

TRRG Planning and Development Service Committee

Position Paper on Concurrent Plan Amendment/Rezoning Process Proposal Based on Information provided to Mayor/Council on April 23, 2019

Spring 2019

Tucson Residents for Responsible Government: Planning and Development Service Committee (TRRG-PDS) supports the Mayor/Council request, made mid-2018, to initiate a concurrent approval process for a proposed development that requires both an area/neighborhood plan amendment and a rezoning.

TRRG -PDS views this as an opportunity for all stakeholders to work together to improve both the current processes and the resultant projects. However, various aspects of the City's proposed concurrent process must be addressed prior to its implementation.

Rationale for Concurrent Process

1. The public does not understand COT's current 2-step process. When a project is controversial, the public sees the Planning Commission (PC) hearing as the venue to present their position on the entire proposal. Supporters and opponents alike do not understand the need to craft their arguments to address the specific plan detail which is proposed for amendment. The time which often transpires between the public hearings for the plan amendment and the final rezoning is often years. Public interest wanes and citizens are left believing that it all was settled long ago.
2. Mayor/Council (M/C) approval of the plan amendment is a precursor for M/C approval of the rezoning request. To expect M/C to NOT approve the rezoning at the later time is unrealistic. Unfortunately, that amendment decision is made on limited knowledge of the final project.
3. PC wants to know project details before making its recommendation for a plan amendment. In lieu of details, commissioners have been told they are to evaluate the "concept" Exactly what "concept" means is uncertain, and commissioners recently have requested many more specifics in order to understand their cases. The concurrent process would allow the PC to have details of the project when making decisions about a plan amendment.

Three Areas of Concern:

1. As drafted in proposed text, "the applicant may elect to proceed with concurrent applications for a plan amendment and rezoning. " **TRRG-PDS requests that the Neighborhood(s) most impacted by the proposed development must agree to the utilization of the option.**

This would be difficult to administer in a consistent manner given the various bylaws and procedures followed by neighborhood associations across the City. This would also be counter to the goal of the amendment to create additional certainty in the process. The proposal set by staff, however, provides measures that can help to make sure the neighbors are better informed of the process and better prepared for the neighborhood meetings through the longer notice period, improved notification letter and the optional informational meeting.

2. As sequenced in Option 1, "Neighborhood Meeting: Applicant holds neighborhood meeting in which both PA and RZ are presented. " This would replace the current UDC requirement of 2 neighborhood meetings. *TRRG-PDS requests that the following procedures define "neighborhood meeting":*

Planning and Development Services is proposing a change to the structure and requirements to the neighborhood meeting for when an applicant chooses the optional concurrent Plan Amendment / Rezoning Process. This would include required notice period for a neighborhood meeting when utilizing the concurrent process from 15 to 30-45 days and the addition of an optional informational meeting with PDS staff, at request of Neighborhood Association, prior to required Neighborhood Meeting in order to review and answer questions regarding the optional Concurrent Plan Amendment and Rezoning Application process.

Neighborhood Meeting Requirements for a Concurrent Process

Three parties should have defined, collaborative roles: i) developer making the application; ii) City processing the application; and iii) surrounding area residents/property owners assessing the impact of the new construction and use. Applicant and citizens should be confident that the City staff balances both of their interests. *All three parties should sign off on any meeting summaries submitted to COT.*

Implementing the neighborhood meeting requirements as early as possible in the conceptualization of a proposed project would be time-/money-saving for the applicant while trust-building for neighbors.

First meeting - Developer introduces the public to the proposed project. PDS representative monitors and clarifies COT procedures . Public listens and gathers information.

Second meeting - Public has the opportunity to ask questions of developer and PDS representative and to express opinions about the project .

3. As described in Option 1, "Mayor and Council: Mayor and Council will make two sequential motions: 1. Plan Amendment Approval/Denial; 2. Rezoning Approval/Denial. If PA is denied, RZ request will not be heard." **TRRG-PDS requests that a separate public hearing for the plan amendment be scheduled and the request for a separate public hearing for the rezoning can still be made and will be honored.**

The proposal in front of the Planning Commission does just this. It requires that the Mayor and Council hold separate public hearings for the Plan Amendment and the Rezoning. Should there be changes to the Plan Amendment during the public hearing, the Mayor and Council have the option to continue the Rezoning to the next meeting.

