

# DRAFT

1. **TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR MEETING  
OF THE FOUNTAIN HILLS PLANNING AND ZONING COMMISSION  
DECEMBER 13, 2021**

**CALL TO ORDER, PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

Chairman Gray called the meeting of December 13, 2021, to order at 6:00 p.m.

2. **ROLL CALL**

Present: Chairman Peter Gray; Vice Chairman Scott Schlossberg; Commissioner Jessie Brunswig (Telephonically); Commissioner Clayton Corey (Telephonically); Commissioner Susan Dempster; Commissioner Dan Kovacevic; Commissioner Roderick Watts, Jr.

Staff Present: John Wesley , Development Services Director; Paula Woodward , Executive Assistant

3. **CALL TO THE PUBLIC**

4. **CONSIDERATION AND POSSIBLE ACTION:** approving the regular meeting minutes of the Planning and Zoning Commission November 8, 2021.

**MOVED BY** Commissioner Roderick Watts, Jr., **SECONDED BY** Commissioner Susan Dempster to approve the Planning and Zoning Commission minutes of the Regular Meeting of November 8, 2021.

**Vote:** 7 - 0 - Unanimously

5. **PUBLIC HEARING, CONSIDERATION AND POSSIBLE ACTION:** Regarding Ordinance 21-17, amending Chapter 10, Single-Family Residential Zoning Districts, Section 10.04, General Provisions, to add design standards for single-family dwellings.

John Wesley explained that this item was discussed on last month's agenda and continued to the December 13, 2021 meeting in order to respond to the Commission's questions and suggestions. Recently new home building permit submittals have caused some concern. After review it was concluded that the home could easily be converted from single family to duplex. They could be converted to vacation rentals as

well. Mr. Wesley explained that the code would be changed externally and internally to prevent the single family residence from looking and functioning as a duplex.

Ron Thompson, Fountain Hills resident, thanked the Commission for considering these modifications to help protect single family zoning and make Fountain Hills a desirable place for single family homes. He thanked John Wesley for working with him and the 26 neighbors who recently saw one of these homes appear in their neighborhood.

Commissioner Dempster suggested that the code include the allowance of one water service and one sanitary sewer to the property. This seems ideal since the summary already includes the limited number of electrical panels. This would then include all the utilities.

Discussion ensued regarding sub panels, garages, livable space, secondary structures (casitas), front entrance recognition and accessory kitchen size.

Lori Troller, Fountain Hills resident, commented that the definition of "livable space" needs a better definition regarding the primary and secondary structures.

Mr. Wesley replied that this is covered in another part of the code regarding large and small accessory structures. Accessory buildings (attached or detached) are limited to the 30% of the livable area of the primary structure. There are also limits on lot coverage. They all work to keep balance between the primary and accessory structures.

**MOVED BY** Commissioner Susan Dempster, **SECONDED BY** Commissioner Dan Kovacevic to forward a recommendation to the Town Council to approve Ordinance 21-17, amending Chapter 10, Single-Family Residential Zoning Districts, Section 10.04, General Provisions, to add design standards for single-family dwellings with the following stipulations; The dwelling if it is designed with more than one distinct living area must contain six of the eight items listed, remove the three-car garage items, Section C – clarify the living space in relation to guest houses.

**Vote:** 7 - 0 - Unanimously

6. **CONTINUE DISCUSSION** related to detox facilities and associated drug and alcohol treatment services.

Mr. Wesley said that at the September 13, 2021, meeting the Chairman asked that a future agenda include a discussion related to detox facilities and associated drug and alcohol treatment services. The discussion took place at the November Commission meeting. At that time the Commission agreed to move forward with the topic and provided input for staff. Mr. Wesley said that the January meeting will focus on input from the public and at a later date back to the Commission for the ordinance review.

Liz Gildersleeve, Fountain Hills resident, thanked the Commission for taking a very

pro-active approach to the ordinance issues surrounding detoxification facilities. She said that "Reading the attachments to this agenda item, I do have a few questions and concerns that I hope you can address during your discussion tonight.

