

Brad and Dottie Norman
2521 E Nez Perce Rd
Fort Mohave, AZ 86426
(509) 873-9327

Kris Mayes
Arizona Attorney General
2005 N Central Avenue
Phoenix, AZ 85004

January 18, 2023

SUBJECT: REQUEST INTERVENTION TO ILLEGAL REZONING OF ASSESSOR PARCEL NO. 221-35-024 IN FORT MOHAVE, ARIZONA AND WILLFUL NEGLIGENCE BY MOHAVE COUNTY PLANNING AND ZONING COMMISSION AND MOHAVE COUNTY BOARD OF SUPERVISORS

Dear Attorney General Mayes,

We are requesting your intervention on the illegal and unethical business practices of the Mohave County Planning and Zoning (P&Z) Commission and Board of Supervisors (BOS) related to the rezoning of Assessor Parcel 221-35-024 in Fort Mohave that presents significant public health and safety concerns.

The P&Z Commission and BOS acted with willful negligence in their December 4, 2023 actions to approve BOS Resolution No. 2023-223¹ related to the Mohave Electric Cooperative Incorporated (MEC) Request for an Extension of Time² to BOS Resolution No. 2018-041³. And displayed a total disregard for the Mohave County P&Z Commission rezoning requirements, Conditional Approval requirements of BOS Resolution No. 2018-041, and requirements set forth in Arizona Revised Statute, Title 11, Chapter 6, 11-814.I.

¹ BOS Resolution No. 2023-223 A RESOLUTION SETTING FORTH AN AMENDMENT TO B.O.S. RESOLUTION NO. 2018-041, FOR A PORTION OF ASSESSOR PARCEL NO. 221-35-024 TO REMOVE THE CONDITION THAT IT IS FOR A MINERAL RECLAMATION PLANT, ENCLOSED IN A BUILDING ONLY; AND TO ALLOW FOR AN EXTENSION OF TIME FOR THE COMPLETION OF IMPROVEMENTS TO ALLOW FOR AN ENERGY FACILITY IN THE FORT MOHAVE VICINITY, MOHAVE COUNTY, ARIZONA.

² Mohave County Planning and Zoning Commission Agenda & Notice of Hearing dated November 8, 2023.

³ BOS Resolution No. 2018-041 A RESOLUTION SETTING FORTH A REZONE OF A PORTION OF ASSESSOR'S PARCEL NO. 221-35-024 FROM AN R-E/10A (RESIDENTIAL RECREATION / TEN ACRE MINIMUM LOT SIZE) ZONE TO AN M-X (HEAVY MANUFACTURING) ZONE, TO ALLOW FOR A MINERAL RECLAMATION PLANT, IN THE FORT MOHAVE VICINITY, SOUTH MOHAVE VALLEY AREA, MOHAVE COUNTY, ARIZONA.

The P&Z Commission, by their own public admission, knowingly and willingly violated their own policies in accepting and approving the MEC Request for an Extension of Time⁴.

- The Request was submitted against an expired rezoning request. The Conditions of Approval for BOS Resolution No. 2018-041 had not been met per the approved Resolution or Arizona Revised Statutes and therefore the assessor parcel should have reverted to its former zoning classification, Residential.
- The Request did not identify the specific use or uses for which the rezoning was being requested. MEC requested language be stricken from the conditionally approved BOS Resolution No. 2018-041 that identified the specific use for which rezoning was requested without providing their intended use. This is contrary to P&Z Commission requirements and requirements of Arizona Revised Statute.
- The Request cited “Change of Ownership” as the reason the Conditional Approvals of BOS Resolution 2018-041 had not been completed. The BOS Resolution had expired two years before MEC acquired Assessor’s Parcel 221-35-024. This reason is irrelevant.
- MEC did not include Proof of Ownership (recorded deed) for the Assessor’s Parcel 221-35-024 in their Request for Extension of Time submittal (i.e., proof of ownership was not included within the Mohave Electric Cooperative Incorporated (MEC) Request for an Extension of Time⁵ data package).

On January 16, 2024, I personally met with a Mohave County Planning Technician to discuss the requirements and process for submitting rezone applications and extension of time requests.

The Planning Technician confirmed the following:

- Rezone Applications must include the specific use or uses for the rezone request.
- Requests for an Extension of Time can only be considered for “active” rezone approvals. In the case of the MEC Request for an Extension of Time, the Planning Technician was adamant the Request was not applicable, and a new Application for Rezone should have been submitted. The Planning Technician asked that further questions be addressed with the P&Z Supervisor. The P&Z Supervisor has previously asserted staffing shortages as the excuse for P&Z Commission personnel not maintaining status of land zoning.
- The P&Z Commission has a database to track expired zoning requests which is the primary and sole verification point for P&Z Commission personnel to verify the current zoning status of assessor parcels. However, the Planning Technician acknowledged that P&Z Commission personnel are not actively managing or maintaining the data within the database. The Planning Technician asserted she had recently been assigned responsibilities to update the database and then acknowledged this was not her top priority. In further questioning the Planning Technician on P&Z Commission protocols for independently verifying assessor parcel zoning status (e.g., conducting reviews of approved BOS Resolutions upon receipt of rezoning applications or requests for extensions of time) it was affirmed time constraints preclude these validations. This is willful negligence, in my opinion, for the P&Z Commission to knowingly make land development decisions that have the potential to significantly impact public health and

⁴ Mohave County Planning and Zoning Commission Agenda & Notice of Hearing dated November 8, 2023.

⁵ Mohave County Planning and Zoning Commission Agenda & Notice of Hearing dated November 8, 2023.

safety based off the known probability their source data is in error. It took the P&Z Technician less than five minutes to pull the recorded copy of BOS Resolution No. 2018-041 and confirm the Condition of Approval requirements and status.

The Mohave County P&Z Division and BOS are commissioned with protecting public health and safety and ensuring that land development decisions are facilitated in a manner that is beneficial to Mohave County and the health and safety of its residents. The accepted practices of the P&Z Commission and BOS to not exercise due diligence in the execution of their assigned duties speaks volumes to their integrity and raises serious questions regarding how the health and safety of Mohave County residents is being considered, let alone protected.

The illegal approval of BOS Resolution No. 2023-223 provided a rezone of Assessor's Parcel Number 221-35-024 to Heavy Manufacturing from Residential and now paves the way for MEC to build a natural gas power plant at the edge of (within 1300 feet) a predominately senior citizen residential housing community in Fort Mohave. Residents of Fort Mohave have appealed numerous times to the BOS and P&Z Commission to rescind their approvals of BOS Resolution No. 2023-223 due to the illegality of the action and significance of the negative impacts to the health and safety of local residents that have not been properly considered or evaluated.

In approving BOS Resolution No. 2023-223, Findings of Fact (d) was updated from the approved BOS Resolution 2018-041 to state, "*The neighboring area contains other uses similar to the above-proposed action.*" The words "*does not*" were removed in the approved BOS Resolution No. 2023-223. While the neighboring area does contain solar panels this does not constitute a similar use for the proposed citing of a natural gas power plant. Construction and operation of a natural gas power plant at the edge of a senior citizen residential community will subject them and other neighboring residents to harmful and deadly toxins, negative impact the health and emotional well-being of the residents, and negative impact residential property values.

We are imploring the Arizona Attorney General's Office to hold the Mohave County Planning and Zoning Commission and Board of Supervisors accountable to their hired and elected positions and responsibilities for protecting public health and safety. Our issue is likely not the first or only negative risk imposed on public health and safety through their admitted negligence of duties.

Sincerely,

Dottie Norman

Dottie Norman