



City of Sedona Wastewater Fund

Wastewater Rate Increases Q&A

Why does the City need to increase Wastewater rates?

- The City of Sedona wastewater department has experienced an increase in operating costs in wastewater collections and treatment. Price increases in materials, operating supplies, labor, contracted work, and lab testing have resulted in a 22% increase over the last 6 years.
- Factors contributing to these increased costs include inflationary cost increases, repairs and/or upgrades to aging infrastructure, and additional regulatory requirements.
- Cash flow statements for fiscal years ended June 30, 2022, and 2023 show deficits of \$1.4M and \$2M respectively.
- The Wastewater plant has been receiving annual City sales tax subsidies since 1989 totaling approximately \$136M as of fiscal year 2023.

When was the last Wastewater rate increase?

- The last rate increase was in July of 2017.
- A rate study in 2019 resulted in a restructuring of capacity fees, but there was no change to monthly rates.
- At the March 26, 2019 City Council regular meeting, after reviewing a presentation of the study, by majority consensus, Council directed staff and the consultants not to increase rates until 2025 assuming no significant changes in financial needs.
- Since that time, there have been multiple major economic changes that would potentially impact the findings of a new rate study.

What is a low flow toilet and how does it factor into billing?

- In 2011, the City implemented a new discounted low flow rate for residents.
- To qualify for the low flow rate the toilets in the residence must use 1.6 gallons of water per flush or less.
- All toilets produced in the United States after 1994 are low flow and use no more than 1.6 gallons of water per flush.
- Residents verify that they have low flow toilets by checking the stamp between the seat and the tank and providing the information to the wastewater billing department. This stamp will read a date of 1994 or later or will state 1.6 GPF (gallons per flush).

Can the future rate structure utilize water consumption data from the private water companies as a basis for the wastewater rate?

- Yes, the City can partner with Arizona Water Company and Oak Creek Water Company to utilize water consumption data as a basis for the monthly wastewater rates.
- Staff have been moving forward by creating options; one example is the recently signed Data Sharing Agreement with Arizona Water Company.
- Utilizing water consumption data is a complex matter, considering uses such as irrigation systems, water fixtures, pools, and other non-contaminated water sources that do not flow into the City sewer system as well as additional water meters that may be required to differentiate the usage.
- A new wastewater rate study will involve subject matter experts to assist City staff with determining the best path forward.

How are private wastewater systems in HOA's that connect to the City's conveyance and treatment-discharge system charged?

- Individual property owners are required to pay the same rates for service in these instances as everyone else.
- These systems connect to the overall City collection system and the City incurs the same costs to collect, transport, and treat all sanitary sewer originating from within the subdivision boundaries.
- Any adjustments to the standard rate based on the minimal length of privately owned sewer lines in comparison to the overall system would be negligible.
- Sewer rates are established to provide for an equitable contribution to the operation and maintenance of the City's wastewater and collection treatment system. The rates are determined through extensive rate studies that take into account operational costs, capital improvements, expansion of sewer service, repairs, and depreciation of the infrastructure.



Thank you for helping us achieve our goal of a self-sustaining
Wastewater enterprise fund



DUTCHMAN'S COVE

Reversion to Former
Zoning Classification

Meet our Team

DEVELOPER

**DUTCHMAN'S COVE
LLC**

**MIKE STEVENSON
JENNIFER MAY
COLLEEN TEBRAKE**

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SEDONA, AZ, 86336

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**BOYLE, PECHARICH,
CLINE, WHITTINGTON
& STALLINGS, PLLC**

STEPHEN POLK, ESQ.

