitt stated that the property is outside of the Airport Influence Area, though the applicant has discussed with the Airport Director to place a light at the top of the tower to notify aircraft since it is a training area.

Ms. DeWitt stated that the lot is zoned Rural Estate 2 (RE-2), which is residential two-acre lot size. The tower is proposed to be in the middle of the property.

Ms. DeWitt presented a map of the 204 acre lot that the proposed tower is a part of. To the east is a seventy-nine-acre parcel owned by the Bureau of Land Management (BLM). To the north is two-hundred-twenty-five acres owned by Arizona State Land. To the west is also Arizona Stated Land. To the south is a residential development. The closest property line from the water tank is 1000 feet away There is also a four-hundred-foot open space buffer to the south in the subdivision.

Ms. DeWitt stated that she received two letters in opposition.

Ms. DeWitt presented a site plan showing the proposed location of the tower. The tower is proposed to be located on the north side or downhill from the water tank. She stated that the water tank is on the other side of the hill from the neighborhood. There is approximately a 400 foot elevation change between the development and the top of the hill. The tower is proposed to be located approximately 400 feet from the fence around the water tank. Ms. DeWitt stated

that the proposed lease area is thirty feet by thirty feet, which is a common size.

Ms. DeWitt stated that the applicant supplied photo simulations, as they are required. She presented an aerial map that shows three viewpoints: two off of Pioneer Parkway and one from the closest road in the development.

Ms. DeWitt presented a rendering of the first proposal, which is the tower disguised as a pine tree. She then presented photo simulations for the pine tree tower, two from Pioneer Parkway and one from the neighborhood.

Ms. DeWitt stated that staff asked the applicant to propose monopole renderings to see the comparison between a monopole and the pine tree tower. She then presented photo sims for the monopole; two from Pioneer Parkway and one from the neighborhood. Ms. DeWitt stated that there is very little visual impact, and the monopole can be painted to further blend into the background.

Ms. DeWitt presented the RF (Radiofrequency) Propagation Maps to show current coverage and what coverage would be with the proposed tower. She stated that coverage would be improved with the tower. It would also help improve the data capacity for existing towers in the area.

Ms. DeWitt then presented ways that cell towers aid community safety:

- Provide communication capabilities for the public to reach police, firefighters, and first responders in emergency situations through cell phone use.
- Towers enable coordination on the ground as crews battle fires.
- Enable emergency alerts and evacuation notices to be sent to residents in harm's way. Warning texts and calls depend on functioning networks.
- Allow residents to call 911 for help if trapped by fires. Towers maintain access even when other infrastructure is compromised.
- Support use of wireless technology like apps and messaging by firefighters to share real-time data and updates. Reliable data speeds are critical.
- Maintain connectivity to weather and surveillance systems tracking the fire's progress. Connectivity aids monitoring and forecasting.
- Lack of tower redundancy makes networks more prone to disruption from fires, undermining response.
- By way of example, dead zones in rural areas impacted by California's fires have meant failures delivering evacuation orders via cell phones.

What authority does the City have to regulate cell towers?

- The Federal Telecommunications Act of 1996 and Prescott Land Development Code (LDC) Section 2.4.49.
- There are two purposes of the Telecommunication Act of 1996 (47 USC Section 332):

1. "o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications

consumers and encourage the rapid deployment of new telecommunications technologies.”

2. “o preserve the authority of state and local governments over zoning and land use matters except in limited circumstances...”

The City of Prescott’s Land Development Code Section 2.4.16 governs cell towers.

Ms. DeWitt stated that if the height of a cell tower meets the height requirement of the zoning district, they are allowed by right. If they exceed that height then they have to go through a process to allow for the additional height.

