



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
SUMMARIZED MINUTES**

August 27, 2012

CALL TO ORDER

Mayor LeMarr called to order the Town Council meeting of the Town of Paradise Valley, Arizona, held at Town Hall 6401 E. Lincoln Drive, on Monday, August 27, 2012 at 5:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Council Member Vernon B. Parker was not present
Councilmember Dan Schweiker
Council Member Lisa Trueblood

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Community Development Director Eva Cutro
Planner George Burton

WORK/STUDY DISCUSSION ITEMS

Discussion of General Plan Amendment Process and Application for Major Amendment Submitted on Behalf of WSRH Scottsdale Cottonwoods, LLC and WSRH Scottsdale Land LLC

Town Manager Jim Bacon explained that the Town has received its first application for a Major General Plan Amendment. The purpose of this presentation is to explain the process and brief Council on recommended General Plan-related fee changes.

Community Development Director Eva Cutro stated that the General Plan is Town's "blue-print" for land use and expresses the Town's development goals. The voters adopted the 2012 General Plan in March 2012.

She said major amendments seek changes in land use to increased density classification. She said all requests for General Plan amendments must be made at a single public hearing in a calendar year. A 2/3 vote of the Town Council is required for approval.

Minor amendments seek changes in land use to decreased density classification. There are no limits on the number of applications and no limits on when they can be heard. Minor amendments only require a simple majority vote of the Council to pass.

She announced that the Town received an application from Cottonwoods Resort for a Major Amendment.

She recommended that the Council take the following three actions at the September 13, 2012 Council meeting:

1. Adopt a citizen review process for major amendments.
2. Amend the Master Fee Schedule to set the fee for major amendments at \$7,855 and minor amendments at \$5,000. These fees are consistent with fees for major and minor SUP amendments.
3. Amend the Master Fee Schedule for hard copies of the General Plan from \$9 to \$50 to account for actual costs.

There was Council discussion about setting a deadline date for Major General Plan Amendment applications. In order to make the public hearing schedule the application date would need to be in April or May.

There was Council consensus to proceed with the necessary code amendments on September 13. The Council also requested to review a copy proposed major and minor amendment application with a deadline date shown on the application.

Discussion of Zoning Code Text Amendments

Town Attorney Andrew Miller stated that on June 28, 2012, the Council adopted Resolution Number 1260 instructing the Planning Commission to study certain zoning code text amendments there are either the result of General Plan requirements or areas of the code identified by Councilmembers or staff as needing to be updated. The Council established a deadline of September 19, 2012 for Commission review and recommendation.

The zoning code sections to be reviewed by September 19 included:

1. Article IX, Section 904: adding golf course common areas in cluster plans as "public uses."
2. Article XI, Section 1102.3: clarifying the Special Use Permit document submittal requirements.

3. Article XI, Section 1102.2: adding kennels and veterinary clinics as allowed uses within the Medical Office SUP District designation.
4. Article XI, Section 1102.8: creating a process for appeals from a Minor SUP Amendment decision.
5. Article XXIV, Section 2404: changing the 40' front yard setback for a 6 foot wall/view fence combination to a 10' setback requirement.

The Planning Commission reviewed the proposed text amendments on August 7, 2012. There appeared to be no major concerns with the proposed changes except:

Appeals of Minor SUP Amendments: The Commission preferred that any appeals to the Council of a minor amendment denial by the Planning Commission be based not on a "de novo" review standard, but instead on whether the Planning Commission "abused its discretion", as well as suggesting that a super-majority vote of the Council should be required before a Planning Commission denial could be overturned.

The Council disagreed. There was consensus that the Council would conduct a de novo review and that a simple majority vote would be needed to overturn a Commission decision. It was felt that using a standard of "abuse of discretion" would lead to litigation.

The second exception was view fence setbacks. The Commission did not agree with the change from a 40 foot setback for a 6 foot tall front yard view fence to a 10 foot setback.

There was Council discussion that this is not a simple issue. It was suggested that the entire wall and fence code be reviewed in its entirety. There was a desire to have a discussion about whether view fences should be treated differently from solid walls when calculating setbacks. There was consensus to remove this section from the "simple changes" category to the major review category to give the Commission and Council more time to consider other impacts.

Mr. Miller stated that because the Planning Commission focused its attention on the Mountain Shadows SUP application, the Commission does not believe it is possible to meet the September 19 hearing deadline. The Commission has suggested changing the hearing date to early October.

