STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

INVESTIGATIVE REPORT By KRIS MAYES ATTORNEY GENERAL December 4, 2025	No. 25-003 Re: Whether City of Sedona Ordinance No. 2024-02 effecting a zoning reversion violates state law

To: The Honorable Katie Hobbs, Governor
The Honorable Adrian Fontes, Secretary of State
The Honorable Warren Petersen, President of the Senate
The Honorable Steve Montenegro, Speaker of the House of Representatives
The Honorable Mark Finchem, Member of the Arizona Legislature, Requestor

I. Summary

Pursuant to A.R.S. § 41-194.01, the Attorney General's Office (the "Office") has investigated whether City of Sedona ("Sedona" or "City") Ordinance No. 2024-02 (the "Ordinance") violates A.R.S. § 9-462.01(F), which requires "[a]ll zoning and rezoning ordinances or regulations . . . [to] be consistent with and conform to the adopted general plan of the municipality . . . ." The Ordinance, adopted August 13, 2024, caused a set of undeveloped, conditionally zoned parcels of land to revert to their former zoning classifications, consistent with A.R.S. § 9-462.01(E), without ensuring consistency with the City's general plan (which the City calls its "Community Plan"). The Office concludes that the Ordinance does not violate A.R.S. § 9-462.01(F).

The legislative history of A.R.S. § 9-462.01, construction of its key terms, and judicial interpretation of the role general plans play in municipal development all inform the Office's conclusion, as set forth below.

II. The Office's Investigation

Arizona law provides that "[a]t the request of one or more members of the legislature, the attorney general shall investigate any ordinance . . . or other official action adopted or taken by the governing body of a . . . city . . . that the member alleges violates state law or the Constitution of Arizona." A.R.S. § 41-194.01(A). Upon completing its investigation, the Office must "make a written report of findings and conclusions" determining that the challenged ordinance "[v]iolates" state law or the Arizona Constitution, "[m]ay violate" state law or the Constitution, or "[d]oes not violate" state law or the Constitution. *Id.* at § 41-194.01(B).

By letter dated November 5, 2025, Arizona State Senator Mark Finchem requested that the Office investigate whether the Ordinance violates state law (the "Request").[1] Specifically, Sen. Finchem alleged the City violated A.R.S. § 9-462.01(F) by adopting zoning that is not consistent with its Community Plan. The Office asked the City for a voluntary response to the Request, and it provided a letter and supporting materials on November 21, 2025 (the "Response").[2] In accordance with its statutory duty, the Office undertook an investigation in which it analyzed the Ordinance, the written materials prepared for and presented at the August 13, 2024 Sedona City Council meeting, the video recording of that meeting, correspondence between the City and Sen. Finchem, and applicable Arizona statutes and case law.

[1] *Available at* https://www.azag.gov/sites/default/files/2025-11/2025-11-05%20Finchem%20letter%20requesting%20SB1487%20Investigation.pdf.
[2] *Available at* https://www.azag.gov/sites/default/files/2025-11/2025-11-21%20Sedona%20Letter%20to%20AG%20re%20Zoning%20Reversion%20%26%20Attachments.pdf.

III. Background

A. The City adopts the Ordinance, causing the zoning of a set of parcels to revert to its former classifications.

The Sedona City Council unanimously adopted Ordinance No. 2024-02 on August 13, 2024.[3] That ordinance caused a set of 14 parcels,[4] which had been classified together as a Planned Development ("PD") district, to revert to its former zoning classifications, pursuant to A.R.S. § 9-462.01(E) and Sedona Land Development Code ("Code") § 8.6(B)(3)(g)(2).[5]

Since 1998, that set of parcels had been the subject of various development plans and approvals – all classified as PD, which is a site-specific zoning classification, requiring certain conditions be met (e.g., issuance of building permits within two years).[6] The most recent approval of development plans came in 2006, for 158 condominiums, 12 affordable housing units, and public space (a park, botanical preserve, and viewing areas of Oak Creek).[7] That approval was extended in 2008 and ultimately expired two years later, in 2010.[8] No building permits were issued, and the land has remained undeveloped.[9]

---

[3] *See* Sedona City Council, Regular Meeting Action Minutes ("Minutes"), 2–3 (Aug. 13, 2024) (addressing Agenda Bill 3089; case no. PZ 24-00008 (ZC)), *available at* https://www.sedonaaz.gov/home/showpublisheddocument/52364/638616459384030000.

