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# MAYOR & COUNCIL MEMORANDUM

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April 23, 2019

Subject: Concurrent Plan Amendment and Rezoning Processes  
(City Wide)

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Issue – Shall the City consider a text amendment to the Unified Development Code (UDC) allowing for the rezoning process and the plan amendment process to run concurrently.

City Manager's Office Recommendation – Mayor and Council direction is requested to initiate a public process to amend the Unified Development Code (UDC) to allow for the rezoning and plan amendment processes to run concurrently.

Background – According to the Unified Development Code, rezoning requests must be in conformance with current neighborhood and area plan policy (Sec. 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 and Council. Rezoning requests are reviewed by and receive a recommendation from the Zoning Examiner before review and a decision by Mayor and 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 between 4 and 9 months.

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

Staff received a letter of concern signed by 93 neighborhood representatives (see Attachment B for submitted letter). The amendment process was stopped due to public opposition and changes introduced by the Planning Commission that made the process as onerous 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 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 consultation with staff from other cities and counties, it varies widely how often these options are used and ultimately depends on the scale of the project, types of uses, and who the owners and developers are. Please see Attachment C for more information on other municipalities' processes.

Present Consideration(s) – Staff has conducted a preliminary analysis of potential options that would reduce the plan amendment and rezoning process from 12-18 months to 6-9 months.

The option that was previously considered would retain the separate purview of Planning Commission and the Zoning Examiner but would allow the two applications to be filed concurrently and go through public review at the same time, ultimately leading to review of both items by Mayor and Council at the same meeting. This option remains under consideration. Staff also considered options which would allow both items, the plan amendment and rezoning, to be heard by either the Planning Commission or the Zoning Examiner, thus eliminating the need for one of the public hearings prior to Mayor and Council and further streamlining the review process.

Pursuant to ARS § 9-461.09(A), if the municipality has established a Planning Commission, that body must review the proposed changes to land use plans. Therefore, allowing the Zoning Examiner to hear both a plan amendment and rezoning case would not be allowed as long as the City of Tucson has a Planning Commission. Because a significant code and policy change would be needed for this option to be viable, staff chose not to pursue this option further. However, it would be acceptable under current state law (ARS § 9-462.04) for the Planning Commission to hear both a plan amendment and a rezoning case. That option is detailed below.

The two options that staff find most feasible are to (1) allow a concurrent process which retains the purview of the Planning Commission and Zoning Examiner or (2) allow the Planning Commission to hear both plan amendment and rezoning cases. Please see Attachment D for a graphical depiction of these options, which would be administered as follows:

- Option 1 - This option is the least complicated and requires the fewest changes to the existing reviewing bodies, and the UDC. It would remove the requirement for a rezoning application to be in conformance with the adopted plan policies prior to being accepted for processing and allow the applicant to combine the required neighborhood meetings for the two applications. The plan amendment and rezoning cases would be reviewed by the Planning Commission and Zoning Examiner respectively, but would be allowed to run side-by-side until they reach Mayor and Council, where the approval of the plan amendment at a public hearing would be required prior to approval of the rezoning at a public meeting. These two items could be reviewed in sequential order on the regular meeting agenda. This process could be completed in an estimated 8-10 months.
- Option 2 – This would provide the option for both the rezoning and the plan amendment to be reviewed by the Planning Commission. While this would simplify the problem of having two separate review bodies, it would require substantial changes to the UDC and significant review of the Planning Commission practices and bylaws, including possible changes to its composition in order to ensure adequate expertise in zoning. This process could be completed in an estimated 6-9 months.

It should be noted that either of these processes would be optional, and would be elected by the applicant. For projects that require both a plan amendment and a rezoning, applicants could choose the concurrent option or could choose to follow the existing process in which a plan amendment is pursued prior to a rezoning.

Of the two options presented in this memo, Option 1 is recommended due to the relatively small changes required to the UDC and procedures of the review bodies. Please see Attachment E for sample language of what this change would look like. Please note this sample language is only preliminary and is subject to feedback received through the public planning process, and review by the Planning Commission and ultimately Mayor and Council.

The next steps, once initiated by Mayor and Council, would be to begin stakeholder engagement and initial public review. This would include outreach to developers and applicants, as well as neighborhood associations to weigh these two options. At this time staff may also conduct further consultation with other municipalities to better understand what is done elsewhere. Based on this feedback, staff will draft a UDC code amendment to facilitate one of these two options, which would be reviewed by Planning Commission and then Mayor and Council. Staff estimates bringing this back to Mayor and Council for adoption in 8 to 10 months.

Plan Tucson Consideration(s) – This item is related to the Plan Tucson element of (1) Business Climate. 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.*

Financial Considerations – N/A

Operating Cost and Maintenance Input – N/A

Legal Considerations – This memorandum has been reviewed and approved by the City Attorney’s Office.

Respectfully submitted,



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Assistant City Manager

KM/DB  
PLANNING AND DEVELOPMENT SERVICES

Attachments: A – Current Rezoning-Plan Amendment Process  
B – Area Plans Matter Letter  
C – Other Jurisdictions - Concurrent Plan Amendment Table  
D – Concurrent Rezoning - Plan Amendment Options  
E – Sample UDC Text Amendments for Option 1