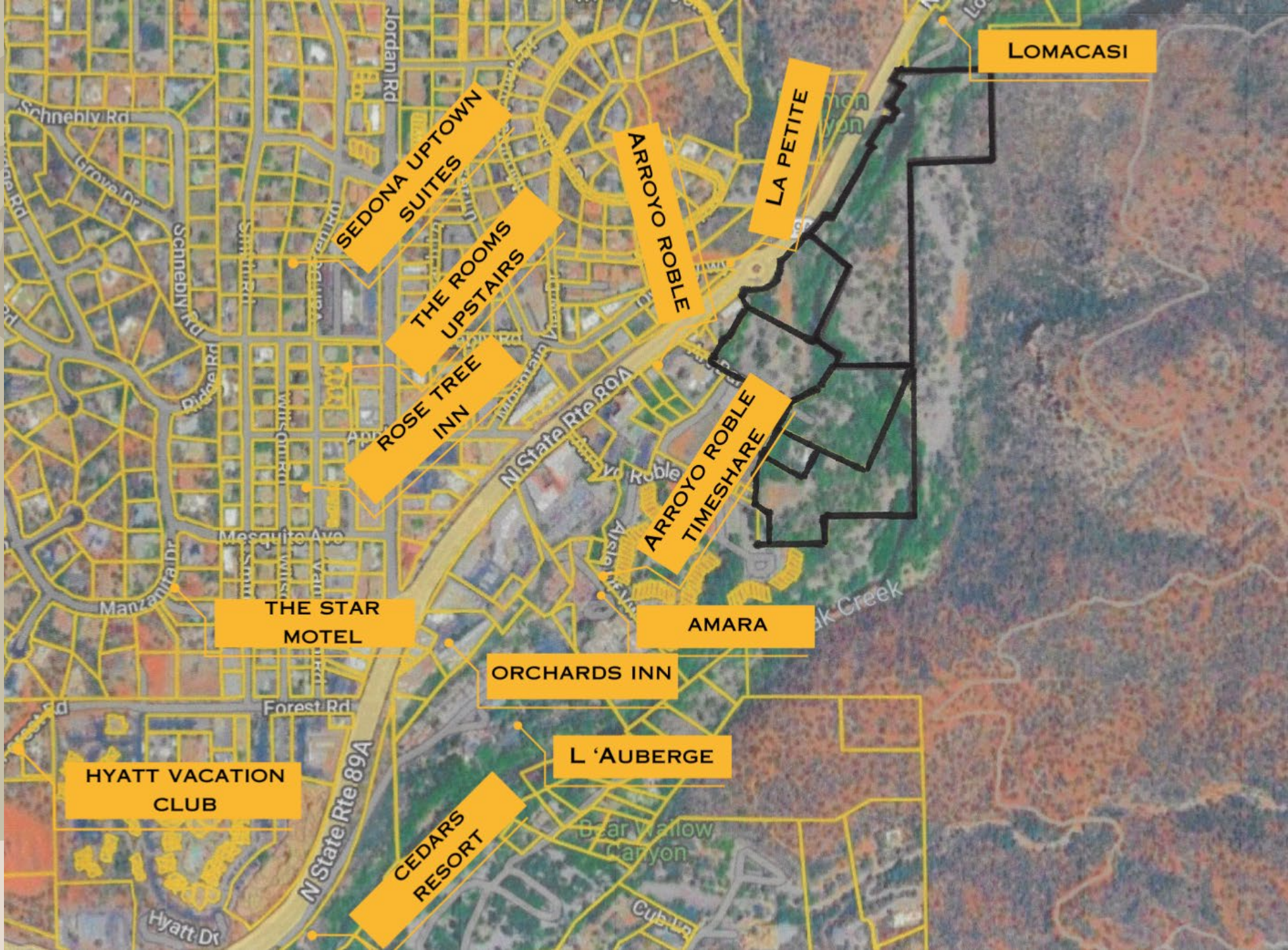
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PRESCOTT, AZ 86301

LEGAL

SNELL & WILMER, LLP

**NICHOLAS J. WOOD,
ESQ.**

ONE EAST WASHINGTON STREET |
SUITE 2700 | PHOENIX, AZ 85004



LOMACASI

SEDONA UPTOWN SUITES

THE ROOMS UPSTAIRS

ARROYO ROBLE

LA PETITE

ROSE TREE INN

ARROYO ROBLE TIMESHARE

THE STAR MOTEL

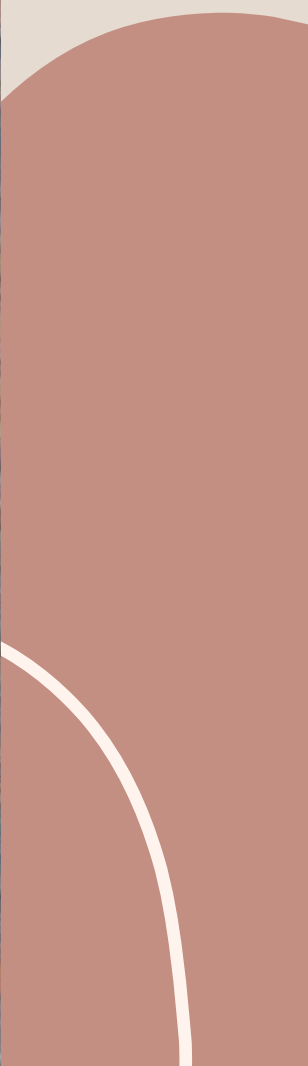
AMARA

ORCHARDS INN

HYATT VACATION CLUB

L 'AUBERGE

CEDARS RESORT



Why City- Initiated Zoning Reversion?

