



Planning Commission
Notice & Agenda
Wednesday, August 21, 2024

CITY COUNCIL CHAMBERS | 11465 WEST CIVIC CENTER DRIVE | AVONDALE, AZ 85323

REGULAR MEETING

6:00 PM

PHYSICAL ACCESS TO THE COUNCIL CHAMBERS WILL BE AVAILABLE 30 MINUTES PRIOR TO THE MEETING.

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

Approval of the June 26, 2024 Planning Commission Meeting Minutes

4. PUBLIC HEARING ITEMS

a. ZONING ORDINANCE TEXT AMENDMENTS PL-24-0174

Planning Commission will hold a public hearing and consider a City-initiated request for text amendments to the Zoning Ordinance. The amendments will allow for continued refinement of the Zoning Ordinance to reflect recent changes in State law related to backyard fowl, provide for cross-references, and address the overall accuracy and usability of the Zoning Ordinance. The Commission will take appropriate action and forward a recommendation to the City Council.

Staff Contact: Catherine Lorbeer, AICP, Deputy Director of Planning

5. COMMISSION ANNOUNCEMENTS

6. PLANNING DIVISION REPORT

7. CALENDAR

September 18, 2024

8. ADJOURNMENT

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the meeting. Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oído, o con necesidad de impresión grande o intérprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos días hábiles antes de la junta del Concejo.

**Wednesday, June 26, 2024
6:00 pm**

A **Regular Meeting** of the Planning Commission of the City of Avondale, Arizona was convened at 11465 West Civic Center Drive in open and public session at 6:00 p.m.

1. WELCOME AND CALL TO ORDER

Chair White called the meeting to order at 6:00 p.m.

2. ROLL CALL

The following members and representatives were present.

COMMISSIONERS PRESENT IN PERSON / PHONE / VIDEO

Chair Larry White
Vice-Chair Julia Jewell
Commissioner Alan Agundez Castillo
Commissioner Denise Stanfield
Commissioner Linda Warren
Commissioner Shaun Grimm
Alternate Ryan Benson

COMMISSIONERS EXCUSED ABSENT

Commissioner Alex McBurney

CITY STAFF PRESENT

Catherine Lorbeer, Deputy Director of Planning
Arrianna Ramirez, Administrative Assistant
Mary Grace McNear, Attorney
Sylvia Willem Marcor, Planner
Jodie Novak, Development Services Director
Christopher Pierson, City Clerk Specialist
Ron Corbin, City Manager

3. APPROVAL OF MINUTES

Chair White called for a motion to approve the minutes.

Commissioner Warren made a motion to approve the Planning Commission Meeting Minutes for May 15, 2024, seconded by Commissioner Stanfield.

Chair Larry White	Aye
Vice-Chair Julia Jewell	Aye
Commissioner Alan Agundez Castillo	Aye
Commissioner Denise Stanfield	Aye
Commissioner Linda Warren	Aye
Commissioner Alex McBurney	N/A

Commissioner Shaun Grimm
Alternate Ryan Benson

Aye
N/A

Upon vote, the motion passed 6 to 0.

4. PUBLIC HEARING ITEMS

a. AVONDALE FIRE STATION NO. 171 – REZONING – APPLICATION PL-23-0349

Sylvia Willem, Planner, provided an overview of Application PL-23-0349 to rezone the City-owned property from Multi-Family Residential R-3 to Old Town Avondale Business (OTAB) District to allow the current Avondale Fire Station No. 171.

The approximately-1.8-gross-acre site was annexed on December 15, 1946, and is located between 5th and 6th Streets facing Belmont Drive. The current use is the existing Avondale Fire Station No. 171. The zoning district to the north and east is OTAB, the southeast corner is A-1, and to the south and west, including the site in question, is R-3. The General Plan designation on the property is Old Town, with the same designation to the south, east, and north of Western Avenue, but north of the existing fire station is public/civic and open space and parks.

The architectural renderings demonstrated roof height variations looking southwest from Western Avenue, incorporation of public art, vast landscaping, masonry walls with earth tones and gray accents depicting a modern design, and promotion of pedestrian activities.

The OTAB zoning district is more suitable than R-3 for the existing and proposed uses of the property. Public uses including utility buildings, structures and facilities, and equipment are permitted in OTAB zoning. Rezoning the property will bring it into conformance and enhance several goals in the General Plan. It is also compatible with Goals 1 and 5 within the Public Building Services Elements. The proposed rezoning would result in compatible land use relationships. Adequate public infrastructure for the proposed development presently exists or will be constructed by the City.