First, you rightfully asked the Town Attorney to get a second opinion regarding his original opinion that the Town could not prohibit a detoxification facility in Fountain Hills. According to the attachment to this agenda item, a second attorney was found and the second attorney stated Aron's initial analysis was "Spot On" and he did not find anything to change or contradict his opinion. Who is this mystery second attorney? Did the Mystery Attorney render a written opinion that we can consider? Also, based on his memo, how are sub-acute detox facilities as described any different from a sober home? Wouldn't that be a zoning issue, a commercial enterprise existing in a neighborhood?

Secondly, regarding Mr. Wesley's research with Prescott and other towns, I'm left with more questions than answers. For example...

1. What prompted the proliferation of sober homes in Prescott to balloon to 200 homes? Was it a detoxification facility?
2. What specific problems and consequences did Prescott have to deal with when the town had 200 sober homes?
3. Mr. Wesley noted that Prescott took "some action that led to the State creating pre-emptive regulations." What specific regulations? Were these regulations considered when the Town Attorney rendered his opinion about detox facilities?
4. How specifically did Prescott reduce their number of sober homes from 200 to 30? Seems to me that would be helpful information to Fountain Hills. And Prescott obviously had to significantly reduce the number due to negative consequences to their town, not positive consequences, as organizations like Fountain Hills Recovery desperately want us to believe.

In closing, I believe we are a long way from finalizing ordinances. More research and discussion are warranted as the decisions you and ultimately the Town Council make will have significant impacts to the residents and businesses in this town."

Crystal Cavanaugh, Fountain Hills resident, said that she" supports the Commission addressing this important use tonight. Defining the various terminology is so important in helping the residents of Fountain Hills to understand and discuss what is at stake if inpatient detox units or partial hospitalization businesses are allowed in the community. Currently there are outpatient treatment locations and residential sober living business located in the Town's single-family neighborhoods. The expansion of these businesses is a detriment to our property values and quality of life in the community of Fountain Hills just as it has been in other communities that have needed to deal with proliferation of these businesses. To those who would say to me, "Oh, you're one of those-not in my backyard types." I respond of course I am. If not me, who is going to fight to protect my own backyard? I was disappointed that the Town Attorney's opinion was that he believes the Town cannot prohibit these drug businesses. After being directed to research this further, he apparently spoke to another attorney who agreed completely with our Town Attorney's analysis. I would certainly hope that we could get even further legal action assistance, with a written opinion from an attorney who is experienced with the issue and with land use statutes. We need to think about solutions that are outside the box and I feel strongly that we need to explore all legal options in order to protect our community. This would be

money well spent. If these businesses cannot be banned outright, perhaps we need ordinances that make it less profitable for these drug businesses to operate here such as restricting the number of untreated people residing within these sober house businesses. With legal guidance, hopefully we could deter them for locating here. Perhaps we also need to contact State Legislators, if necessary, to assist us in modifying current laws in order to protect our quality of life within our small town. I also have concerns that we do not actually know what types of treatments are going on within these sober houses and whether they already conduct services such as partial hospitalization. Accountability is definitely needed."

Larry Meyers, Fountain Hills resident, told the Commission that the Fountain Hills Recovery website is advertising that these facilities (one that is 268 feet from his house) are partial hospitals. These people are receiving treatment in my neighborhood on Nicklaus Drive. The Neighbors have been finding crack pipes and needles. This is a detriment to the neighborhood. I know what happens in these places from experience. They call their friends; they meet up and get their drugs. This is not legal.

Commissioner Watts said that he found some of the wording in the recap ambiguous. He said he would like to know what the Commissioners are allowed to do – what the bumpers are on a grand scale and what are those bumpers within limits of the law. It seems Prescott has answers since they have already been through the same situation.

Mr. Wesley replied that with regard to Prescott, their issue was sober living homes not detox facilities. They had some really bad actors in the community that generated community concern. This prompted them to address it locally and then the state got involved. The state created the rules we are all under now. The rules helped flush out those bad actors.

Commissioner Watts said there are many things to look at; taxation, revenue, business licenses, resident ratios and number of locations in town.

In response to Chairman Gray, Mr. Wesley said that the situation in Prescott got out of control and the community voiced their concern.

Chairman Gray said the issue isn't the detox facilities or sober living homes, it is the bad actors that come along with the good intentions. This is very complex and agreed that more time, beyond January, may be needed for clarification.