- Development schedule expired in 2010
- Nothing can be built on the property
- ARS 9-462.01(E) requires Council to schedule a public hearing to extend or revert the zoning

City Code does not allow 2nd extension

- Development schedule set to expire March 14, 2008
- Extended to March 14, 2010
- LDC § 400.11(3):

“A conditional rezoning may be extended **only one time** for an additional prescribed time period to be recommended by the Planning and Zoning Commission and determined by the Council in a public hearing.”

Property History

- Annexed into City in 1988 as CG-10,000
- 1995 – C-1
 - Did not limit lodging to 6 units per parcel
 - Restricted by maximum lot coverage
- 12/22/1997 – The Cliffs (timeshares)
- 4/26/2005 – The Preserve (timeshares)
- 2/14/2006 – The Preserve (condos)

Former zoning classification is C-1 as of December 22, 1997

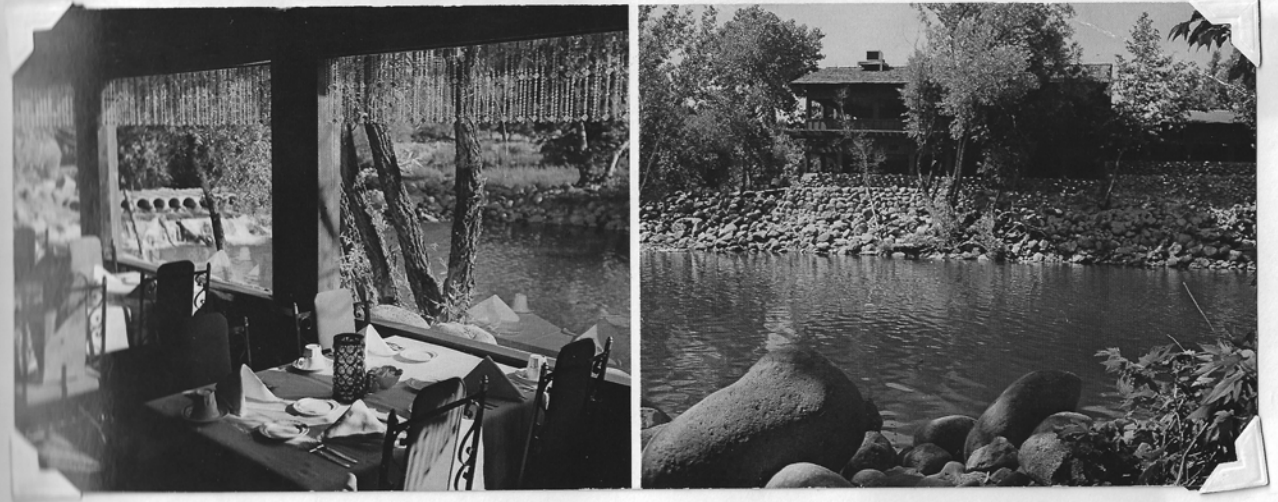
Family History of the Property

1911 – John
Stevenson (father of
Mike Stevenson) &
family move to
Arizona

1966 - John purchased
the property

Constructed the
Dutchman's Cove
Restaurant

The Dutchman's Cove Restaurant 1970-71



Kathy - Marion - Pat and Betty Stevenson (Jenny's in THE OVEN !!)



SAME SCENE AS ABOVE LEFT.

Family History of the Property

- 1969 – Mike Stevenson & family move to the property
- 6 month-old Colleen
- Jennifer born 1 year later





LEGAL

Nicholas J. Wood, Esq.
SNELL & WILMER, LP

Case Number: PZ24-00008

City Council Meeting
8.13.24

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Aerial Map





8. REGULAR BUSINESS

- a. **AB 3089 Public Hearing/possible action** regarding a request for the Sedona City Council to take administrative action to extend or remove the schedule for development or take legislative action to cause the property to revert to its former zoning classifications. The property is currently zoned PD (Planned Development) - The Preserve at Oak Creek Condominiums and is located on both sides of N State Route 89A in the area generally surrounding the Owenby Way Roundabout. APN 401-08-002A; 401-08-006A; 401-09-001A; 401-09-001B;

A.R.S. § 9-462.01.E

E. The legislative body may approve a change of zone conditioned on a schedule for development of the specific use or uses for which rezoning is requested. If, at the expiration of this period, the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

Zoning Condition #2 (1998)

Conditions of Approval -- The Cliffs at Oak Creek -- ZC98-3 As Revised by the Planning and Zoning Commission, May 5, 1998

2. In the event that the developer fails to obtain Development Review approval for Phase 1 of the project and building permits for the Phase 1 development within the time frames set forth in Section 2.1 of the Development Agreement, **the City may revert** the PD zoning designation to its original zoning as of the date of approval of the PD (C-1, RS-36 and RM-2) pursuant to the procedures set forth in Title 9, Chapter 4, Arizona Revised Statutes.