It is critically important that Mayor and Council receive separate reports regarding any protests for the Plan Amendment and the Rezoning, also that Mayor and Council vote separately on the Plan Amendment and the Rezoning. Since the Arizona State Legislature has redefined both the protest zone and the supermajority for any vote on a Rezoning, it is very difficult for adjacent property owners to protest a project in a meaningful way. The Plan Amendment is now the one realistic opportunity that community members have to influence a project or perhaps even stop a project. The Plan Amendment and Rezoning must not be combined in a way that deprives community members of their only meaningful input into development.

Daniel Bursuck - [EXTERNAL]My thoughts about running a

concurrent plan amendment/rezoning process

From: "Poulos, Bonnie T - (poulosbt)" <poulosbt@email.arizona.edu>

To: Daniel Bursuck <Daniel.Bursuck@tucsonaz.gov>

Date: 06/28/2019 4:59 AM

Subject: [EXTERNAL]My thoughts about running a concurrent plan amendment/rezoning process

Daniel,

Since I am out of town for the next stakeholders meeting, I would like to interject some concerns

that have come to mind during the public discussions and a long discussion I had with Roger who helped write these plans. Something he pointed out that sticks in my mind: the plans were accepted as agreements between the City Council and the neighborhoods. By allowing a concurrent process, the developer now steps in the takes over the role of the City in making conditions to include in the plans. Is that appropriate? Is the City council abrogating their responsibility for a policy document that they approved?

- To be clear, in the County a “concurrent” process involves an amendment to the Comprehensive plan (there are no neighborhood plans in the county) when needed for a rezoning to take place. It almost always revolves around the allowed use, not some condition of the plan like height or open space. That is pretty different from what we are proposing for the city.
- Do we start putting zoning conditions into neighborhood plans? Is that a good idea when plans are advisory and not regulatory as the City attorney is now emphasizing.

The idea with this proposal is by allowing the two processes to run concurrently, it would result in less specificity in the Plan Amendment and the more specific conditions being used in the Rezoning. The idea is that by allowing the conversation around rezoning conditions to take place at the same time but through the ZE process, the PC would place fewer rezoning-type conditions on NPs.

- Is there a better way to look at proposed changes to neighborhood plan that does not depend on a specific land use proposal?

Currently, most Plan Amendments in the City of Tucson are a result of specific land use proposals. This is not necessarily a requirement of Plan Amendments, however. Updates to specific plans in the past have been made due to large projects, such as roadway widenings, and could be conducted in the future.

- Can we give plan amendments a sunset date such that if they are not built out within 5

yrs they go away?

Currently we do have an expiration time period on Rezonings, which is five years with an option to extend up to 10 years with Mayor and Council approval. Fundamentally, Plan Amendments are different from Rezonings. The goal of a land use plan is to provide direction for future land use in specific areas of a city. The direction provided in those plans, even if the proposal and rezoning goes away, should still be relevant. Ultimately, the question that should be asked, while drafting a plan or while making an amendment to a plan is, "is this land use appropriate?"

- Can amendments be tied to specific proposals? (Should they be?)

State law requires these two processes to be separate, and they should be separate. The plans provide policy guidance, and the Rezonings and zoning classifications are regulations.

- Does a concurrent process really save the developer any time? How much time?

In theory, it should save the applicant time if the optional concurrent plan amendment / rezoning is chosen. The complexity of coordination of the two processes, could add some time to the overall timeline, but it appears it could reduce the overall time from 12-18 months to 8-14 months.

- Is the neighborhood/area plan a pact between the elected officials and neighborhoods? How does a developer negotiating with neighborhoods impact that pact?