The Council expressed disappointment that the Commission would not meet the deadline set by Resolution Number 1260 and that Council had not been informed earlier that the Commission's review would be extended into October. Staff was instructed to develop a written schedule as soon as possible to provide for review and adoption of the proposed amendments in October.

Motion and vote: Councilmember Schweiker moved to go into executive session at 5:45 p.m. Councilmember Kirby seconded the motion which passed by a vote of 6 – 0.

EXECUTIVE SESSION

Discussion and consultation with legal counsel regarding pending or potential litigation regarding current development agreement with Potomac Hotel Limited Partnership and future development agreement with MTS Land LLC and MTS Golf LLC related to the Mountain Shadows Resort as authorized by A.R.S. §38-431.03.A.4; and legal advice related to bankruptcy and other legal matters connected with the Mountain Shadows Resort project as authorized by A.R.S. §38-431.03.A.3

Discussion of Mountain Shadows Special Use Permit Application, Statement of Direction, and Need for Clarification

Mayor LeMarr reconvened the Work Session at 7:00 p.m.

Mr. Bacon stated that the purpose of this presentation is to present a proposal to refocus the review of the Mountain Shadows SUP application. He said the applicant received a copy of this report Friday but the Town has not received feedback from the applicant. The numbers used in this new approach came from the application.

He reminded the Council that the Town's main objectives for this project are to: 1) grant an SUP for the property and 2) approve an SUP to give the owner(s) as much flexibility as possible.

The Town's approach to processing this SUP application has been unique. The applicant's concept submission was used as the basis for developing the Statement of Direction (SOD). The use of alternative applicant concept submission to demonstrate flexibility has created confusion. As a result of this confusion and based on feedback from the Planning Commission public hearing, he recommended that it would be helpful if the Council re-established the intended approach by drafting the SUP using five development envelopes. The envelopes were:

- Golf Course (A),
- Resort (B),
- Retail Area (C)
- Open Space Area (D),
- Residential Area east of 56th Street (E)

Further, the Council should re-enforce that the predominant use of the property shall be resort. This includes that the residential use must be tied into resort; the golf course would be considered a resort use; and the resort hotel shall be the focus of the development.

Mr. Bacon summarized the Planning Commission's concerns and feedback. He stated that the Planning Commission's position differs from the SOD in the following areas:

1. Overall density proposed at 25% FAR is too dense. New concept at 100,000 square feet less on the west side of 56th Street is "a step in the right direction"

2. Density should be broken out for each "use" area (Area A, B, C, D, and E on Sheet 2, Land Use Plan)
3. Opposed to any non-resort 3-story buildings. Currently six residential structures are shown at the 3 story/36' tall height on the submitted "Tall Buildings" Site Plan
4. A parking plan should be submitted for review by the Commission at a later date, or require a minimum number of parking spaces stipulated
5. There are too many lots, and the minimum size and width of the lots needs to be increased
6. There was a general consensus to apply R-10 standards at a minimum
7. Tract E should be a created as a separate tract; the subdivision plans should not permit "open space" easements over multiple lots so as to bump up the median lot size
8. Commission review timeframe should be extended past the end of September so that the Commission can complete its review of the draft stipulations

After considering the Commission's feedback, the Council agreed to reconfirm that the guidance in the original SOD should stand, particularly regarding the parking plan and the timeframe for the Commission's review. It was believed that the 5 development envelope concept would address many of the Commission's other concerns, such as heights. Mr. Bacon suggested that there should be more discussion regarding density and number of residential lots but that should take place after the applicant has had time to review and respond to the new concept. There are multiple ways for the negotiating team to address density with the applicant. It was agreed that R-10 zoning on the property would not be considered since R-10 zoning does not exist in the code.

Council directed Staff to repost the meeting agenda for August 29 to allow for an action item to clarify the SOD. Staff was also directed to add a section to the website with frequently asked questions about the Mountain Shadows SUP and review process.

ADJOURNMENT

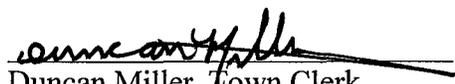
Motion and vote: Councilmember Schweiker moved to adjourn. Councilmember Kirby seconded the motion which passed by a vote of 6 – 0.

Mayor LeMarr adjourned the meeting at 8:00 p.m.



Scott P. LeMarr, Mayor

ATTEST:



Duncan Miller, Town Clerk