



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

Date: November 13, 2019

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To: Planning Commission

From: Scott Clark
Executive Secretary, Planning and Development Services

Subject: C8-19-02 Concurrent Plan Amendment and Rezoning Processes
Unified Development Code Text Amendment
(City Wide)

Issue – The following public hearing is to review and discuss the proposed text amendment to the Unified Development Code (UDC) allowing the option for the plan amendment process and the rezoning process to run concurrently. This item was previously presented to the Planning Commission at two study sessions on July 10, 2019 and October 16, 2019. At that time, the commission continued the study session to provide time to gather more information.

The current process requires applicants to demonstrate compliance with applicable area and neighborhood plan(s) prior to filing a rezoning application, therefore projects that require both a plan amendment and rezoning must first obtain a plan amendment approval before moving forward with a rezoning application (see Attachment A for the current process).

In addition to the two study session with the Planning Commission, staff has conducted a series of stakeholder meetings and public meetings to review these potential changes. Based on the feedback from those conversations and the two study sessions, staff is proposing the following two changes to the UDC:

1. Removal of requirement that a rezoning be in compliance with the applicable land use plans prior to acceptance of a rezoning application, when utilizing the option to file a Concurrent Plan Amendment and Rezoning Application.
2. 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 PDS staff, at the request of a Neighborhood Association, prior to the required Neighborhood Meeting in order to review and answer questions regarding the optional Concurrent Plan Amendment and Rezoning Application process.

See Attachment B for the proposed changes to the UDC.

Recommendation – Staff recommends that the Planning Commission recommend approval of the proposed amendments to the Unified Development Code (UDC) related to concurrent plan amendment and rezoning processes to Mayor and Council.

Background – According to the Unified Development Code, rezoning requests must be in conformance with current neighborhood and area plan policy (Section 3.5.3.D.3.). When a rezoning request is not in conformance with current plan policy, a plan amendment must be approved before a rezoning request can be submitted. Plan amendments are reviewed by and receive a recommendation from the Planning Commission before being forwarded for review and a decision by Mayor & Council. Rezoning requests are reviewed by and receive a recommendation from the Zoning Examiner before review and a decision by Mayor & Council. Each process, the plan amendment and rezoning, typically take 6-9 months. Therefore, obtaining entitlements for development proposals that require both a plan amendment and rezoning can take 12-18 months (see Attachment A for overview of current process). Allowing these processes to happen concurrently could reduce the total plan amendment and rezoning processing times from 12-18 months to 6-9 months.

The idea of a concurrent plan amendment and rezoning process was first raised by Mayor and Council in the spring of 2016, when staff was directed to create a process to allow for concurrent plan amendment and rezoning applications as an option for the applicant. The proposed concurrent process was reviewed at a public meeting and three Planning Commission study sessions. Some of the feedback received at the time was related to:

- providing a more open public process,
- addressing concerns about safeguards to ensure the plan amendment process is informing the rezoning process,
- ensuring the development approved is beneficial to the community as a whole, and;
- adding a potential sunset date.

During that process, staff received a letter of concern signed by 93 neighborhood representatives (see Attachment C for submitted letter). The amendment process was stopped due to public opposition and changes introduced by the Planning Commission that made the process as time-intensive as the current plan amendment/rezoning process.

On July 10, 2018, at a Study Session to discuss Infill Incentive Areas, Mayor and Council directed staff to re-examine options to streamline of the current rezoning process so that the zoning and site plan ran together. Staff has researched these processes in other municipalities and reviewed Arizona state law to develop options that would facilitate a concurrent process

Based on research and consultation with staff from other Arizona cities and counties, staff found that many other municipalities across the state provide an option for a concurrent plan amendment and rezoning. How often these options are used varies and ultimately depends on the scale of the project, types of uses, and who the owners and developers are. Please see Attachment D for more information on other municipalities processes.

On April 23, 2019, Mayor and Council held to study session to provide guidance related to the concurrent Plan Amendment and Rezoning processes. At that meeting staff presented the

Mayor and Council two options for how to allow for the two processes to run concurrently. Option 1 provided a concurrent process for the plan amendment and rezoning cases which retains the purview of the Planning Commission and Zoning Examiner, while Option 2 provided a process for the Planning Commission to hear both plan amendment and rezoning cases. The Mayor and Council then directed staff to pursue Option 1 as presented in the agenda material, with a caveat that the opportunity for public input not be truncated, and requesting that staff consider adding a deadline after which an approved plan amendment would expire. See Attachment E for the options presented to Mayor and Council and the Legal Action Report from the April 23rd Study Session.

Since receiving this direction from Mayor and Council, staff has conducted public outreach which included two stakeholder meetings and three public meetings. The goal of this two tiered approach was to provide a diverse representation of geographies (the entire City) and perspectives (residents, business owners, developers, etc.) for its review. See Attachment F for an overview of those meetings. From these meetings there was general consensus on some issues, and need for additional discussion on others. Those items with general consensus were the following:

- Near universal support for Option 1 from both the stakeholder groups and the public meetings. This option would retain the current duties of the Planning Commission and Zoning Examiner, but allow for the Plan Amendment and Rezoning to run at the same time.
- Requirement of separate reports and votes for the Plan Amendment and Rezoning.
- Approval of the Rezoning would be dependent on Plan Amendment approval.
- No need to stagger the Mayor and Council review of the Plan Amendment and Rezoning at separate meetings, as Mayor and Council have the ability to continue either case to another date.

There were also several items that require further deliberation. Those items are as follows:

- Addition of a time restriction for Plan Amendments.
- How to ensure proper education of the public related to the concurrent process and role of the area and neighborhood plans. This is related to the potential complications with have two processes running at the same time being reviewed by two different review bodies.
- Review of Planning Commission by-laws related to number of votes required for a formal recommendation to Mayor and Council. Currently the by-laws require 7 votes to forward a formal recommendation to Mayor and Council.

