

MINUTES

OPEN SPACE COMMISSION
MONDAY
JANUARY 22, 2024

HYBRID MEETING
FLAGSTAFF CITY HALL
CITY COUNCIL CHAMBERS
AND MICROSOFT TEAMS
211 W ASPEN AVE
4:30 - 5:00 PM MAP VIEWING
5:00 - 7:00 PM PUBLIC MEETING

1. Call to Order

The meeting was called to order at 5:01 pm by Chair Wilson.

2. ROLL CALL

NOTE: One or more Commissioner may be in attendance through other technological means.

PRESENT

Chair William Wilson
Vice Chair Bruce Applin
Commissioner Mary Norton (P&Z Liaison)
Commissioner Bruce Fox
Commissioner Jacqueline Thomas
Commissioner Lina Wallen
Commissioner Nat White
Councilmember Representative: Deborah Harris

NOT PRESENT

Staff:

Kevin Fincel -- Deputy City Attorney
Alexandra Pucciarelli - City Planning Manager
Robert Wallace -- Open Space Supervisor
Rebecca Sayers -- PROSE Director
Sylvia Struss -- Open Space Coordinator
Sarah Holditch -- Open Space Educator
Desert Mulford -- Open Space AmeriCorps/Environmental Literacy Corps

By MS Teams:

Christopher L Jack -- Assistant Fire Marshal
Mark Gaillard -- Fire Chief
Mickey Rogers - AZ State Parks
Alec Wilcox -- AZ State Parks
Shannon Anderson -- Sr Deputy City Manager
Rose Toehe - Coordinator For Indigenous Initiatives

Other Attendees: Steve Stack, Alexis Stack, Cody Routson, Clare Stielstra, Rob Begley, Jack Moody, Celia Barotz, Les Butters, David Grede, Steve Ruff, Mike Furr, Rose Houk, Vince & Rebecca Conti, Dave Smith, Ginny DeBartolomeo, Perry & Sharm Pacheco, Steve Ward, David Cheney, Dave Lang, Glenn Barrett, Duffie Westheimer, Charlie Silver

By MS Teams: Joan, esusoujim@gmail.com, Shayne Mendelson, Michele James, Curtis Swanky, Greg, Rick, Joe Hendrix, Michael Van Horn, Guest, Heather Brown, Jen, Joann, Karen Enyedy, Amy Anderson, Kim Ward

3. Land Acknowledgment

Chair Wilson read the land acknowledgment.

4. Approval of Minutes

Commissioner White motioned to approve the second version of December 11, 2023 Minutes; Commissioner Fox seconded. The minutes were approved by all.

5. Public Comment

Chair Wilson opened the meeting for public comment on subjects not scheduled before the Commission. Duffie Westheimer requested that the bond language and establishing documents of Observatory Mesa Natural Area requested by the Commission at the last meeting (and to be reviewed by the Commission at a future meeting), be made available to the public for review before the next meeting.

6. Continued Conversation on Hidden Hollow Road Access Consideration through Observatory Mesa Natural Area

Deputy City Attorney Kevin Fincel gave a recap of the proposed easement adjustment: The request is in the northeast corner of Section 6 of Observatory Mesa Natural Area (OMNA). There are seven private properties with six owners. The Arizona State Land Department (ASLD) granted a Right of Way (ROW)/Easement to Bea Lee (one of the parcel owners in 1986), before the City of Flagstaff purchased OMNA. Flagstaff purchased it subject to all encumbrances, including this ROW/Easement. There is an existing dirt road which does not lie exactly on the easement. The exact easement has topography making it difficult to meet city road specifications, specifically emergency vehicles being able to access the properties. The issue before this Commission is how to allow the access and protect OMNA which also has an AZ State Parks conservation easement (#231303) attached to it. City staff have looked at the plans and held discussions with the property owners to revise plans. Now, we have the best plan set from the engineers' perspective, but that plan does not sit within the easement. This decision will ultimately end up with City Council, but we're looking for a recommendation from this Commission.