[4] The parcels impacted by the zoning classification change are located on both sides of State Route 89A in the area generally surrounding the Owenby Way Roundabout: APN 401-08-002A; 401-08-006A; 401-09-001A; 401-09-001B; 401-09-001C; 401-13-059; 401-14-015; 401-14-016; 401-14-017; 401-14-064; 401-14-065; 401-14-075A; 401-14-163; 401-14-164. Although the zoning classifications for all 14 parcels would revert, only the six parcels east of 89A are planned for development into a lodging project (namely, Ambiente: Creekside, with planned total of at least 36 guest rooms). *See* Sedona City Council, Meeting Packet ("Packet"), 114, 116, 130, 134 (Aug. 13, 2024), *available at* https://www.sedonaaz.gov/home/showpublisheddocument/52181/638599341650170000.

[5] *See* Minutes at 3.

[6] *See* Packet at 128–29 (Entitlement History for Requested Parcels).

[7] *See* Packet at 115 (Agenda Bill 3089 Summary Statement).

[8] *See id.*

[9] *See id.*

Before the change to PD in 1998, the parcels had the following zoning classifications: C-1 (General Commercial) for the land west of Oak Creek, RS-36 (Single Family Residential, minimum lot size of 36,000 square feet) for the land east of Oak Creek, and RM-2 (Multifamily Residential, Medium High Density, 12 units per acre) for the land at the north end of the set, on the west side of State Route 89A.[10]

In 2024, the owner of the 14 parcels (Axys Capital Total Return Fund, LLC) and the expected buyer of six of the parcels (Dutchman's Cove LLC) requested that the City Council take this legislative action to cause the set of parcels to revert to its former zoning classifications.[11] The reversion was the subject of substantial presentation and discussion at the City Council's August 13, 2024 meeting, including by City staff as well as two separate land use attorneys representing Dutchman's Cove LLC.[12] The City Council also consulted the City Attorney and staff on questions around changing the zoning and reversion.[13] It is the understanding of the Office that, during the City Council's August 13, 2024 meeting, the City Council, City Attorney, City staff, and buyer's land use attorneys did ***not*** address how the reversion would impact the Community Plan, or vice versa.[14] Ultimately, the City Council voted

---

[10] *See* Packet at 127.
[11] *See* Packet at 136–37 (Letter from Axys Capital Total Return Fund, LLC to Sedona City Manager (June 18, 2024)); *see also* Packet at 130–34 (Letter from Stephen Polk, attorney for Dutchman's Cove LLC, to City of Sedona (June 19, 2024)). Note that, although the owner and buyer focused their request on the six parcels to change hands, the Ordinance caused the zoning of all 14 parcels to revert to their former classifications. *Contrast id. with* Sedona, Ariz., Ordinance No. 2024-02, Preserve at Oak Creek Zoning Reversion ("Ordinance"), 1 (Aug. 13, 2024), *available at* https://www.sedonaaz.gov/home/showpublisheddocument/52764/638651204912570000.
[12] *See* Minutes at 3.
[13] *See* Sedona City Council, Meeting Video, 25:15–2:16:05 (Aug. 13, 2024), *available at* https://sedonaaz.new.swagit.com/videos/312351.
[14] *See id.*

7–0 in favor of the Ordinance, causing the parcels to revert to CO (Commercial), RS-35 (Single Family Residential), and RM-2 (Multifamily Residential).[15]

B. Sen. Finchem alleges the ordinance violates Arizona law because it does not conform to the City's Community Plan.

Sen. Finchem alleges that, notwithstanding the City's reliance on A.R.S. § 9-462.01(E) and Code § 8.6(B)(3)(g)(2) to support the change in zoning classification, the change is not consistent with the City's Community Plan and so violates A.R.S. § 9-462.01(F).

Arizona law requires a municipality to adopt "a comprehensive, long-range general plan for the development of the municipality." A.R.S. § 9-461.05(A). A general plan, with any amendments, is effective for up to ten years. A.R.S. § 9-461.06(K). As mentioned above, the City refers to its general plan as its "Community Plan," which was last updated and adopted March 26, 2024.[16]

For its part, A.R.S. § 9-462.01(F) provides in full:

> All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms with the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

---

[15] *See* Minutes at 3; Ordinance at 1. Note that the City updated its zoning classifications as part of its 2018 Code update, so the classifications for these parcels represent the closest current analogues to the 1998 classifications. *See* Packet at 116, 138 (Sedona Land Development Code Update, Zoning District Conversions).

[16] *See* Sedona Community Plan at ii, 2 (Mar. 26, 2024), *available at* https://www.sedonaaz.gov/home/showpublisheddocument/51968/638562902536270000.

