



City Of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • www.sedonaaz.gov/cd

May 22, 2024

Dutchman's Cove LLC
c/o Stephen Polk
BPCWS Law Firm
125 N. Granite St.
Prescott AZ 86301

Re: Zoning Verification Letter

40 Art Barn Rd., 586 N SR 89A

APN 401-08-002A, 401-09-001A, 401-09-001B, 401-09-001C, 401-13-059, 401-08-006A

(not requested but a part of the PD zoning: 401-14-015, 401-14-016, 401-14-017, 401-14-064, 401-14-065, 401-14-075A, 401-14-175)

Dear Mr. Polk:

Thank you for your request for a Director's Interpretation for the above-mentioned parcels. However, a Director's Interpretation is only an interpretation of the Land Development Code, and, based upon the questions you have posed in your request letter dated May 1, 2024, a Zoning Verification is more appropriate.

The following is a summary of the entitlement history and current status of these properties.

Property History

Based on records from the City of Sedona and Coconino County, the following is the history for this parcel:

- The properties identified above are within the city limits of the City of Sedona, AZ.
 - The parcels identified above are currently zoned Planned Development (PD).
 - The building entitlements provided by the PD zoning through Ordinance 2006-04 and Resolution 2006-10 have expired.
1. A complete entitlement history of these properties is included as Attachment 1.
 - a. Project files for the applications listed in the entitlement history are available for review in the Community Development Department Office.
 - b. The entitlement history includes Planning and Zoning Commission and City Council hearing dates for the various applications. Agendas, packets, and minutes from these meetings are available online at www.sedonaaz.gov > Your Government > Employee Access > Laserfiche. If you have trouble accessing documents, please contact City Staff.
 2. As outlined in the entitlement history, the properties have been the subject of three different PDs beginning in 1998. Ordinance 1998-15/Resolution 1998-38 was repealed by Ordinance 2005-

05/Resolution 2005-13. Likewise, Ordinance 2005-05/Resolution 2005-13 was repealed by Ordinance 2006-04/Resolution 2006-10.

3. These properties are currently zoned PD (Planned Development). This is a site-specific zoning and the zoning approvals outline the allowable uses, building design and placement, parking requirements, public amenities, etc. Specifically, Ordinance 2006-04 and Resolution 2006-10 rezoned the property to consist of one hundred fifty-eight (158) single-ownership condominiums, publicly accessible viewing areas of Oak Creek, a publicly accessible botanical preserve, a public park, 12 affordable offsite housing units, etc., as further described in the development agreement and master plan attached to Resolution 2006-10.
4. The Preserve at Oak Creek Condominiums PD zoning brought all the properties listed above (including the parcels not of your zoning verification request) under one unified development plan with an expiration date of March 14, 2008 unless building permits had been issued by that date. A time extension was granted by City Council on April 22, 2008, extending the deadline for granting building permits to March 14, 2010. As no building permits were granted by the expiration date, the entitlements for this property are currently expired.
5. As building entitlements have expired, pursuant to A.R.S. 9-462.01(E) and LDC § 8.6(B)(3)(g)(2), the Sedona City Council at a properly noticed public hearing may take:
 - a. Administrative action to extend or remove the schedule for The Preserve at Oak Creek Condominiums development; or
 - b. Legislative action to rezone the property, including a reversion to Commercial, Multi-Family and Single-Family zoning consistent with current zoning regulations.
6. A zoning application would be required for any future development inconsistent with the current PD zoning. In addition to a zoning application, other applications, such as development review, subdivision, or conditional use permit, may be required based on the proposal.
7. At a minimum, any future zoning application would be required to comply with the underlying Community Plan designations for the properties. If the proposed development does not comply with the Community Plan designation, a Community Plan amendment would be required. The current Community Plan designations for the above-mentioned properties are as follows:
 - a. 401-08-002A: West of Oak Creek: Commercial/Lodging; East of Oak Creek: Open Space
 - b. 401-09-001A, 401-09-001B, 401-09-001C, 401-13-059, 401-08-006A, 401-14-015, 401-14-016, 401-14-017, and 401-14-075A: Multifamily Medium Density.
 - c. 401-14-175: Commercial/Lodging
 - d. 401-14-064 and 401-14-065: Open Space
8. In addition to complying with the Community Plan land use designations, a zoning application would be expected to demonstrate that it is implementing other Community Plan goals and objectives. The Community Plan can be reviewed online at www.sedonaaz.gov/communityplan.
9. The property is within the Uptown Community Focus Area (CFA). CFAs were identified in the latest Sedona Community Plan as areas in need of additional planning. For more information on the CFA process, please contact Cynthia Lovely, Principal Planner, at (928) 203-5035 or clovely@sedonaaz.gov.