Additionally, staff has received letters from several members of the community. The comments within those letters touch on a variety of subjects. For example, the three letters and emails from members of Tucson Residents for Responsive Government focused on the

neighborhoods role in the existing processes and the concurrent process, and how they can better provide input into the potential projects. In each there were suggestions for policies to be included in the proposed amendment. The email from Joseph Maher focused on potential benefits of the concurrent plan amendment and rezoning process, suggestions for how to utilize option 2, and the proposed amendment's applicability. Please see Attachment G for the letters submitted and staff responses to the questions therein.

On July 10, 2019, the Planning Commission held a study session to review the Optional Concurrent Plan Amendment and Rezoning Processes UDC Text Amendment. At that meeting, the Commission directed staff to return to the commission for a second study session to provide the following:

- Second option where both the plan amendment and rezoning cases are reviewed by the Planning Commission (provided in Attachment H)
- Further detail on the potential timeline and how the processes work (Attachment H)
- Staff response to questions in the TRRG letter (Attachment G)
- Pros and cons of the proposal

On October 16, 2019, the Planning Commission held a second study session to discuss the Optional Concurrent Plan Amendment and Rezoning Processes UDC Text Amendment. At that meeting staff provided the commission with the information previously requested at the July 10, 2019 study session and set the item for a public hearing on November 13, 2019. The commission also requested some clarification items to be discussed at the public hearing. Those were as follows:

- More information related to processes of other jurisdictions and clarification of Pima County's process
- Option of waiting to schedule the public hearing with the Zoning Examiner until Planning Commission makes their recommendation

Present Considerations – Of the two options presented to Mayor and Council, option 1 had received near unanimous support from both Mayor and Council and throughout the public outreach. This option would allow an applicant to file a plan amendment and rezoning at the same time. The Planning Commission would review the proposed plan amendment and the Zoning Examiner would review the rezoning request. The two items could be reviewed by Mayor and Council at the same meeting. Mayor and Council must approve the plan amendment before the rezoning can be approved. Reasons given for support of option 1 over option 2 were (1) the understanding that the relative roles and duties of the Planning Commission and Zoning Examiner were well suited to their expertise, and (2) the relatively small changes required to the UDC and procedures of the review bodies. Related to the feedback from the Planning Commission requesting information related to option 2, we have included Attachment H showing timelines and potential steps of both options. Additionally,

both the direction from Mayor and Council and feedback from the public outreach stressed ensuring a significant public process.

Based on the feedback from conversations to date with Mayor and Council, our stakeholder group, and the public meetings, staff is proposing the following two changes to the UDC:

1. Removal of requirement to be in compliance with the applicable land use plans prior to acceptance of a rezoning application, when utilizing the option to file a Concurrent Plan Amendment and Rezoning Application.
2. 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 PDS staff, at the request of a Neighborhood Association, prior to the required Neighborhood Meeting in order to review and answer questions regarding the optional Concurrent Plan Amendment and Rezoning Application process.

The inclusion of the additional informational meeting will require some relatively small adjustments to the timing of how Neighborhood Meetings are noticed. The current proposal would extend the notification requirements from 10 days to between 30 and 45 days, and require the applicant to include the offer for the optional staff informational session. Additionally, the notification would include information on how to access project materials and where to find the applicable area and neighborhood plans. Please see Attachment B for the proposed text changes to the UDC to achieve this and Attachment I for an example of the revised Neighborhood Meeting notice.

Potential benefits of this proposal are that a concurrent process will allow for more robust conversations about a proposed project that does not segment the conversation into two stages. The current process which requires two sequential procedures can be confusing and may appear to the public that the applicant is undergoing the approval process twice. For projects utilizing the concurrent process, more detailed project plans will be available to the public early on as a requirement of the rezoning application, allowing community members to evaluate the proposal more holistically.

Additionally, a concurrent process will expedite the development process for applicants, while still providing the opportunity for public input. The proposed option would retain the distinct purviews of the Planning Commission and the Zoning Examiner, and would not change the submission requirements or review standards for either the plan amendment or rezoning application. For example, the rezoning application must include all items listed in Section 2-03 of the Administrative Manual, such as a Preliminary Development Plan with an Introduction and Policy section, Site Analysis, Plan Proposal, and, when applicable, an Environmental Resource Report.

Should this text amendment be adopted by Mayor and Council, PDSO will track the number of projects utilizing this option, and assess in 18 months, or after at least two projects have gone through a concurrent process, to evaluate how it is working and consider whether any adjustments need to be made. PDSO will share this assessment with the Planning Commission.

Plan Tucson Consideration(s) – This item is related to the Plan Tucson Element of (1) Business Climate and (2) Governance & Participation. Specifically, this item is supported by the following policies:

- *BC2 – Continue to develop and implement local strategies, services, and incentives to enhance Tucson’s business climate.*
- *G2 – Offer opportunities for productive public engagement in City policy, program, and project initiatives from the beginning of and throughout the planning and decision-making process.*

Attachments:

A - Current Rezoning-Plan Amendment Process

B - Proposed UDC Text Changes

C – Area Plans Matter Letter

D - Other Jurisdictions - Concurrent Plan Amendment Table

E – Concurrent PA-RZ options presented and LAR from M&C Study Session on April 23, 2019

F - Minutes and notes from Public Meetings and Stakeholder meetings.

G - Feedback received from TRRG / Bonnie Poulos / Joseph Maher and staff responses

H – Timelines and steps for two options

I – Sample Notice for Neighborhood Meeting