In support of his contention that the zoning change is not in conformity with the City's Community Plan, Sen. Finchem points to the City staff's Summary included with the August 13, 2024 City Council meeting's written materials: "the proposed reversionary zoning designations are not consistent with the Community Plan, but are an option as they are the last non-PD zoning districts for the property."[17] Sen. Finchem also suggests that this lack of consistency between the zoning designations and the Community Plan was confirmed by City staff during the August 13, 2024 City Council meeting.[18]

Sen. Finchem contends that, in order to comply with A.R.S. § 9-462.01(F), the City should have done one of two things: either (1) change the zoning to something consistent with the Community Plan or (2) change the Community Plan to accommodate the rezoning, which would be a "major amendment" and require the public process provided for in the Community Plan, including a two-thirds vote of Council to approve the major change.[19]

C. The City contends that the law does not require that a zoning reversion conform to a municipality's general plan.

In its correspondence with Sen. Finchem and its Response to the Office, the City argues that the action was a zoning reversion, rather than a rezoning, and, as such, was "in full compliance with state law."[20]

Under A.R.S. § 9-462.01(E),

> [t]he legislative body may approve a change of zone conditioned on a schedule for development of the specific use or uses for which rezoning is requested. If, at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the

[17] Request at 1 (quoting Packet at 116).
[18] *See id.*
[19] *See id.* at 2 (citing Sedona Community Plan at 106 (Mar. 26, 2024)).
[20] Letter from Scott Jablow, Mayor of Sedona, to Sen. Mark Finchem ("Jablow Letter"), 1 (July 22, 2025); Response at 5.

> rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

Relying on the language of A.R.S. § 9-462.01(E), the City explains that the PD zoning classification for the set of parcels was approved *on the condition* that the development be completed for the specific uses as planned, and on the schedule promised by the developer.[21] Because the development schedule expired in 2010 and no improvements had been made under the conditional zoning, the City states, it "was legally obligated to revert the zoning to its prior classification or extend the timeframe for construction of the planned development."[22]

The City adds that the provision "mandates reversion to the former zoning classification without requiring an amendment to the Community Plan."[23] "The reversionary action taken by the City was not a discretionary rezoning, meaning the City Council did not have the ability to review the reversion for compliance with the current Community Plan or Future Land Use Map."[24] Ultimately, the City takes the position that "[A.R.S. § 9-462.01(E)] does not provide discretion to impose new zoning classifications or to require consistency with the current Community Plan when reverting to the prior zoning classification."[25] The City concludes that "[a]n amendment to A.R.S § 9-462.01(E) is the only way to remedy the limited statutory choices faced by the City."[26]

---

[21] *See* Jablow Letter at 1; *see also* Response at 2.
[22] Jablow Letter at 1.
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*

IV. Analysis

Sen. Finchem and the City agree that the zoning reversion effected by the Ordinance does not conform to the 2024 Community Plan, insofar as the Community Plan had been updated to reflect the conditional PD zoning approved in 2006. The question for the Office is whether that non-conformity violates Arizona law.

Section 9-462.01 covers "Zoning regulations; public hearing; definitions." Subsection (E) applies when "a change of zone conditioned on a schedule for development of the specific use or uses for which rezoning [has been] requested," while subsection (F) requires zoning and rezoning actions to be "consistent with and conform to the adopted general plan of the municipality."[27]

Courts in Arizona have not interpreted A.R.S. § 9-462.01(E) (or its parallel provision pertaining to counties, in A.R.S. § 11-814(I)) in a way relevant to the issues presented here. They have not explained whether a "zoning reversion" constitutes a "zoning" or "rezoning" action. Nor have they opined on the ultimate question of whether a "zoning reversion" must conform to a municipality's general plan.

However, courts have considered the provisions around zoning and general plans, and they have recognized that there are limits to the strictures of a general plan. A general plan is "a statement of broad policies, goals, and principles." *Fritz v. City of Kingman*, 191 Ariz. 432, 434 ¶ 12 (1998). Changes in zoning should simply be in "basic harmony" with a general plan. *Haines v. City of Phoenix*, 151 Ariz. 286, 290–91 (App. 1986). In answering the question before

[27] The Arizona Legislature inserted A.R.S. § 9-462.01(D) in 1992, so references to "A.R.S. § 9-462.01(E)" before that amendment were to what is now A.R.S. § 9-462.01(F). *See* 1992 Ariz. Legis. Serv. Ch. 284 (H.B. 2464) (West).

it, the Office is mindful of these interpretations of the role general plans play in municipal development.

A. Despite its expansive language, subsection (F) should not be construed to apply to zoning reversions covered by subsection (E).

By its own language, subsection (F) applies to "***[a]ll zoning and rezoning ordinances*** or regulations adopted under this article," and it requires such ordinances to "be consistent with and conform to the adopted general plan of the municipality . . . ." A.R.S § 9-462.01(F) (emphasis added). This provision would seem to apply to any and all zoning or rezoning actions – and perhaps to the entirety of the "[z]oning regulations" set forth in A.R.S. § 9-462.01.