Mr. Fincel reviewed the Area Calculations maps, noting:

- The proposed road is primarily on the existing dirt road (but off of the easement), except for one steep spot where it is proposed the road go off the easement and current dirt road, around to the southeast, then meet back with the dirt road and the easement.
- Fire Department turn-around would be on the private parcels.
- The current ROW is 3.54 acres, and the proposed easement is 2.7 acres, which gives back to Open Space. The grading will go beyond at 1.05 acres, but it would be mitigated afterwards (revegetation and erosion prevention).

Robert Wallace stated that AZ State Parks does recognize the private parcel owners' rights under the easement, including the right to build a driveway. Under the City's Conservation Easement, the City is allowed to improve up to 20 acres of OMNA, such as trails, trailheads, parking areas, signs etc. That Conservation Easement also calls for the protection of wildlife habitat, native plants, scientific research, public access for recreation, and non-motorized trails. Some northern Goshawk areas have been identified across OMNA, including nesting activity in Section 6, but not near these private parcels. Mr. Wallace noted that the current draft Observatory Mesa Trail Plan would develop approximately 8.3 acres if implemented, plus 0.25 acres have already been developed (signage, fencing), leaving 11.45 acres that could potentially be developed. Acreage outside the current ROW (#16-88092) may be counted against the remaining development that could be utilized for recreational purposes. Changes made to the City's property outside the current ROW easement would have to go through AZ State Parks review process.

Alaxandra Pucciarelli, representing the Community Development Division, addressed previous questions about how the City's zoning code applies. These parcels are currently zoned Rural Residential; where public water supply and streets are not available, the maximum density is one unit per every five acres. Looking at these parcels, there are 114 acres all together, which would allow a maximum density of 23 units. The smallest lots, just over six acres are too big to allow a lot-split (administrative process), anything over 2.5 acres requires a subdivision. Combinations could be allowed, but it would not affect the density. A subdivision would require the street to be 44 feet wide, and since neither the current easement nor this request are this wide, it would not be a public street, but rather would be considered a driveway. Regarding utilities, a subdivision process would require public water/sewer, and a public street. The City does not provide the utilities, a developer would have to design and pay for the utilities.

Mr. Fincel noted that the current easement has protections in it which everyone would follow, but it does not say anything about utilities; the current request does include electricity. With regard to whether granting this easement

would trigger the county to do anything differently with Hidden Hollow Road, we wait to hear from the City's Planning Director Michelle McNulty and her counterpart from the county.

Christopher Jack, Assistant Fire Marshal, provided the Flagstaff Fire Department perspective, saying that Fire code would only allow 30 units on the parcels, and that the only way to go above that would require sprinklers in each building (which would bring the maximum to 50 homes). However, sprinklers would require water and water pressure, which would be difficult if not impossible to these lots. He noted that a fire access road needs to be 20 feet wide with different slope alignments than the current dirt road. In response to a question, Mr. Fincel confirmed that the parcel owners would be required to have a maintenance plan for snow plowing, repairs, and maintenance.

Mickey Rogers from AZ State Parks reported that State Parks will review the request after the City's decision, and that it would go to the AZ Attorney General's office before State Parks made a decision. In response to a commission question about whether improving the road to a 20' wide driveway would be counted toward the 20-acre improvement restriction in the Conservation Easement, Mr. Rogers indicated that would be a question for the AZ Attorney General's office. In response to another question about wildlife impact, Mr. Rogers indicated that they would take into account the goshawk nests in the area, as well as other wildlife, flora and fauna, and AZ State Forestry having identified that corner as a high-density wildlife corridor. He also noted that the State Historic Preservation Office (SHPO) division of AZ State Parks would also be involved in reviewing the impact on the property.

The meeting was opened for parcel property owners and their engineer to speak.

