



ESL Modified Review Process Code Amendment Planning and Zoning Commission Staff Report

CASE NUMBER: OV714-011

MEETING DATE: December 2, 2014

AGENDA ITEM: 1

STAFF CONTACT: Michael Spaeth, Senior Planner
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Request: Zoning Code Amendment to Section 27.10, Environmentally Sensitive Lands of the Zoning Code to allow limited changes to a Tentative Development Plan to be administered as provided in Section 22.3.D.2.b.i through section 22.3.D.2.b.iii.

Recommendation: Recommend approval

SUMMARY:

The Environmentally Sensitive Lands section of the Zoning Code enables a number of incentives designed to increase the amount of conserved environmental resources while preserving development potential for owners/developers. One of the incentives, a modified review process, enables an expedited plan review. The expedited review allows an applicant the ability to receive administrative approval of their site plan.

Currently, the code requires the Final Site Plan to be conformance with the approved Tentative Development Plan. This is a higher standard than a rezoning case not involving the Environmentally Sensitive Lands modified review process.

Minor changes require reconsideration of the Tentative Development Plan by Town Council. A recent case has illuminated the need for discretion when evaluating minor changes. The Town Council initiated this code amendment on October 15, 2014.

The proposed code amendment proposes to utilize the existing Tentative Development Plan criteria to determine what changes are non-significant and therefore could be administratively approved by the Planning and Zoning Administrator.

BACKGROUND:

Modified Review Process

The ESL section of the Zoning Code requires varying levels of open space and development standards aimed at conserving environmental, scenic and cultural

resources. A system of incentives was developed to lessen impacts to property owners/developers and offsets the effects of the regulations.

One incentive in particular provides for a modified review process at Town Council's discretion for rezoning applications. If enabled, it allows for an applicant to bypass the Conceptual Site Plan process and proceed directly to the Final Site Plan process which is reviewed and approved administratively, provided it conforms to the rezoning-related Tentative Development Plan.

A recent case, known as Meritage on Naranja, demonstrates the need for the Planning and Zoning Administrator ability to administratively approve "non-significant" changes to Final Site Plans that otherwise conform to an approved Tentative Development Plan under the modified review process.

During the preparation of the Final Site Plan, the applicant was asked to accommodate a neighboring property owner to allow a sewer connection to the property. A few lots needed to be adjusted to account for the new sewer connection, though the total number of lots overall, lot configuration and roadway circulation was not significantly altered. The revised Final Site Plan was reconsidered and approved by Town Council in September, 2014. The additional Town Council hearing resulted in a delay for the applicant and Town Council directed staff to pursue an amendment to the modified review process in October, 2014.

DISCUSSION / ANALYSIS:

Zoning Code Amendment Analysis

The proposed amendment (Attachment 1) will enable the Planning and Zoning Administrator the ability to administratively approve limited changes to Tentative Development Plans approved as part of a rezoning when the applicant has been granted use of the modified review process. The code amendment utilizes 3 of the existing criteria established in Section 22.3.D.2.b of the Zoning Code as the defining criteria for proposed changes.

Section 22.3 - Tentative Development Plans

Currently, the Zoning Code allows for administrative approval by the Planning and Zoning Administrator of changes to Tentative Development Plans determined to be "non-significant". Section 22.3.D.2.b of the Zoning Code establishes criteria for Tentative Development Plan changes when the Environmentally Sensitive Lands modified review process is not utilized. The 3 criteria to be utilized by the proposed code amendment (22.3.D.2.b.i - 22.3.D.2.b.iii) is summarized below:

Section 22.3.D.2.b

- b. A significant change shall be determined by, but not be limited to, the following criteria:*

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- *Changes to permitted use(s) or conditions associated with a permitted use(s)*
 - *Changes to development standards or zoning conditions, including:*
 - *Building heights*
 - *Setbacks*
 - *Open space requirements*
 - *Parking*
 - *Floor Area Ratio or density*
 - *Changes to terms or conditions of the rezoning affecting density standards, changes to street or land improvements affect circulation, or changes to signs and nuisance controls for the development*

The code amendment does not utilize the fourth existing criteria in Section 22.3.D.2.b listed below:

“Nothing in this section shall be deemed to authorize the Planning and Zoning Administrator to modify or approve any aspects of development reserved to the Conceptual Design Review Board pursuant to Section [22.5](#).”

The modified review process allows administrative approval of site plans and does not require review by the Conceptual Design Review Board.

General Plan Conformance

The Zoning Code Amendment was reviewed for conformance with the Vision, Goals and Policies of the General Plan. Listed below is a summary of the applicable Goals and Policies in italics, followed by staff commentary:

Goal 1.1 To preserve Oro Valley’s natural Sonoran Desert environment and the scenic resources that are an important part of the community’s quality of life.

Goal 11.1 To protect the environmentally sensitive open space areas within the Planning Area.

Staff Comment

The flexible design options enabled by ESL are intended to incentivize the conservation of natural open space and other significant resources. The modified review process serves as one of these incentives aimed at protecting and preserving more natural open space while preserving the development potential for the applicant. The proposed code amendment will increase the effectiveness of this flexible design option and is consistent with these General Plan Goals.

PUBLIC PARTICIPATION:

Public notice has been provided as follows:

- All HOAs in the Town were notified of this hearing
- Public hearing notice was posted:
 - In the Territorial newspaper
 - At Town hall
 - On the Town website

The proposed code amendment has been distributed to key members of the development community who frequently work with Town. Ms. Keri Silvyn stated her support for the proposed code amendment. Mr. Paul Oland indicated more discretion was needed on behalf of the Planning and Zoning Administrator.

RECOMMENDATION:

Based on the following findings:

- The proposed amendment would allow the Planning and Zoning Administrator the ability to administratively approve limited changes and provides the needed flexibility for Tentative Development Plans approved as part of a rezoning when the applicant has been granted use of the modified review process.
- The proposal is consistent with the relevant Goals and Policies of the General Plan.
- The proposed amendment utilizes **existing** Tentative Development Plan criteria for proposed changes which establishes functional limits to what can be approved administratively.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend approval to the Town Council of the requested Zoning Code Amendment OV714-011

SUGGESTED MOTIONS:

The Planning and Zoning Commission may wish to consider the following suggested motion:

I move to recommend approval of the Zoning Code Amendment in Attachment 1, related to the modified review process, based on the findings in the staff report.

OR

I move to recommend denial of the Zoning Code Amendment in Attachment 1, related to the modified review process, as the request does not meet the finding that

ATTACHMENTS:

1. Proposed Code Amendment

Bayer Vella, Interim Planning Manager

**Attachment 1
Proposed Code Language
Planning and Zoning Commission
December 2, 2014**

Section 27.10.F.2.c.iii.h

“Modified Review Process. Site Plans and preliminary plats submitted in SUBSTANTIAL conformance with the approved Tentative Development Plan, as determined by the Planning and Zoning Administrator, may be administratively approved. ANY PROPOSED CHANGES TO A TENTATIVE DEVELOPMENT PLAN MUST BE ADMINISTERED AS SPECIFIED IN SECTION 22.3.D.2.b.i, ii and iii.”