Meanwhile, subsection (E) tells a municipality that it "may approve a change of zone conditioned on a schedule for development of the specific use or uses," and what its options are if such development is not completed on schedule: "[1] take administrative action to [a] extend, [b] remove or [c] determine compliance with the schedule for development or [2] take legislative action to cause the property to revert to its former zoning classification." A.R.S § 9-462.01(E). In other words, the provision's text confines its operation to situations of conditional zoning, like that addressed by the Ordinance. Moreover, there is no reference to the "general plan" in this provision. Indeed, no part of A.R.S § 9-462.01 other than subsection (F) mentions the "general plan."

The general/specific canon of construction counsels that, if there is a conflict between a general provision and a specific provision, the specific provision prevails. *See* Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts ("Reading Law"), 183 (2012). Interpreting subsection (E) not to require the general plan conformity of subsection (F) is also consistent with other canons of construction. *See Ariz. Bd. of Regents v. State of Ariz. Pub. Safety Ret. Fund Manager Adm'r*, 160 Ariz. 150, 157 (App. 1989) ("Where the legislature has

specifically used a term in certain places within a statute and excluded it in another place, courts will not read that term into the section from which it was excluded."); *see also* Reading Law at 93 (Omitted-Case Canon: "[A] matter not covered is to be treated as not covered."), 107 (Negative-Implication Canon), 156 (Scope-of-Subparts Canon). *But see* Reading Law at 167 (Whole-Text Canon. "The text must be construed as a whole.").

Accordingly, the Office would apply the provision specific to this situation, namely, subsection (E). Here, changes to the zoning classifications of the set of parcels were conditioned on certain development being completed in specified timeframes. The specific statutory provision to deal with such conditional zoning classifications is subsection (E), and thus the City's application of that provision to the Ordinance – without resort to subsection (F) – was appropriate.

B. The legislative history supports this reading.

When first enacted in 1973, A.R.S. § 9-462.01(E) provided for automatic zoning reversion (i.e., without legislative action) "[i]f at the expiration of [the conditional zoning] period the property has not been improved for the use for which it was conditionally approved." Ariz. Sess. Laws 1973, Ch. 178, § 2. The legislature amended the provision in 1997 to require (a) notice to the property owner and developer/applicant and (b) a public hearing to consider whether to "extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification." 1997 Ariz. Legis. Serv. Ch. 152 (S.B. 1414) (West).

This indicates the legislature intended the municipality to have more flexibility in deciding the fate of the property, and that the municipality's legislative body play an active role in deciding that fate. In making this change to engage the municipality's legislative body, the

legislature might have envisioned the municipality taking its general plan into account – but, importantly, it did *not* prescribe such a step in A.R.S. § 9-462.01(E).

The next year, the legislature amended A.R.S. § 9-462.01(F) to apply to "rezoning" as well as "zoning," and to instruct municipalities to construe zoning ordinances consistent with "goals, policies and applicable elements of the general plan." 1998 Ariz. Legis. Serv. Ch. 204 (H.B. 2361) (West). In making these changes to the statutory text, the legislature did not make general plan conformity a requirement for "zoning reversions."

"It is a basic principle that courts will not read into a statute something which is not within the manifest intention of the legislature as indicated by the statute itself." *Mussi v. Hobbs*, 255 Ariz. 395, 402 ¶ 34 (2023) (quoting *Town of Scottsdale v. State ex rel. Pickrell*, 98 Ariz. 382, 386 (1965)). If the legislature had intended to require that a zoning reversion comply with or conform to the municipality's general plan, it could have explicitly said so. It did not, which indicates an intent for general plan conformity not to be required for zoning reversions.

C. Even if subsection (F) could be read to apply to the other subsections of A.R.S. § 9-462.01, a "zoning reversion" is not a "zoning" or "rezoning" action.

The City titled the Ordinance "The Preserve at Oak Creek Condominiums *Zoning Reversion.*" Ordinance at 1 (emphasis added). In the body of the ordinance, it described the action variously as "zoning reversion," "rezoning," "reversionary rezoning." *Id.* Such inconsistent nomenclature does not aid in determining the character of the legislative action here.

Nevertheless, the Office will focus on the effect of the action and the meaning of the key word: "revert." The ordinary meaning of "revert" is "[t]o go back to a former condition, practice, subject or belief." American Heritage Dictionary (2016). Indeed, what the City has done with the 14 parcels is to restore their prior classifications, before they were given their conditional PD classifications. Put differently, the City has wiped away those layers of

conditional zoning, revealing the pre-existing zoning classification that had existed underneath all along. It is clear that the City has not given a classification to land that previously had no classification, nor has it given already-zoned land a new classification that it did not have before.

Conclusion

The Office concludes that the Ordinance does not violate A.R.S. § 9-462.01(F). A "property . . . revert[ing] to its former zoning classification" under subsection (E) is not a "zoning" or "rezoning," so subsection (F)'s requirement that such event "be consistent with and conform to the adopted general plan of the municipality" does not apply.

Kris Mayes
Attorney General