the City may revert

Zoning Condition #2 (2006)

CONDITIONS OF APPROVAL

The Preserve at Oak Creek Condominium project
(CPA2005-5, ZC2005-5 and SUB2005-15)
Hillside Development -- DEV2005-12

2. Vesting of the PD (Planned Development) zoning designation shall be contingent upon the applicant obtaining building permits for the first phase of development, i.e. the Hillside buildings (Buildings A through C-3). In accordance with Section 401.12A-1 of the City's Land Development Code a valid building permit for the project shall be issued and the first phase of the project shall be under construction within two years of the City Council action on the PD amendment following zone change procedures (i.e. by [insert date]), or the Commission's and Council's approval will become void. Construction of the remaining phases of the project in the Creekside Development shall only commence following separate development review approval by the Planning and Zoning Commission. The buildings in Phase 3 shall be designed to ensure as much as possible the preservation of mature and healthy trees.

Council's approval will become void.

Issue 1: The conditional PD Zoning Approval is VOID as a matter of law, therefore it cannot be resurrected.

The conditional zoning was approved and terminated legislatively and cannot now be resurrected.

Zoning Condition 1 (2006)

CONDITIONS OF APPROVAL

**The Preserve at Oak Creek Condominium project
(CPA2005-5, ZC2005-5 and SUB2005-15)
Hillside Development -- DEV2005-12**

1. Development of the subject property shall be in substantial conformance with the applicant's representations of the project, including the letter of intent, preliminary site plan and supporting architectural plans, landscape plans, grading plans etc., as reviewed, modified, and approved by the Planning and Zoning Commission and City Council.

