



Conditional Use Permit Review Criteria Code Amendment Planning and Zoning Commission Staff Report

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CASE NUMBER: OV714-007
MEETING DATE: February 2, 2016
AGENDA ITEM:
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Request: Zoning Code Amendment to the Conditional Use Permit (CUP) review criteria.

Recommendation: Recommend approval

SUMMARY:

The Planning Division Work Plan approved in 2013 identified a need to evaluate the existing Conditional Use Permit review criteria to ensure its effectiveness in the review of Conditional Uses. Subsequently, the Work Plan approved in 2015 reaffirmed the need to update the criteria as a primary objective. The goal of this Work Plan item is to ensure conditional uses are thoroughly evaluated to minimize potential impacts on adjacent land uses. The Town of Oro Valley Conditional Use Permit review criteria was last updated in 1981.

The Conditional Use Permit review criteria is used by the Town to assess and mitigate negative impacts associated with conditional uses, such as traffic, noise and light. The proposed code amendment (Attachment 1) includes moderate updates to the review criteria to add specificity and increase the effectiveness of the review criteria.

BACKGROUND:

The goal of this work plan item is to update the existing review criteria to ensure the effective evaluation of conditional uses.

Timeline

Below is a timeline of key dates regarding the proposed code amendment:

- September 2014: Planning and Zoning Commission study session regarding the proposed code amendment.
- October 2014: Planning and Zoning Commission Public Hearing regarding the proposed amendment. Item was continued and staff was asked to take a broader focus of conditional uses, specifically the appropriateness of some of the conditional uses in the Table of Permitted Uses.

- December 2014: Conditional Use Permit code amendment sub-committee was formed to provide direction and focus to code amendment.
- May 2015: Town Council adopted the 15/16 Work Plan (Attachment 3), which identified the need to update the Table of Permitted Uses as a new, standalone Work Plan item.

As noted above, the Planning and Zoning Commission asked staff to broaden the scope of the proposed amendment and review the appropriateness of conditional uses in the Zoning Code. The 15/16 Planning Work Plan included a new item to specifically address needed changes to Table of Permitted Uses. As a result, this code amendment will focus solely on completing this year's Work Plan item regarding the existing CUP review criteria. A future amendment will be processed later this year to address the Table of Permitted Uses.

DISCUSSION/ANALYSIS:

Review Criteria

Conditional Use Permits are required for uses with significant potential impacts on adjacent properties, such as gas stations, car washes and convenience uses. These uses have unique characteristics inherent to the use which require a greater level of review, including high volumes of traffic, light impacts, noise or odor. The Zoning Code establishes criteria for evaluating Conditional Use Permit applications as follows:

1. *That the granting of such conditional use permit will not be materially detrimental to the public health, safety, or welfare. In arriving at this determination, the factors which shall be considered shall include the following:*
 - a. *Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination;*
 - b. *Hazard to persons and property from possible explosion, contamination, fire or flood;*
 - c. *Hazard occasioned by unusual volume or character of traffic.*
2. *That the characteristics of the use proposed in such use permit are reasonably compatible with the types of use permitted in the surrounding area.*

At the September study session, the Commission was presented a summary of other jurisdictions conditional use review criteria (Attachment 2). The Commission provided input and direction which focused on adding three new criteria. The three criteria which were recommended for consideration are summarized below:

Ensuring impacts on adjoining property are effectively mitigated.

The existing review criteria requires "reasonable compatibility" with the types of uses in the surrounding area. Broadening the criteria will specifically require impacts on adjoining

properties to be thoroughly evaluated and effectively mitigated as part of the Conditional Use Permit application. This will allow the impacts associated with a particular use to be identified during the review process and measures such as setbacks, access limitations, reduced lighting and buffers to be employed to reduce impacts on adjoining properties.

Consistency with the Goals and Policies of the General Plan

Currently, Conditional Use Permits applications must be consistent with the underlying zoning district and any specific use requirements of the Zoning Code. Updating the review criteria to include conformance with the Goals and Policies of the General Plan will help ensure the proposed conditional use is consistent with Community objectives, specifically those related to community design, neighborhood compatibility, buffering, mitigation of traffic impacts and minimizing impacts associated with lighting.

Hours of operation.

Some conditional uses can have early or late hours of operation which can potentially have a negative impact on adjoining properties. Adding hours of operation as a review criteria allows this potential impact to be mitigated in the review and approval process.

The above criteria (Attachment 1) represent reasonable and substantive updates to the review criteria that will add specificity, limit ambiguity and allow for more effective consideration of the potential impacts of conditional use applications.

GENERAL PLAN COMPLIANCE

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 1.3 To promote a compatible mix of land uses throughout the Oro Valley Planning Area

Staff Comment

By broadening the Conditional Use Permit review criteria, specificity will be added as part of the review and approval process. The additional criteria will help ensure effective mitigation measures are incorporated to minimize potential impacts on adjoining properties, such as setbacks, buffer yards, access and circulation, lighting and noise. The increased focus on buffering and mitigation measures will further the objectives of these General Plan policies.

PUBLIC PARTICIPATION:

Public notice has been provided as follows:

- All HOAs in the Town were notified of this hearing
- Public hearing notice was posted:

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- In the Territorial newspaper
 - At Town hall
 - On the Town website

One comment has been received to date and has been included as Attachment 5.

RECOMMENDATION:

Based on the following findings:

- The proposed amendment would add specificity to the review criteria.
- The proposed amendment would increase the effectiveness of the review criteria
- The proposed amendment would minimize ambiguity and improve the conditional use permit review process.
- The proposal is consistent with the relevant Goals and Policies of the General Plan.

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 OV714-007

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 Conditional Use Permit review criteria, based on the finding that the request would improve the effectiveness of the Conditional Use Permit review criteria

OR

I move to recommend denial of the Zoning Code Amendment in Attachment 1 related to the Conditional Use Permit review criteria, as the request does not meet the finding that

ATTACHMENTS:

1. Proposed Code Amendment
2. Review Criteria Table
3. Resident Comment


Bayer Vella, Planning Manager