There are five federally imposed limitations (Federal Telecommunications Act of 1996) on the City’s ability to regulate cell towers:

1. The regulation, placement, construction, and/or modification of telecom facilities may not unreasonably discriminate among providers of functionally equivalent services (cannot favor one provider over another).
2. The regulation of the placement, construction, and/or modification of telecom facilities shall not have the effect of prohibiting the provision of wireless services.
3. The local jurisdiction (City of Prescott) must act in a reasonable period of time in approving or denying a cell tower application.
4. The local jurisdiction (City of Prescott) may not regulate the placement, construction, and/or modification of telecom facilities on the basis of environmental effects of radio frequency emissions to the extent such emissions comply with FCC regulations.
5. Any decision to deny an application to place, construct, and/or modify telecom facilities must be in writing and justified by substantial evidence.

Applicant must show:

- That the proposed cell tower closes a significant gap in its own coverage in the least intrusive way possible.
- A meaningful comparison of various sites.
- That the proposed site is the best available to address the coverage gap.
- That the proposed site is the best technologically feasible site.
- That the application complies with the City’s Land Development Code and ordinances.

Additional requirements of Applicant(s):

- Applicant must show a lack of available and technologically feasible alternatives to its proposed cell tower.
- It is appropriate to ask applicant to study:

1. Alternative sites
2. Alternative designs

3. Alternative technologies

Exemptions (per LDC 2.4.49.B):

Towers, antennas and wireless communication, and related facilities that are exempt from the requirements of the section include:

- Those not exceeding the maximum height and setback requirements of the underlying zoning district and used solely for transmissions by a single user and not otherwise restricted within that zone including, but not limited to, amateur radio and devices necessary for use of a subscription to a commercial wireless provider service.
- Those that are owned, operated, or controlled by a governmental entity.

The Special Use Permit (SUP) process allows for Council approval of tower heights in excess of the district allowance. In this instance, the RE-2 acre district has a height limit of thirty-five feet. The requested one-hundred-foot wireless tower would require specific Council approval as a part of the SUP approval.

Commissioner Gambogi stated that there is a similar tree on Willow Creek and asked how tall it is.

Ms. DeWitt stated that it is seventy-eight feet tall.

Commissioner Gambogi stated for clarification that the proposed tower would be lower in elevation than the water tank.

Ms. DeWitt stated that the base of the tower will be lower as it is on the downward side of the water tank. She stated that it is about 100 feet from the water tank.

Commissioner Gambogi asked if the water tank is at the top of the hill.

Ms. DeWitt stated that it is not. It is on the north side of the hill from the neighborhood.

Commissioner Gambogi asked if it will be possible to see the tower from the development to the south.

Ms. DeWitt replied that some areas of the development may not be able to see it, but the area to the southeast will be able to see a little bit of it.

Commissioner Kleczewski asked if the applicant had proposed any alternative sites.

Ms. DeWitt stated that the applicant did research on where the best connectivity is as it has to connect to other towers. She stated that from a planning standpoint, it is a great location as it is in the middle of a two-hundred-acre parcel far from any residence. She stated that there is approximately 1800 feet to the

closest neighbor.

Commissioner Reilly asked if first responders have seen communications issues in this area.

Ms. DeWitt stated that she reached out to the Fire Department and has not heard back, so she is unsure. She stated that according to the maps previously presented, there is a gap in coverage in the area. She stated that a lot of the concern is data capacity if there is an emergency, and many people are trying to reach emergency services. The tower will help with the data capacity issue.

Commissioner Gambogi stated that he has AT&T and they do not have coverage on Williamson Valley Road.

Commissioner Kleczewski stated that he has had coverage issues in that area as well.

Commissioner Reilly asked if this tower would cover the Granite Oaks area.

Ms. DeWitt stated that it would and that there is another tower in the area that will provide coverage.

Chairman Michelman stated for clarification that there is an existing tower in the same area as the proposed tower.

Ms. DeWitt stated that there is a communication tower next to the water tank.

Chairman Michelman asked how tall that tower is.

Ms. DeWitt stated that she is unsure as it is a government tower but since the proposed tower will be lower down the hill it does appear to be around the same height from a lower perspective.

Chairman Michelman stated for clarification that since the tower is government owned the public is unable to use it.