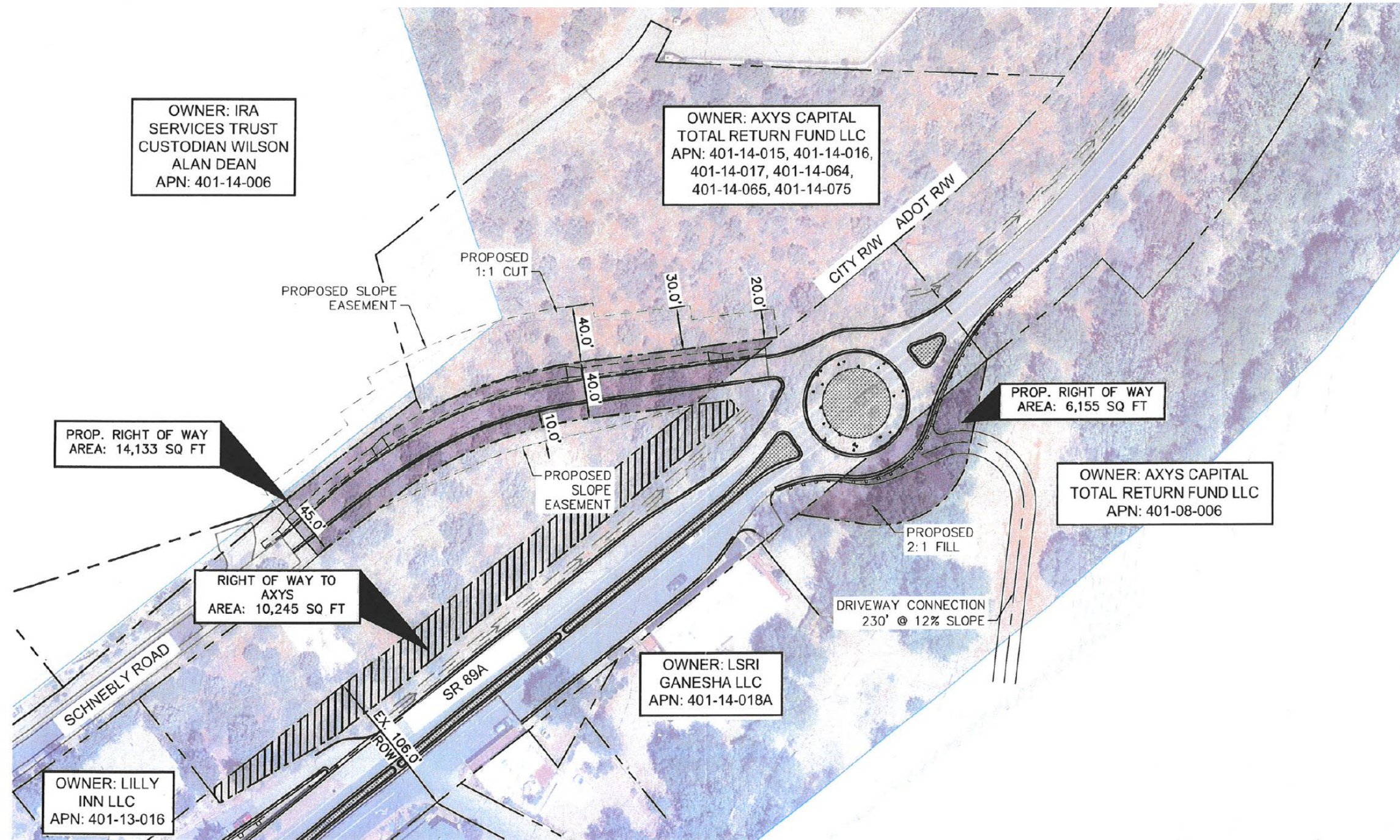
Master Site Plan 2006 PD Zoning Case



2019 Development Agreement

RESOLUTION NO. 2019-20

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT WITH AXYS CAPITAL TOTAL RETURN FUND, LLC, FOR THE UPTOWN ROADWAY IMPROVEMENTS PHASE OF THE SEDONA IN MOTION (SIM) PROJECT.