Cody Routson spoke, saying he hoped to build a home up there, it's a beautiful place, excited about being part of the community. He indicated he and his wife were aware of the nuances of accessing the property, and it turned out to be a lot more nuanced than anticipated. He and the other parcel owners explored different options regarding potential access routes, and they feel they've reached the best case scenario with the least amount of impact on Open Space. In response to a Commission question, Mr. Routson stated that all six landowners have been working as a group on engineering, and splitting costs, that they're working cohesively. He could not speak for everyone on every single issue, but insofar as this proposal, they are working together.

Alexis Stack, owner of one of the 6-acre parcels with her husband, spoke next. She said she is from Flagstaff and understands the importance of preserving OMNA, in addition to exercising the parcel owners' rights. What she and her husband are planning to build is extremely modest compared to what's on Hidden Hollow Road. They've spent the better part of a year working with Kevin Fincel figuring out what will work best. When they purchased the land, it was with an existing ROW easement; the Conservation Easement made it very complicated. She said they are looking for the easement to align with the existing dirt road; they don't want to build a second road to stay exactly within the easement, because that would have more impact on OMNA. She pointed out this proposal results in almost 1 acre back to OMNA. She said they've worked very hard to be future residents of Hidden Hollow, the same as those currently building on Hidden Hollow Road.

Steven Stack spoke, saying they are asking the Commission to redefine the location of the easement; holding to the current alignment is more disruptive, building a road adjacent to the current dirt road. He stated that City officials have held their feet to the fire to make the best, smallest road possible to abide by law and code. It has taken a lot of hardworking smart people to make this happen. He said they would be fine with the current dirt road to their planned 600 sq foot house, but they need to meet City requirements; to ask us to stick to current easement is wasteful and stubborn.

Claire, Cody Routson's wife, seconded everything said already. She noted that her family are environmentalists: Cody is a Climate Scientist at NAU, and she is a water specialist, they want their kids to grow up hiking, biking, enjoying the wild, and becoming future conservationists. She said they care very deeply about conserving this area, that is why they want to be there.

Robert Wallace read an email received from Amy and Troy Anderson, six-acre private property owners. Their hope is to build a private home and spend their retirement there, maintaining as small a footprint as possible, and to be able to access the land.

The Commission asked about the owners of the larger properties. Joe Hendrix (J&H Property Partners), who owns the 38 acres on northern portion, and Michael Van Horn 2H (Blue Wing Trust), who owns the 20-acre property in

the center right, attended the meeting by MS Teams. They said they are completely behind what Mr. Routson said earlier. The land has been zoned Rural Residential, going back almost 20 years, and no-one has any intention of developing this commercially or anything else aside from rural residential. It would require a million-gallon tank to serve the property with water in a development. Mr. Van Horn said he and his wife have owned their property for 20 years (before Flagstaff purchased OMNA), the Title Report had the ROW, and they bought it knowing there was access across the Sisk land and the state land. Their intent was to build a cabin. Before the City purchased OMNA, he said, they took it through the city engineer and planner, got a grading permit, the State Land Department just referred to the dirt road and were not concerned about it not aligning exactly with the easement. That fell apart because there was one owner who did not want to share the cost of road maintenance, so they waited. Now there are new owners, who are all in agreement.

There were questions about the portion between Hidden Hollow Road and the boundary of OMNA, a couple hundred feet, and whether that had the same privileges as the OMNA easement. Mr. Fincel indicated that was a separate easement from a private property owner, and it does provide access to the OMNA easement. Mr. Hendrix provided the background that in the past, an individual blocked off access to the property, there was a lawsuit, and what came out of that was a 65-foot wide ROW. The gates were installed by property owner Sisk in 2009-2010 to attempt to deter people from accessing OMNA that way. No-one had a problem with it because it kept visitors out during fire seasons. He was not sure if when there is access, those gates would need to be removed. Mr. Jack indicated that the parcel owners could lock the gate, so long as Fire has access to the lock (via a 911 lock).