Ms. DeWitt stated that is correct.

Mark Sawyer with Smartlink stated that one of the main technological advances that they are using is called the First Net which is a combination of the government and AT&T together to add technology for first responders. It will tie into all of the other towers in the area to make sure that first responders are keyed into emergencies as they happen. He stated that this is the main focus of the tower as well as data and coverage.

Commissioner Graham asked what the lowest height that would be effective for the tower is.

Mr. Sawyer stated that in order to add two carriers eighty-five feet would be the minimum.

Commissioner Gambogi asked if the applicant knows where the closest Verizon tower is located.

Mr. Sawyer stated that he is unsure but believes that the seventy-eight-foot tower previously discussed is a Verizon tower.

Ms. DeWitt stated that she believes it is a Verizon tower as well and is located at Prescott Lakes Parkway and Willow Lake Road. There is also a Verizon tower located at Williamson Valley Road near Abia Judd school.

Chairman Michelman asked if bringing the tower down 15 feet would reduce the number of people that could use it.

Mr. Sawyer stated that it would, although he does not know the exact amount. He stated that when the tower is taller there is more line of site which means the signal can reach further. The lower they go on the tower there is a potential for blockage.

Chairman Michelman asked for clarification if the height was lowered that it might work for AT&T but possibly not any other carriers.

Mr. Sawyer confirmed that was correct.

Chairman Michelman asked how many other carriers 100 feet would work for.

Mr. Sawyer replied that it would work for at least two others and municipalities may also be able to use it as well as they do not need as much vertical separation.

Fifteen Members of the public spoke in opposition. The main concerns being:

- Not to scale
- Will not fit in with surrounding area
- Health and safety
- Placement
- Need more information

Commissioner Gambogi stated that they have heard discussion of alternate sights but have not seen what those are. He also would like to hear about phone service versus data and would like to see a reconciliation between the coverage maps provided by a member of the public and by City staff. He also stated that he is not clear on the view from the Southview subdivision.

Commissioner Graham stated that she is concerned about the health aspects of the tower.

Matt Podracky, Deputy City Attorney, stated that based on federal preemption of law the Commission is not allowed to speak about health impacts. This is one of

five limitations in the Federal Telecommunications Act of 1996. He stated that the Commission needs to go back to the Land Use Control ,which Federal Congress says they have the ability to do. That is based on 2.4.49 of the City's Land Development Code. The Commission should only be looking at land issues and not health issues.

Commissioner Kleczewski stated that he would like to hear from first responders about the impact on services. He stated that he is unsure whether the Commission has all of the information necessary to decide if the tower is needed.

Ms. DeWitt asked if the Commission is asking staff to reach out to Fire and Police for comments regarding the tower.

Commissioner Kleczewski stated that he would like staff to reach out for those comments. He stated that he would also like to see alternate sites that may work for the tower.

Chairman Michelman stated that it appears that other cell phone companies have coverage in the area, and he would like to know if that is true or if there is a gap for all services. He asked if other companies have coverage and why can't AT&T use their towers.

Ms. DeWitt stated that there are two possible dates to see the project if there is a deferral. One is two weeks away on October 26th, which may not be enough time to do their due diligence. The other date would be November 9th, which she stated would give them enough time to work with the applicant on alternate sites, to look at data versus cell coverage, to gather coverage maps beyond what was provided, and to reach out to Police and Fire for their input.

Ms. DeWitt stated that if there is a deferral, she recommends the November 9th meeting.

**MOTION BY COMMISSIONER GAMBOGE TO DEFER SUP23-002 TO THE
NOVEMBER 9TH PLANNING & ZONING COMMISSION MEETING ;
SECONDED BY COMMISSIONER REILLY: (6 - 0)**

4. STAFF UPDATES

No staff updates.

5. ADJOURNMENT

There being no further business to discuss, Chairman Michelman adjourned the meeting at 11:13 A.M.


DON MICHELMAN, Chairman

ATTEST:


SARAH HILTON, Recording Secretary