A neighborhood meeting was held on April 9, 2024, at the Resource Center with one attendee from the public, and two comments were received via email. In response to the questions received, there will be no additional fire trucks in the new fire station, the project is expected to begin construction between December 2024 and January 2025 and take a year to complete, the dormitory space used will only be used by the firefighters, and this project has no effect on the Avondale Police Substation, which is being relocated to 50 N. Eliseo C. Felix Jr. Way adjacent to the Resource Center..

Chair White opened public comments. With there being no one wishing to speak he closed public comments.

Commissioner Agundez Castillo made a motion to approve Application PL-23-0349 Avondale Fire Station 171, a request to rezone approximately 1.8 gross acres of land located south of the southwest corner of Western Avenue and 6th Street from R-3 (Multi-Family Residential) to Old Town Avondale Business (OTAB) District, subject to one (1) condition of approval as listed in the staff report, seconded by Commissioner Warren.

Chair Larry White	Aye
Vice-Chair Julia Jewell	Aye
Commissioner Alan Agundez Castillo	Aye
Commissioner Denise Stanfield	Aye
Commissioner Linda Warren	Aye
Commissioner Alex McBurney	N/A
Commissioner Shaun Grimm	Aye
Alternate Ryan Benson	N/A

Upon vote, the motion passed 6 to 0.

5. DISCUSSION ITEMS

a. TRAINING WORKSHOP

Catherine Lorbeer, Deputy Director of Planning, provided an overview of conditional use permits (CUPs), which the City Council recently authorized the Planning Commission to approve or deny. A CUP is a request for conditional approval of a use as compared with a permanent use by right. They have timelines and conditions to be met. A CUP is often used by local government as a technique to give flexibility in zoning ordinances or enable control over certain uses that might have detrimental effects on the community. Avondale's Zoning Ordinance contains a table that indicates if the land use is allowed by right, notated by a letter "P," or if a CUP is required, notated by a letter "C."

Mrs. Lorbeer reviewed the process for submitting a CUP application. It begins with a preapplication, which is reviewed by staff, who provide feedback to the applicant. Then a formal submittal is made by the applicant, but filing for a CUP is not a guarantee for approval. A neighborhood meeting is held, staff prepares a report regarding the appropriateness of the proposed land use, and then it is brought before the Planning Commission for a public hearing.

The best way to prepare for a public hearing on a CUP is to take the time to read and study the packet and ask the planning staff questions in advance of the meeting. Your decision is only to be made on the five findings because it is not the Planning Commission's role to determine if the proposed use is needed. Communication is key for you to learn about the project and make the best decision, so reading and prepping ahead of time will help the meeting run smoothly.

Mary Grace McNear, Assistant City Attorney, reviewed the legislation for the Planning Commission, a recommendatory board, established by State Statute and Municipal Code that include responsibilities City Council has asked them to review and decide on. The Commission should be following City Council's rules of procedure, but they also have Bylaws, which are better suited for the operations.

Acting in a quasi-judicial capacity, you are bound by the facts that are presented and the law that you must compare to when considering CUPs because they require specific and rigorous analysis to fit into the context of the neighborhood. The applicant has the burden to prove that their use should be allowed using the five factors. A CUP may be approved subject to condition(s) of approval only when necessary to mitigate the potential impacts of the use and

ensure land use compatibility. Adjacent property owners will more likely than not speak at the public hearing, and the commissioners determine what weight to give their comments.

It is important to follow the rules of procedure and Bylaws for consistency, maintain a clear record of proceedings, and be impartial. The Planning Commission's findings can be appealed to the City Council, and the City Council's findings can be appealed to the Superior Court, but it will include the original findings from the Planning Commission. This supports why we ask you to stay on topic and within the five findings because everything that is discussed would have to be defended on appeal. The Commission's decision must be based solely on the facts and arguments presented during the hearing on the record. If you vote no, be sure to state your concerns on the record. You should not be lobbied by or on behalf of the applicant or neighbors, and if you are approached, you should tell them you are unable to discuss this. Remember, the staff are your friends—you can contact them ahead of time and talk to them about the project to get questions answered.

Adjacent property owners can also appeal the Commission's decision. It must be made in writing within ten calendar days of the decision. Additionally, a CUP can expire if it is not used within twenty-four months, and sometimes you will see requests to extend a CUP. A CUP follows the land regardless of the owner or operator and can be modified at the applicant's request. The Department Director or designee has jurisdiction over a CUP and may recommend that a CUP be modified or suspended under specific circumstances; however, the Planning Commission has the final decision on revocation, modification, or suspension of a CUP. If a CUP is denied and not appealed, the applicant cannot reapply for the same CUP until the next calendar year.