The Community Development Department welcomes discussions with the owner or developer regarding the City's options as explained above. As the Community Development Director this is my interpretation of the PD Zoning District for the above-mentioned parcels. Any person aggrieved by this decision may appeal this decision in accordance with the provisions of LDC 8.8.D (Appeal).

This Zoning Verification Letter supersedes the Zoning Verification Letter dated May 30, 2019.

If you have any questions, please contact Cari Meyer, Planning Manager, at (928) 203-5049, or cmeyer@sedonaaz.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Mertes", is written over a faint, illegible printed name.

Steve Mertes, Director
Community Development Department

Attachments

1. Entitlement History for Requested Parcels

Entitlement History for APN 401-08-002A, 401-08-006A, 401-09-001A, 401-09-001B, 401-09-001C, 401-13-059, 401-14-015, 401-14-016, 401-14-017, 401-14-064, 401-14-065, 401-14-075A, 401-14-175

The above referenced properties have been the subject of various development approvals over the years. The following contains a comprehensive history of the development approvals for these properties.

In the following summary, the following abbreviations are used:

- CPA (Community Plan Amendment)
- ZC (Zone Change)
- DEV (Development Review)
- SUB (Subdivision)
- DA (Development Agreement)
- P&Z (Planning and Zoning Commission)
- CC (City Council)
- PH (public hearing)
- WS (Work Session)
- Zoning District Abbreviations
 - PD (Planned Development)
 - C-1 (General Commercial)
 - RM-2 (Multifamily Residential, Medium High Density, 12 units per acre)
 - RS-36 (Single Family Residential, Minimum lot size of 36,000 square feet)

Application	Applicable Parcels	P&Z Meeting Dates	CC Meeting Dates
CPA 94-3	401-14-064, -065, -075, -163, -164	January 18, 1994 (PH, recommended approval)	March 22, 1994 (PH, approved)
	Summary: CPA to redesignate property from Multi-family Medium and High Density to General Commercial/Lodging (-075) and Open Space Preservation/Conservation (remainder of parcels)		
CPA96-3 ZC95-7	401-08-002A, -006 401-09-001A, -001B, -001C, -004 401-13-017, -019, -059 401-14-015, -016, -017, -018A, -064, -065, -075	March 5, 1996 (conceptual review, recommended denial of CPA, continued ZC) July 2, 1996 (PH, continued to allow for modifications to proposal) August 15, 1996 (WS) August 20, 1996 (PH, recommended approval of ZC)	October 22, 1996 (granted 60 day continuance) November 26, 1996 (consent, sent modified development plan back to P&Z) **Project did not proceed
	Summary: ZC from C-1, RM-2, and RS-36 to PD PD contained design guidelines, formal DEV was to come at a later date. The PD allowed for the following: <ul style="list-style-type: none"> • 276 lodging units • 60,000 square feet of retail/office space • 26,000 square feet of restaurant space • 7 acre public park CPA only applied to a portion of the project, would have redesignated an area from Single-family Low Density to Commercial/Lodging. Staff recommended denial of the CPA and this request was ultimately withdrawn and the area was added to the public park. After P&Z recommendation of approval, one of the properties involved (401-14-018A) withdrew authorization, applicant was given time to amend proposal to remove this parcel, the project ended up being dropped.		