Ultimately, a neighborhood/area plan is a City of Tucson document that guides City of Tucson land use decisions. It is intended to provide a vision for the future that is reflective of the neighborhood residents, nearby business owners, in addition to the community as a whole. The question here is not necessarily how does this impact the pact, but is this appropriate given the vision and goals of the community.

Thanks for considering some of my

concerns. Bonnie

Questions Raised by the Concurrent Plan Amendment/Rezoning Proposal
Tucson Residents for Responsive Government PDS Committee
Compiled by Ruth Beeker, Chair
Summer 2019

The PDS Process Handouts on **Plan Amendment, Rezoning Process and Planned Area Development (PAD)** provide residents information which is integral to understanding of the Concurrent Plan Amendment/Rezoning proposal. If residents felt procedures were adequate, already well administered and clearly defined, it would make support of the concurrent proposal more assured. Unfortunately, review of the components which would be integrated reminds residents that deficiencies in the status quo, unless addressed now, will only be extended to one more option.

Plan Amendment

The process handout states a plan amendment is “ a revision”. . “typically changing a land use map or existing land use plans.” That implies that if there is a barrier in the plan for a specific proposal, it will be removed or revised to allow that use; an amendment is not for construction or administrative details.

QUESTIONS:

What role should the neighborhood have in identifying what amendments are needed?

Neighborhoods are an integral part of the public process to review if an amendment is appropriate. They have the ability to voice their opinions at the Neighborhood Meetings, through comments submitted to staff, or at public hearings. That input becomes part of the record and ultimately factors into the decisions of the Planning Commission and Mayor and Council.

Is amending for a specific project the best way to think of over-all neighborhood land use?

The answer to this question is dependent on the project or proposal. If an amendment is needed due to a site specific condition or something that may not have been anticipated during its drafting, then an amendment related to a specific project may be the best way to handle an amendment. There are other cases, such as where there have been large infrastructure projects undertaken, where a larger scale update may be more appropriate.

How much detail of the project is required for neighbors to judge if that revision is appropriate?

The idea with this proposal is by allowing the two processes to run concurrently, it would result in less specificity in the Plan Amendment and the more specific conditions being used in the Rezoning. The idea is that by allowing the conversation around rezoning conditions to take place at the same time but through the ZE process, the PC would place fewer rezoning-type conditions on NPs.

Rezoning has a 5-year time limit—should amendments have the same limitation/sunset?

Currently we do have an expiration time period on Rezonings, which is five years with an option to extend up to 10 years with Mayor and Council approval. Fundamentally, Plan Amendments are

different from Rezoning. The goal of a land use plan is to provide direction for future land use in specific areas of a city. The direction provided in those plans, even if the proposal and rezoning goes away, should still be relevant. Ultimately, the question that should be asked, while drafting a plan or while making an amendment to a plan is, “is this land use appropriate?”

How do neighborhoods get assurance that their plans will not be amended to incorporate a specific project’s zoning conditions/procedures which belong in zoning documents, not in the plans?

This is both currently a problem and potentially a problem with an optional concurrent process. PDSO could establish a departmental policy directing the scope of a land use plan, and then provide education to the recommending bodies to help guide them through the amendment process.

Rezoning Process, Planned Area Development (PAD)

The Unified Development Code (UDC) provides dimensional parameters and specific uses for regular zones. This enables the public to know what an applicant is requesting when asking for a change of zones. That is not true when an applicant chooses to use a PAD. The PAD process handout refers to “flexible regulations” which “may have land use regulations that are different from. . . UDC.” That does not communicate the extent of the “flexibility.”

On Dec. 13, 2017, John Beale responded to a request for PAD clarification with the following:

The UDC requires the PAD to be in conformance with Area and Neighborhood Plans, but the PAD allows for modification or deletion of any regulation or standard in the UDC such as permitted land uses (allowing and/or excluding), parking requirements, landscaping requirements, building setbacks and heights, density and lot overage, etc. The PAD only allows modifications to UDC but not to any other chapter of the Tucson City Code such as Chapter 25 Street or Building Codes.

QUESTIONS:

Residents report finding wide discrepancy in access to applications and in quality of applications submitted to the Zoning Examiner; who is responsible for enforcing standards for an acceptable submission and for ensuring materials are available to the public?