In response to questions from Commissioners, Attorney McNear and Mrs. Lorbeer reviewed the findings the Planning Commission are required to make when approving a CUP, noting if a commissioner felt one of the findings could not be met, an explanation would be provided on record. Ron Corbin, City Manager, explained these are not blanket factors and to keep in mind that staff, along with engineers and other experts, have put in a lot of time to work with the applicant on mitigating factors prior to the application coming to the Planning Commission. It is important for the commissioners to communicate with staff prior to the meeting if they have any questions or concerns regarding a CUP. Mrs. Lorbeer concurred with Mr. Corbin that staff prepares an extensive technical evaluation of the project, prepare a staff report that will become part of the record, and provide conditions of approval. Advance communication between the Planning Commission and staff will build a stronger Planning Commission and defensible review of the projects.

How a project can be considered detrimental to a neighborhood was further explained by Attorney McNear and Mr. Corbin. Attorney McNear noted often citizens will speak in opposition of a use that is allowed, and they should be listened to, with particular weight given to their comments. She discussed when external communication can be had with the applicant, which is only for zoning and General Plan amendments but never for a CUP because of the quasi-judicial role. All communication with the applicant should be done at the public hearing. A further recommendation was for commissioners to drive by the property in question so they have a visual of what is being discussed.

Mrs. Lorbeer advised the PowerPoint presentation from this evening will be emailed to the commissioners and Attorney McNear will prepare a checklist of the five findings. Chair White

noted the agenda packets are generally received a week prior to the meeting, which is not always enough time to review everything and make inquiries.

6. COMMISSION ANNOUNCEMENTS

None.

7. PLANNING DIVISION REPORT

Mrs. Lorbeer noted twenty new development applications were received during the month of May.

8. CALENDAR

The next Planning Commission meeting is scheduled for July 17, 2024.

9. ADJOURNMENT

There was no further business; Chair White called for a motion to adjourn.

Commissioner Agundez Castillo made a motion to adjourn, seconded by Commissioner Warren.

Chair Larry White	Aye
Vice-Chair Julia Jewell	Aye
Commissioner Alan Agundez Castillo	Aye
Commissioner Denise Stanfield	Aye
Commissioner Linda Warren	Aye
Commissioner Alex McBurney	N/A
Commissioner Shaun Grimm	Aye
Alternate Ryan Benson	N/A

Upon vote, the motion passed 6 to 0.

The meeting adjourned at 6:59 p.m.

Chair, Larry White

Date

ITEM NUMBER: 4.a.

SUBJECT: Zoning Ordinance Text Amendments PL-24-0174**MEETING DATE:** 8/21/2024

TO: Planning Commission**FROM:** Catherine Lorbeer, AICP, Deputy Director of Planning**THROUGH:** Jodie Novak, Director of Development Services**PURPOSE:**

Planning Commission will hold a public hearing and consider a City-initiated request for text amendments to the Zoning Ordinance. The amendments will allow for continued refinement of the Zoning Ordinance to reflect recent changes in State law related to backyard fowl, provide for cross-references, and address the overall accuracy and usability of the Zoning Ordinance. The Commission will take appropriate action and forward a recommendation to the City Council.

BACKGROUND:

The Avondale Zoning Ordinance was first adopted in 1951 and has been updated numerous times. The last update occurred in August 2023.

SUMMARY OF REQUEST:

The purpose of the text amendment is to update sections of the Zoning Ordinance to reflect recent changes in State law related to backyard fowl and to ensure provisions for the keeping of animals are consistent with Avondale City Code Chapter 3, Animals and Fowl. The proposed changes will benefit the community by improving the overall consistency and usability of the Zoning Ordinance.

The proposed code amendments respond to House Bill 2325, passed by the Arizona Legislature, which allows a resident of a single-family detached residence to keep up to six (6) fowl in the backyard. The bill's effective date is September 14, 2024. Updates to Avondale City Code Chapter 3 will be separately considered by City Council to address the keeping of backyard fowl.

The following is a summary of the proposed amendments to the Zoning Ordinance referenced by section number. The proposed text for each of these sections may be found in Exhibit A.

Section 28-15 Definitions.

Add the definition of backyard fowl consistent with State law and remove swine from the definition of farm animals because City Code prohibits them. The definition of backyard fowl will exclude male fowl (roosters).

Section 28-33(g) Uses permitted with conditions.

Revise subsection (g) to include backyard fowl with farm animals and add a cross-reference to Avondale City Code Chapter 3, Article II Livestock, Fowl, etc. Remove text about the keeping of livestock as these requirements are contained in Chapter 3.

Section 28-133(e) Detached accessory buildings.

Remove the word "fowl" from language about height limitations, as recent changes to State law specify the maximum height of the backyard fowl enclosure. The maximum height requirements for a backyard fowl enclosure will reside in Avondale City Code Chapter 3, Article II Livestock, Fowl, etc.