In response to a question about whether any tree removal was necessary to realign the easement, Mr. Fincel noted the plans did not identify trees, but thought the answer was yes, and that the Commission could include language requirements regarding trees and other flora. On a question about the original easement having language about compensating the AZ State Land Department for tree removal, Mr. Fincel said he thought that wouldn't need to be applied in adjusting the easement, and that the City would likely not need to be compensated, but he would look into that.

There was a question for the parcel owners' engineer, whether the plans were based purely on an aerial survey from 2006, or if there was there a physical survey done later. Rob Begley with Mogollon Engineering indicated they did not do an on-ground survey of the whole area, but did survey the parcels, so they know the aerial survey is accurate. Mr. Hendrix added that Cooper Aerial did the aerial survey, and they walked the forest and staked it back then and are very confident it accurately reflects what is current.

An additional question was raised about whether an "as built" survey would be provided at the end of the construction--given that there are always changes/unexpected issues. Mr. Bagley said it was not typical for a driveway, but he assumed that with the grading permit, it would probably require an as-built survey. Mr. Fincel reminded everyone that we have preliminary plans, which is the appropriate; the parcel owners want to know if the council is amenable to changing the easement before moving forward with costly final plans. Insofar as process, if City Council allows this to move forward, it would go through the City's Planning Section and Stormwater, back to City Council to ask for final approval of the easement, then to AZ State Parks. Mr. Bagley added that these plans were preliminary, but also very detailed, and that physically, the roadway in the current easement is not possible because the curves required by Fire Safety will not fit within the sharp angle points of the current easement.

The meeting was then open for public comment:

Steve Ruff spoke, saying he and his wife have lived in Hidden Hollow since 2004. He was concerned that nobody was considering how this affects Hidden Hollow residents, particularly additional traffic. Water Hauling and propane can be delivered, but the slope and grade can cause issues in the winter. People drive too fast on Hidden Hollow Road and end up in the ditch. He was concerned about the road's "S" turn near Route 180, the only way in and out. He noted that traffic on Highway 180 becomes bumper-to-bumper because of Snowbowl visitors, and that more cars to and from Hidden Hollow will exacerbate these problems. He wondered if a traffic light would be installed on Highway 180. He also feared that these plans will expand over time, and turn into another subdivision neighborhood, and that rules will be swept away because there is too much money to be made. He wondered where City services, water, electric, natural gas, would cut through--Linwood? Hidden Hollow Road? He was also concerned that he's heard estimates for improving the easement road from \$200,000 to more than \$1million, and that much cost could be avoided if connected through Fremont Blvd, where there's a traffic control device. He wondered about involvement from the county, and whether the access could be kept within city boundaries.

Mike Furr spoke, indicating that he lives off of Hidden Hollow Rd. He said that engineering has obviously done their due diligence, and he understood the parcel owners point of view as well. But, no-one has talked about hard costs; he thought they will be two to three times more than shown for the road. He wondered about collaboration among city, private property owners, and the county. What are the long-term costs of taking care of the road? Have Dark Skies staff been notified? He noted that APS requires major site plans prior to providing electricity--where will that come from? Would running electricity turn the easement into a public ROW? What is the contingency plan if private property owners run out of money and go bankrupt? He cited the Open Space Commission's Strategic Plan 2023 that key partners are Coconino National Forest, County Open Space, and others to share relevant information. He noted that Dave Cheney is the private property owner with the easement from Hidden Hollow Road to OMNA--he will have animals, it is his right to do what he needs as well--what about his needs? Mr. Cheney knew nothing about this until 3 days before the last meeting--please work with him. Mr. Furr requested clarification about whether this would be a public ROW or a private driveway? He said they welcome new neighbors, but want this well thought out.