Application	Applicable Parcels	P&Z Meeting Dates	CC Meeting Dates
ZC98-3 DEV98-4 CPA98-2 O1998-15 R 1998-38	401-08-002A, -006 401-09-001A, -001B, -001C 401-13-059 401-14-015, -016, -017, -064, -065, -075	February 3, 1998 (Conceptual) May 5, 1998 (PH, recommended approval)	June 23, 1998 (PH, approved, ORD 98-15)
<p>Summary: ZC from C-1, RM-2, and RS-36 to PD; DEV and CPA applications withdrawn, only ZC went to public hearing/was approved.</p> <p>The PD allowed for the following:</p> <ul style="list-style-type: none"> • 195 timeshares, all with double lockout suites • 12 apartments • 56,680 sf retail • 25,087 sf restaurant (including 3,287 microbrewery) • 6,160 sf outdoor dining space • 17,777 sf clubhouse • 194 space parking structure • 150 seat outdoor amphitheater • 7 acre park with 2,000 feet creek frontage 			
DEV99-3	401-14-014, -016, -017, -064, -065, -075	March 2, 1999 (PH, continued) March 11, 1999 (WS) March 16, 1999 (PH, approved)	
<p>Summary: The Cliffs at Oak Creek Phase 1, including:</p> <ul style="list-style-type: none"> • 30 timeshare units, all with double lockout suites • 15,000 sf retail • 8,600 sf restaurant • 224 space parking structure (reduced to 171) <p>Building permits for this development were submitted July 1999, approved by building in January 2000 & planning "some months later"; all building permits expired before construction began.</p>			
ZC2004-1 SUB2004-1 DEV2004-1 O2005-05 R2005-13	401-08-002A, -006 401-09-001A, -001B, -001C 401-13-059 401-14-015, -016, -017, -064, -065, -075	October 21, 2004 March 15, 2005 (PH, approved) DEV, recommended approval of ZC, SUB, and DA	April 26, 2005 (PH, approved), zoning contingent on building permits being issued within 2 years
<p>Summary: The Preserve at Oak Creek Hillside Development (west of 89A)</p> <ul style="list-style-type: none"> • 2.5 acres • 6 buildings and associated parking • 107 parking spaces • 17,973 sf spa • 7,668 sf botanical reserve • 6 units affordable housing • 27 timeshares <p>Creekside Development (east of 89A)</p> <ul style="list-style-type: none"> • 18.5 acres • 8 acres west of the creek; no habitable buildings; future public park • 111 timeshares • 19,876 sf resort amenity space (restaurant, lounge, sales & administration offices, children's camp, fitness room/gym) and a viewing platform • 269 parking spaces 			

Application	Applicable Parcels	P&Z Meeting Dates	CC Meeting Dates
CPA2005-5 ZC2005-7 DEV2005-12 SUB2005-19	401-08-002A, -006 401-09-001A, -001B, -001C 401-13-059 401-14-015, -016, -017, -064, -065, -075	December 6, 2005 (PH, approved DEV, recommended approval on other applications)	February 14, 2006 (PH, approved) zoning contingent on building permits being issued within 2 years
O2006-04 R2006-10 R2006-09 Community Plan Minor Amendment	<p>Summary: The Preserve at Oak Creek, amended previous approval (April 26, 2005 CC approval)</p> <p>CPA: Minor amendment from Commercial/Lodging to Multifamily Medium and High Density Residential</p> <p>ZC: Amendment to site plan (see below)</p> <p>SUB: Preliminary Plat approval</p> <p>DEV: Phase 1 (Hillside Development)</p> <ul style="list-style-type: none"> • Overall amendments <ul style="list-style-type: none"> ○ 138 timeshares to 158 condominiums ○ 6 affordable rental units @ 100% AMI to 12 affordable for sale units @ 100-150% of AMI <ul style="list-style-type: none"> ▪ Phase 1 (Hillside) <ul style="list-style-type: none"> • 28 timeshares to 32 condominiums • 6 affordable units to 6 affordable offsite units • 16,065 sf spa to no spa ▪ Phase 2 (East of Highway) <ul style="list-style-type: none"> • 59 timeshares to 69 condominiums • 21,438 sf of offices and children's camp to nothing • Pool stayed ▪ Phase 3 (Creekside) <ul style="list-style-type: none"> • 51 timeshares to 57 condominiums • 6 new affordable offsite units • Stayed the same: Preserve Jordan well house and Jordan preserve and open space 		
TE2008-1	401-08-002A, -006 401-09-001A, -001B, -001C 401-13-059 401-14-015, -016, -017, -064, -065, -075	February 28, 2008 (WS) March 4, 2008 (PH)	April 22, 2008 (PH, approved by motion of Council)
Summary: The Preserve at Oak Creek, Time Extension for ZC2005-7, DEV2005-12, and SUB2005-19 New expiration date March 14, 2010			