Requirements for applications that eventually make their way to the Zoning Examiner, such as for a Rezoning are set forth in the City’s Administrative Manual. Upon submission of an application to PDSO, staff reviews that application to ensure it meets those requirements prior to acceptance.

What level of detail should the public expect to see submitted to the Zoning Examiner?

All applications must meet the requirements set forth in both the UDC (Section 3.5 Rezoning) and the Administrative Manual (Sections 2-03 and 2-04). More specifically Section 2-04.4.0 Content Requirements lays out the specifics of what is required and what the public should expect. It should be noted that depending on the scale and type of a project, the actual detail may vary.

Neighborhood Meeting

Each of the three PDSO Process Handouts details the City of Tucson requirements for Neighborhood

Meeting: applicant responsible for it all—sends out notice; provides information; listens; documents the meeting to comply with requirement on checklist by compiling minutes, sign-in sheet and other materials. END OF STORY. Nowhere on the Process sheet's 6 steps is there any indication that neighbors' input is considered in decision-making.

Concurrent Option 1, as recommended by Mayor and Council, provides for one neighborhood meeting, a reduction from the two which would be required if plan amendment and zoning were separate. That is totally unacceptable; however, equally troubling is continuing the current policy for Neighborhood Meeting. Some individual developers choose to have a respectful public process, but the fact that the City does not require it leaves the City with an official policy which is window-dressing only.

QUESTIONS:

What is the City's responsibility to ensure that neighbors have the knowledge to give well-informed input, to ensure that the information they are hearing from the applicant is accurate, consistent and thorough?

Processes related to the City's responsibility to ensure that neighbors have the knowledge to give well-informed input are laid out throughout the Unified Development Code. However, we are looking at ways to go above and beyond those requirements. The proposal presented to the Planning Commission presented a change to the structure and requirements to the neighborhood meeting for when an applicant chooses the optional concurrent Plan Amendment / Rezoning Process. This would include an extension of the required notice period for a neighborhood meeting when utilizing the concurrent process and the addition of an optional informational meeting with PDSD staff, at request of Neighborhood Association, prior to required Neighborhood Meeting in order to review and answer questions regarding the optional Concurrent Plan Amendment and Rezoning Application process.

Additionally, PDSD has recently developed process handouts to help inform and educate the public. Finally, we are looking to develop a series of educational sessions to better educate neighborhoods on what resources they have and how to use them. In the past few years, PDSD has developed several tools that are useful for neighborhoods and some education may be helpful.

How soon in the Application Process should initial meetings with the neighbors be scheduled to give input before the project is already too far along to change?

Through the proposal to allow for an optional informational meeting from staff and through changes to the notification requirements, we believe this should allow for a more informed conversation at the official neighborhood meeting and for more input early on in the process.

How can the third step of the identified Process on the PDSD Process Handouts be altered so that the input from the neighbors will be addressed and given consideration before the PDSD staff completes its review?

Currently, the neighborhood meeting is required to be held prior to an application being submitted to PDSD. This allows for the neighborhood feedback to be considered prior to the PDSD staff review and report.

Other Questions

Whenever given an opportunity, people bring up repeated, unanswered concerns. A sampling:

- Why have projects in my neighborhood not followed proper permitting process?
- Why did the neighborhood not get a notice?
- I live in a Homeowners Association; why can't the City at least send me notices?
- Why can't I find information on the City's website?
- Will this process be different? The City holds public meetings but goes ahead and does whatever it was planning to do all along; it's all a charade
- When will Planning Commission finally get the City attorney and PSDS staff direction it needs to establish its purpose and procedures? Should Mayor/Council take an active interest, since they appoint its members?

POSTSCRIPT

TRRG-PDS Committee appreciates PSDS's development of the Process Handouts. They provide information in an accessible format which residents can comprehend. Only when the public knows what processes are currently being used can there be a meaningful discussion of how to move forward. Such transparency can lead to accountability which can lead to trust in City of Tucson government.