Kimley»Horn

UPTOWN SEDONA

PROPOSED RIGHT OF WAY

AUGUST 2, 2019

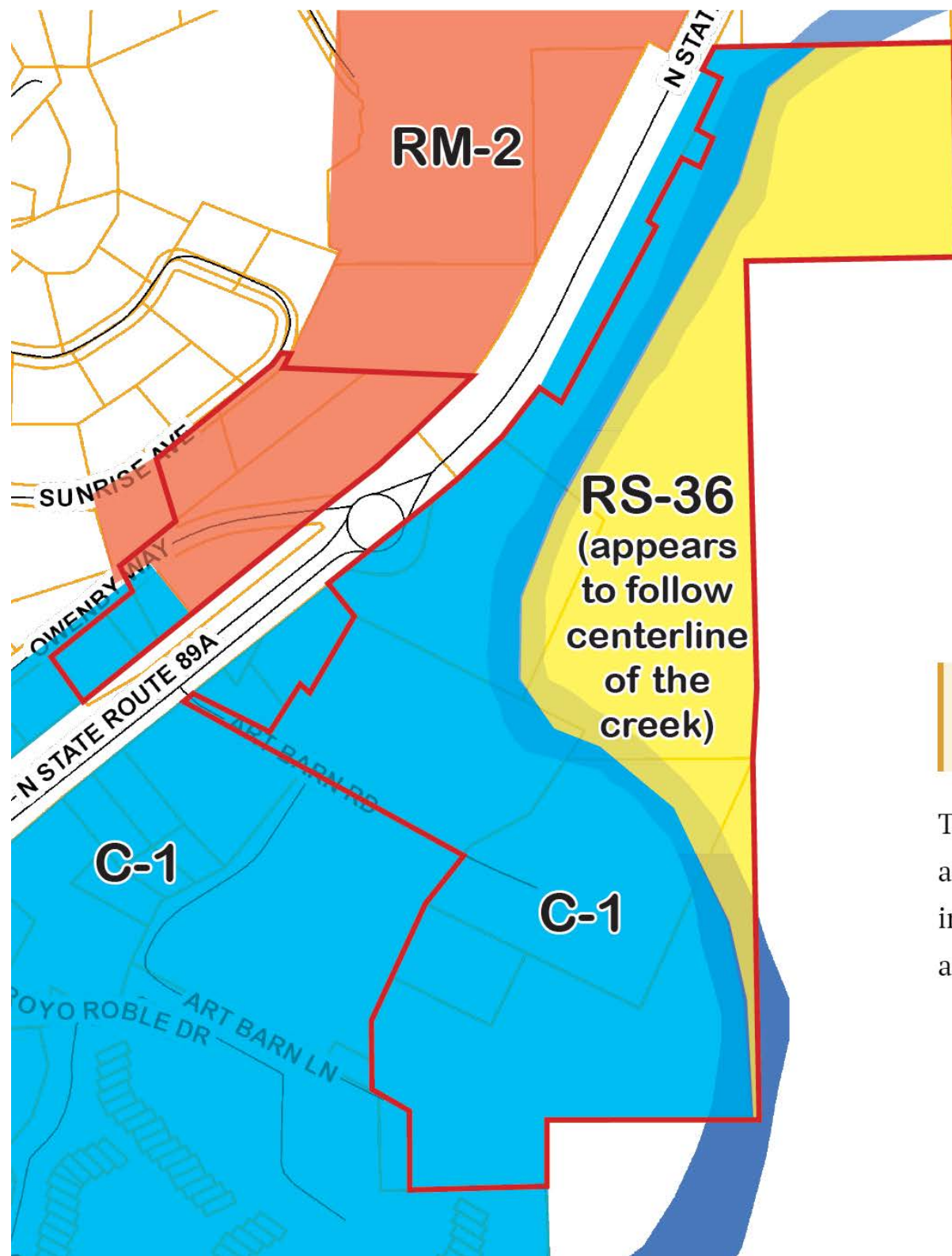


Dedicated Right-of-Way Overlaid on 2006 Master Site Plan

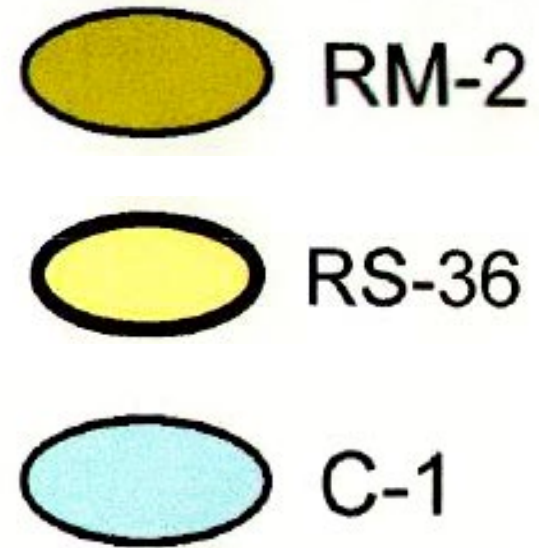


Issue 2: The conditional PD Zoning Approval is subject to a condition requiring compliance with a specific site plan which cannot be implemented due to the roadway taking.

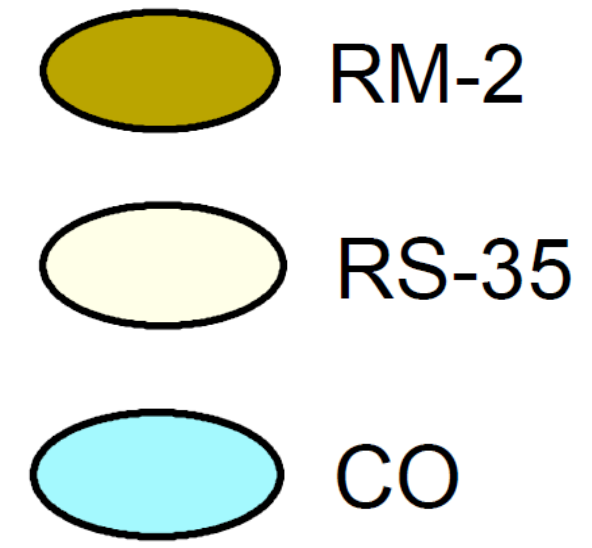
1995 Zoning Map at Time of Conditional Approvals



1995 Districts



2018 Districts



B. Adoption of Existing Conditions of Approval



This Code adopts and incorporates by reference the stipulations and conditions from particular development approvals in effect under the 1995 Land Development Code (as amended). The Code further adopts and incorporates by reference all development plans, use permits, variances, stipulations, and conditions that currently apply to any parcel prior to the date of adoption of this Code.

1998 Approval – Resolution 98-38

***17 ZC 98-3**

Section 2: Zoning Map.

The zoning map shall be amended to reflect this zone change upon completion of all zoning conditions as set forth in Exhibit A attached hereto and made a part hereof by this reference, and at least three (3) copies of the map shall be kept in the office of the City Clerk for public use and inspection.