Chairman Gray told Mr. Wesley he had a couple different thoughts, that others brought up, regarding occupancy limitations. He said he would like to suggest that occupancy limitations on the number of occupants in a home which offers supervision or monitoring of residents or registration of that address for a unique use of no more than six persons. The number would include staff. The reason for this would be to mirror medical provider ratios.

Chairman Gray commented that he would like to see the language regarding homebased businesses enhanced. It should require the license holder for the business owner to also have that home as their primary place or residence or domicile. This

honors the integrity of the zoning and adjacent stakeholders. He also suggested that perhaps a residential use permit be required. He said he supports that the tenants of these homes sign a lease directly with the landlord. The purpose of this would be for health and public safety. All tenants are named and known and would not be subject to HIPAA. Currently a sex offender could stay at a sober living home unknown to the neighbors. Their required registered address remains with their permanent address not the sober living address. In addition, he said he would like more information on the work flow and where would the Town allow detox facilities. Location is probably the easiest to figure out as far as zoning, all of the other things fall into place.

Chairman Gray said he would like to see the percent of sober living homes owned by individuals' verses by corporations. He would like to see non primary home owners prevented from calling the business "home based."

In response to Commissioner Watts, Mr. Wesley said that there are currently up-front inspections when a sober living home is established. There are no inspections thereafter.

Commissioner Brunswig said there is a lot to look at since the policies can be different for the state compared to a town or city. This is a big issue and goes well beyond January. She suggested that questions should be submitted in advance in order for staff to research.

In response to Commissioner Dempster, Mr. Wesley, replied that the separation distance was created by the town to prevent clusters of assisted living/sober living homes. The occupancy limit of ten occupants per home is per the town. This is standard in most municipalities. It ties in with the building code classification.

Commissioner Dempster said that the main comment she's received from others is that the continual coming and going of individuals at these homes. It is a constant revolving door. She said that short term rental rules/terms may apply depending on the locations. When looking at the material regarding sober homes and partial ho9spilation homes it talks about the safety and welfare of the program. She said we need to think about the safety and well fair of the people living near or next to this business.

Commissioner Watts mentioned that not all sober living residents are there as a result of a court order. Some are there on their own volition. He said that he is not a proponent to stretching the process out.

Mr. Wesley thanked the Commissioner for their input.

7. **DISCUSSION and provide comments** on issues to be addressed in an update of Zoning Ordinance Chapter 7, Parking.

Mr. Wesley said that as he has been working on updating the parking ordinance, he came across some things that were not yet part of the code. He would like the Commissions comments and suggestions on whether any or all would be beneficial to the Town. They are:

- Adding a requirement for bicycle parking.
- Setting a maximum parking allowed to prevent over-parking.
- Adding a general allowance for shared or time-of-use parking.
- Allowing the use of tandem parking.
- Allowing for off-site parking.

Discussion ensued regarding parking for bicycles, shared, tandem and off-site parking.

Mr. Wesley asked should more be done with Uber and Lyft drop-off spaces and electronic charging stations.

Commissioner Brunswig suggested that there be a designated parking space for Uber and Lyft drop-offs.

Mr. Wesley said he would be coming back with a draft for future review.

**8. COMMISSION DISCUSSION/REQUEST FOR RESEARCH** to staff.

**9. SUMMARY OF COMMISSION REQUESTS** from Development Services Director.

Mr. Wesley wished everyone a happy holiday. At this point the January meeting regarding detox facilities will be promoted for public input.

**10. REPORT** from Development Services Director.

**11. ADJOURNMENT**

The Regular Meeting of the Fountain Hills Planning and Zoning Commission held December 13, 2021, adjourned at 7:50 p.m.

PLANNING AND ZONING COMMISSION

\_\_\_\_\_  
Chairman Peter Gray

ATTESTED AND PREPARED BY:

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Paula Woodward, Executive Assistant

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting held by the Planning and Zoning Commission Fountain Hills in the Town Hall Council Chambers on December 13, 2021. I further certify that the meeting was duly called and that a quorum was present.

DATED this day of December 20, 2021.

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Paula Woodward, Executive Assistant