Dave Cheney spoke, as owner of the "north tail" private easement. He said Mr. Furr did a great job of representing him and other neighbors. He noted this is a tough issue--the Commission has oversight to ensure OMNA is well maintained, and at same time, property owners have a ROW. He's heard folks say this plan is the most efficient, but is there a feasibility study to show that? If so, please share that. All studies should happen before making the decision. He said this proposal definitely affects his property: Currently people walk and ride their horses, where will they access this land now? He asked City staff to please reach out to him, call him, and collaborate with him about this, get as much information as possible, and make the right decision. He reminded the Commission they did not have an obligation to agree, the parcel owners could be required to stay within the current easement. He also suggested that a performance bond should be required--otherwise it may be half completed and leave a mess.

Duffy Westheimer spoke, saying that owners change, and that the zoning code is critical in what is allowed by right. She wondered if accessory dwelling units (ADUs) are allowed by right? Is a dwelling count included in the property? Is it possible to put in a tiny home community in Rural Residential? It would be a great place, but increased traffic would be a concern. She also wondered what happens when zoning is changed in the future. Ms. Pucciarelli responded that under current zoning, every home is allowed to have an ADU albeit with restrictions on size, number of occupants, rental structure (versus owner-occupied). She said that a tiny home community (3+ units) is a multi-family development, with completely different zoning code requirements triggering the need for more public improvements (water, public street, etc).

Charlie Silver spoke next, wondering if the easement adjustment would impact the 20 acre development of the OMNA? Robert Wallace responded likely yes, but we're awaiting clarification from AZ State Parks on that.

Karen Enyedy asked several questions while looking at the County Parcel viewer about the dirt road and easement. Mr. Fincel noted that the planning documents and maps had more accurate representations of the dirt road and easement than the parcel viewer. Ms. Enyedy stated her empathy for people who purchased these properties. She noted that she has been involved with invasive plant issues since the 1990's, and where there is disturbance, it always brings invasive weeds; she wondered if there is a Homeowners Association with some kind of initiative where owners would work with invasive weed experts/enthusiasts? A restriction on feeding wildlife? She also wondered why access could not be through N Garrett Lane; Mr. Fincel indicated the parcel owners talked to those property owners, that it's still a steep ridge, would not be a straight line, and it would not work.

Jack Moody, who lives off of Hidden Hollow Road spoke next. He said he works for a developer, and understands road and home building. He highlighted issues the city should be aware of: First, the "S" turn near Rt 180, saying it does not meet Fire Department regulations for turning radius, asking if that created a problem? Second, in 1986 that ROW was put together by the state, with a lot of requirements--the access can be put in place, but you must follow the terms. Then a road was built, which met none of the requirements of the ROW--at that point, the state could have shut it down or forced the road builders to fix it. When City acquired it, it had the same options...so now we're trying to get it done right, which is great. But the biggest concern is cost: The parcel owners not only have to build it, but also maintain it. Eight-tenths of a mile 20-foot wide with 30-feet of disturbance with grading and infrastructure is a lot, and he was concerned that private owners have good intentions, but they need to take a good hard look at current and future costs. Also, the cost to build the homes will be very high, higher than on Hidden Hollow Road--the reason the parcels were cheap was because it will cost a lot to build.

Steve Ward spoke, saying he has lived in Hidden Hollow for 20 years. He was concerned that the intentions of

current landowners offer no guarantees to Hidden Hollow residents. He expressed this will be a difficult and expensive undertaking with potential for failure, and we need a plan for the event of turnover in landowners, that there could be a much more aggressive developer in the future. Also, he wondered if there was a study on Hidden Hollow Road and whether it can handle the excavation equipment and added traffic (tight turn, winter snow, vacation rentals there), and utilities. He was also concerned about access OMNA--if the definition of the road changes, can Hidden Hollow residents still access OMNA?