2005 Approval – Resolution 2005-13

***43 ZC 2005-7**

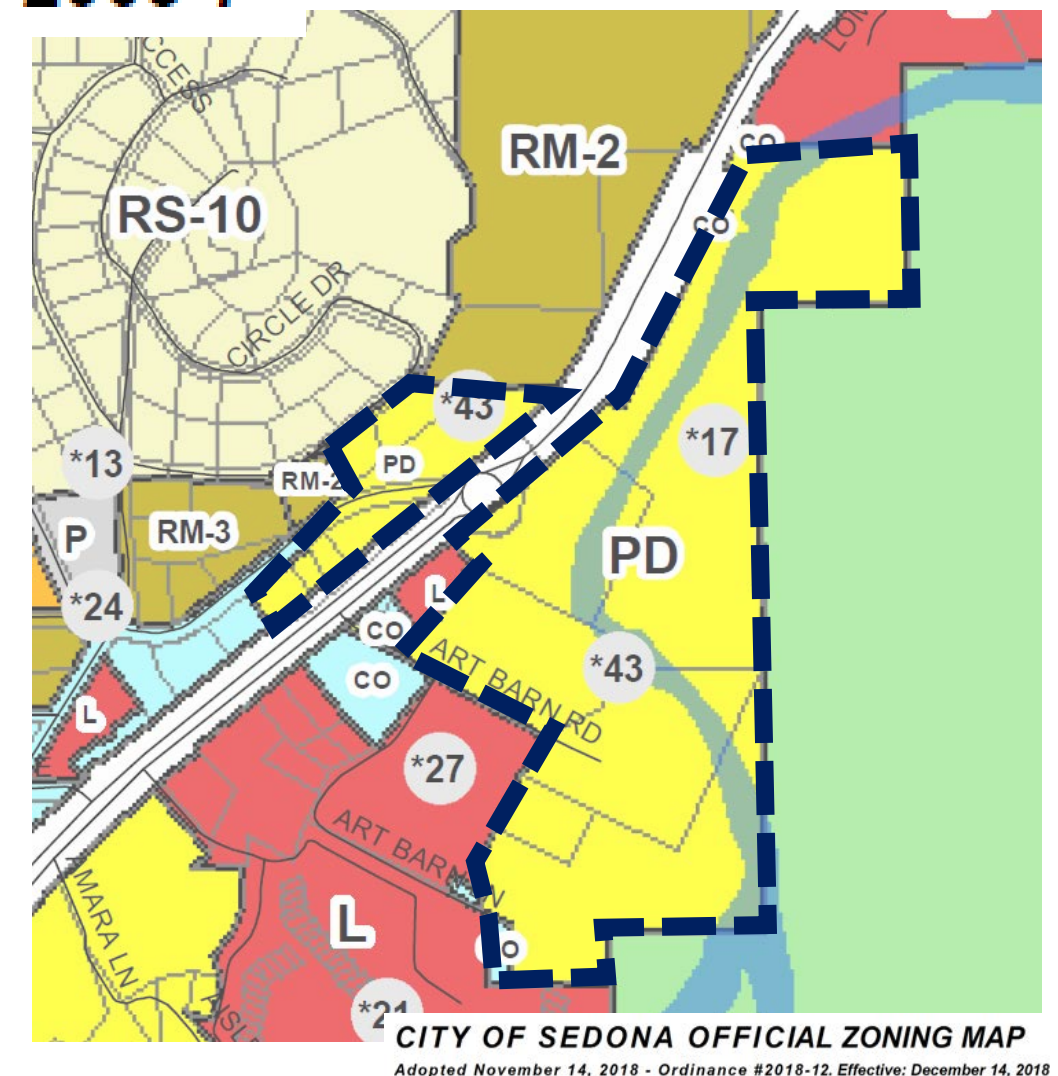
RESOLUTION NO. 2005- 13 (Rezoning Ordinance as Public Record)

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ESTABLISHING AS A PUBLIC RECORD THE TERMS OF THAT CERTAIN ORDINANCE OF THE CITY OF SEDONA, ARIZONA; AMENDING THE ZONING DESIGNATION FOR THAT PROPERTY DESCRIBED HEREIN FROM PD (PLANNED DEVELOPMENT) TO PD (PLANNED DEVELOPMENT) WITH AN AMENDED SITE PLAN; DIRECTING THE AMENDMENT OF THE ZONING MAP UPON COMPLETION OF ALL ZONING CONDITIONS SET FORTH HEREIN; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

2006 Approval – Resolution 2006-10

RESOLUTION NO. 2006-10 (Rezoning Ordinance as Public Record)

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ESTABLISHING AS A PUBLIC RECORD THE TERMS OF THAT CERTAIN ORDINANCE OF THE CITY OF SEDONA, ARIZONA; AMENDING THE ZONING DESIGNATION FOR THAT PROPERTY DESCRIBED HEREIN FROM PD (PLANNED DEVELOPMENT) TO PD (PLANNED DEVELOPMENT) WITH AN AMENDED SITE PLAN; DIRECTING THE AMENDMENT OF THE ZONING MAP UPON COMPLETION OF ALL ZONING CONDITIONS SET FORTH HEREIN; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.



Issue 3: The conditional PD Zoning Approval was subject to specific conditions and not lawfully mapped.

The site retains its C-1 (now CO with 2018 Zoning Code Update) zoning classification.