PUBLIC PARTICIPATION:

All required notifications for the Planning Commission and City Council public hearings were completed in accordance with notification requirements. Staff has not received any feedback on the proposed text amendment. At the time of writing this report, one comment related to the proposal was posted on the City's Avondale Connect digital forum. The comment states the guidelines set forth by the State should be the same for the City and it still offers HOA's the ability to set their guidelines.

ANALYSIS:

The Zoning Ordinance Text Amendments are not anticipated to result in any adverse impacts on the community. The amendments will allow for continued refinement of the Zoning Ordinance to be consistent with State law, reflect changes in policies and procedures, allow for clerical corrections, and address the overall accuracy and usability of the Zoning Ordinance.

DISCUSSION:

Staff recommends approval of the request for the following reasons:

- The proposed text amendment will ensure consistency with State law.
- The proposed text amendment will improve the usability of the City Code and enhance customer service.
- The proposed is deemed necessary to best serve the public health, safety, and general welfare of the city.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

The Planning Commission will conduct a public hearing and recommend **APPROVAL** of Application PL-24-0174, Zoning Ordinance Text Amendment, a request for text amendments to the City of Avondale Zoning Ordinance.

Chapter 28 – Zoning Ordinance

Article 1 - ADMINISTRATION AND PROCEDURES

28-15 Definitions.

* * *

"Farm animals:" Domesticated animals traditionally raised and kept for food, fiber, feathers, labor or riding. This includes horses, cattle, sheep, goats, ~~swine~~, fowl, rabbits and other similar animals and birds.

* * *

"Fowl:" Chickens, turkeys, ducks, geese, guinea fowl and peafowl.

"Fowl, backyard:" A domestic chicken located in the backyard of a detached single-family residence, excluding male fowl (roosters).

* * *

Article 2 RESIDENTIAL DISTRICTS

* * *

28-33 Uses permitted with conditions.

The following land uses are listed in the land use matrix as permitted with conditions. These uses are permitted by right only if the conditions listed below for the individual uses are met. Based on site plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety and public welfare.

* * *

- (f) Dairy farm is allowed in certain residential zoning districts provided that the minimum site area is forty (40) acres.
- (g) Farm animals. Raising and keeping farm animals including backyard fowl is allowed in certain residential zoning districts, subject to the provisions of Avondale City Code Chapter 3, Article II Livestock, Fowl, etc. following:

(1) In the RR-43 District:

- (A) The keeping of livestock such as cattle and horses shall be allowed at a ratio of one (1) animal per twenty-one thousand seven hundred eighty (21,780) square feet of lot area.
- (B) Small livestock such as goats and sheep shall be allowed at a ratio of two (2) animals per twenty-one thousand seven hundred eighty (21,780) square feet of lot area.
- (C) No more than two (2) swine per lot shall be allowed, excluding potbellied pigs.
- (D) Farm animals under the age of six (6) months shall not be limited to an animal per square footage ratio.
- (E) Structures for fowl shall not be located closer than seventy-five (75) feet to any neighboring residence.

(2) In the RR-18 District:

- (A) All farm animals shall be contained on the property by an effective enclosure and shall not be allowed to run at large.

~~(B) The property shall be maintained so that it does not create or contribute to a health nuisance caused by the presence of flies, mosquitoes or other vermin; objectionable odors or dust; ponded water or water runoff; the accumulation of manure, garbage, refuse or other obnoxious or putrescible material; or similar conditions.~~

~~(3) In the R1-35 District:~~

~~(A) The keeping of livestock such as cattle and horses shall be allowed at a ratio of one (1) animal per twenty one thousand seven hundred eighty (21,780) square feet of lot area.~~

~~(B) Small livestock such as goats and sheep shall be allowed at a ratio of two (2) animals per twenty one thousand seven hundred eighty (21,780) square feet of lot area.~~

~~(C) No more than two (2) swine per lot shall be allowed, excluding potbellied pigs.~~

~~(D) Farm animals under the age of six (6) months shall not be limited to an animal per square footage ratio.~~

- (h) Feed lot for cattle is allowed in certain residential zoning districts provided that the minimum site is forty (40) acres.

~~***~~

Article 7 SUPPLEMENTARY REGULATIONS

~~***~~

28-133 Detached accessory buildings.

In all Single-family residential districts, detached accessory buildings shall conform to the following restrictions concerning their locations on a lot.

~~***~~

- (e) No building that is accessory to any residential building shall be erected to a height greater than fifteen (15) feet, except that on a residential lot in the AG District, a shelter for the keeping of animals ~~or fowl~~, silos or other similar structures customarily used in association with an agricultural use may be erected to the maximum height allowable for the main building in that district.

~~***~~