Chair Wilson thanked all speakers and declared a break from 7:25-7:32pm

Upon reconvening, Chair Wilson noted that the Commission's obligation is to consider the impact on Open Space. He said he appreciated the public comments and the property owners, there are lots of issues to consider. He thought that a bond for the road is something the commission should discuss. Mr. Fincel and Ms. Pucciarelli confirmed the city would get a Performance Bond prior to construction.

Concerns raised by Commissioners were:

- Increased use:
 - With major surface improvement, that changes the ROW as it is now, and there is a worry that the surface improvement wouldn't be in line with the conservation easement.
 - When developed, the improved road would be easily used, and more aggressively used by all kinds of vehicles...it's important to put some use requirements on it.
 - What will be the impact on the ecology of the area with additional traffic.
- Cost. Commissioner White noted that regarding cost, Lowell Observatory was required to put in 1/3 mile on a flat stretch, which cost \$300k excluding the cost of engineering.
- The dirt road cuts off 30-40 acres of natural area.
- USFS notes it is a significant wildlife corridor. How will increased traffic and noise affect wildlife.
- Our mission is to maintain the natural beauty for everybody. What will be the impact of infrastructure required to access the private properties. For example, above-ground power will interfere with wildlife and viewsheds; utilities should be below ground and follow the current easement.
- Empathy for the Hidden Hollow residents affected by this, concerned about the impact on Hidden Hollow Road.
- Pleased to hear the limit of 23 units but concerned about ADUs.
- Ensure parcel owners restore/mitigate the section of road that does not get used in the alignment.
- Pleased to hear/learn about performance bond.
- We need a decision from AZ State Parks--is improving the road part of the 20-acre development restriction under the Conservation Easement.
- We need clarification on the private easement between Hidden Hollow and OMNA, and want to ensure that we work with Dave Cheney, to ensure everyone is working together.

One Commissioner said, confining thoughts to the impact on Open Space, we want the least impactful result that still honors the rights of the property owners--from that perspective, they'd have to reluctantly support the realignment, though not happy any road goes through there.

There was a question about whether city road requirements could be waived, or if there was another way fire apparatus could access the parcels. Commissioners heard that the parcel owners are fine with the dirt road as is, and the residents of Hidden Hollow don't want the dirt road improved. Mr. Jack stated that the requirements cannot be waived, it is an international fire code adopted by the city and state.

Chair Wilson thanked Mr. Fincel for his work on this issue, and for providing the drawings/maps in a way that everyone could see them, and the explanations of them.

Mr. Fincel reminded everyone that the Commission does not approve the revised easement, they make a recommendation to City Council. He and Ms. Pucciarelli also noted that an ADU would not count as an additional unit (so long as they met the restrictions of 300-700 sq ft, limits 1-2 people living there, specific driveway to them). Mr. Fincel reaffirmed that the existing easement does not get widened, it just gets moved. This ROW was there when the city obtained the Conservation Easement; the Conservation Easement was on top of the ROW.

It was noted that this issue would not be on the Commission's February agenda, not until at least March 2024. At that meeting, the Commission would like to only summarize what was raised at the December meeting and this meeting (provide the Minutes and make those public) and discuss and draft a recommendation--if recommending approval, include restrictions such as the performance bond, access to OMNA, revegetating, limit on the number of dwelling units and ADUs).

7. Regional Plan Review

It was noted that the Regional Plan review process would start Feb 2, and the Commission's comments will be due by February 15. Chair Wilson and Commissioner White volunteered to work on those.

8. Chair/Vice Chair Seat Selection

Commission asked that this item be moved to the next agenda.

9. Council Update Debrief

Commission asked that this item be moved to the next agenda.

10. Reports and Updates

Commission asked that this item be moved to the next agenda.

11. Informational Items To and From Commissioners and Staff

Commission asked that this item be moved to the next agenda.

12. Potential Future Agenda Items

Commission asked that this item be moved to the next agenda.

13. Adjournment

Commissioner Thomas motioned to adjourn; Commissioner Applin seconded. All voted in favor. Meeting ended at 8:11pm.