April 25, 2023 - LDC Amendment to C-O Zoning District

Ordinance No. 2023-03

EXHIBIT A: P223-00002 (LDC)

April 25, 2023: Land Development Code Revisions

Article 1 – General Provisions:			
Section	Current Language	Proposed Change	Notes
<u>1.6.B(3): Maintenance and Minor Repair</u>	New subsection	Minor repairs and maintenance of nonconformities are permitted and encouraged; provided, that the repairs and maintenance do not increase the degree of nonconformity. Minor repairs and maintenance include the following: e. <u>Repainting less than 50% of the exterior of the structure.</u>	Require repainting a compliant color if more than 50% of the house is repainted. Choosing a compliant color vs. repainting the same color should not have a cost difference and moves towards compliance with LDC requirements. See additional changes to Section 5.7.B(3)a.
<u>1.6.D: Nonconforming Structures</u>	New subsection	Nonconforming structures are subject to the following additional limitations: 5) <u>When 50% or more of a structure is being painted, the color shall be in full conformance with the standards of subsection 5.7.F(5)</u>	Require repainting a compliant color if more than 50% of the house is repainted. Choosing a compliant color vs. repainting the same color should not have a cost difference and moves towards compliance with LDC requirements. See additional changes to Section 5.7.B(3)a.
Article 2 – Zoning Districts:			
Section	Current Language	Proposed Change	Notes
<u>2.24.D(4), Table 2.6: Exceptions to Setback Requirements</u>	Exception for Ground-mounted solar and geothermal equipment	Add “Rainwater harvesting tanks” to exception	Allow rainwater harvesting tanks to have the same standards as solar.
Article 3 – Use Regulations:			
Section	Current Language	Proposed Change	Notes
<u>3.2.E: Table of Allowed Uses</u>	“School, Vocational or Trade” not currently listed as a permitted use	“School, Vocational or Trade” as a permitted use in M2, M3, CO, IN, and L	The LDC currently has separate parking requirements and definitions for “School, Public or Private” and “School, Vocational or Trade.” However, “School, Vocational or Trade” is not listed as a permitted use.
<u>3.2.E: Table of Allowed Uses</u>	“Lodging, Fewer than Seven Units” currently listed as a permitted use in M1, M2, M3, CO, L, and OC	Remove “Lodging, Fewer than Seven Units” as a permitted use in any zone	This has caused properties to try to get around the requirements of the Lodging zone by splitting properties into smaller properties and constructing up to 6 lodging units per property. Removal of this as a permitted use ensures that all lodging projects are treated equally and reviewed using the same process.

12-1134. Diminution in value; just compensation

F. Any demand for landowner relief or any waiver that is granted in lieu of compensation runs with the land.

I. Nothing in this section prohibits this state or any political subdivision of this state from reaching an agreement with a private property owner to waive a claim for diminution in value regarding any proposed action by this state or a political subdivision of this state or action requested by the property owner.

Issue 4: The property's CO zoning was amended in 2023 to remove "Lodging, Fewer than Seven Units" which is a violation of A.R.S. § 12-1134 and a waiver of the 2023 amendment is necessary for City to avoid a takings claim.

Council Actions:

1. Take no legislative action to revert the conditional PD zoning approval because there is nothing to revert as it expired March 14, 2010 and is void.
2. Take no administrative action to extend the time periods of the conditional PD zoning approval because (i) its void and (ii) it is impossible to comply with the conditions of approval.
3. Direction to Staff via Resolution finding that the conditional PD zoning approval is void as March 14, 2010 and directing Staff to correct the improperly modified Zoning Map to show the Site's legal zoning classification of C0.

Case Number: PZ24-00008

City Council Meeting
8.13.24

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PRESERVE AT OAK CREEK

CITY COUNCIL HEARING

AUGUST 13, 2024

DEVELOPMENT APPLICATION HISTORY (CONT'D)

- 1994: Community Plan Amendment to redesignate property from Multi-family Medium and High Density to General Commercial/Lodging and Open Space Preservation/Conservation
 - Application Approved
- 1995/1996: Application to rezone entire property to PD for lodging, retail/office, restaurant, and public park.
 - Application Withdrawn

DEVELOPMENT APPLICATION HISTORY (CONT'D)

- 1998: Zone Change to rezone property to PD from timeshares, apartments, retail, restaurant, outdoor dining, clubhouse, parking structure, amphitheater, public park.
 - Application Approved
- 1998: Development Review application for 1st phase of PD (above) for timeshares, retail, restaurant, parking structure
 - Application Approved
 - Building permits approved in 2000
 - Permits expired before construction began

DEVELOPMENT APPLICATION HISTORY (CONT'D)

- 2004: Zone Change, Subdivision, and Development Review application to amend PD: timeshares and resort amenities, affordable housing, spa, parking structures, botanical reserve
 - Application approved in 2005, building permits required to be issued within 2 years
- 2006: Community Plan Amendment, Zone Change, Subdivision, and Development Review to amend 2004 approval to convert timeshares to condominiums, increase affordable housing
 - Application approved in 2006, building permits required to be issued within 2 years
- 2008: Time Extension request for 2006 approvals
 - Request approved, new expiration date of March 14, 2010

NEXT STEPS

- Options are outlined in Agenda Bill
- Community Development and City Attorney staff are available for questions