

MARANA ORDINANCE NO. 2015.003

RELATING TO DEVELOPMENT; AMENDING MARANA ORDINANCE NO. 2002.19, WHICH REZONED APPROXIMATELY 61.2 ACRES OF LAND LOCATED ON THE WEST SIDE OF SILVERBELL ROAD, SOUTH OF INA ROAD FROM ZONE R-144 TO R-16, BY INCREASING THE MAXIMUM NUMBER OF RESIDENTIAL UNITS FROM 41 TO 56, INCREASING THE TOTAL SITE DISTURBANCE FROM 30% TO 37%, AND MAKING VARIOUS OTHER MODIFICATIONS

WHEREAS Fidelity National Title Trust 60204 and its beneficiary C & C Construction (collectively the "Property Owners") own the Ina & Silverbell subdivision recorded in the office of the Recorder of Pima County, Arizona on May 11, 2006 in Book 61 of Maps and Plats at Page 20, Sequence 20060910729, consisting of a gross area of 58.78 acres of land (the "Rezoning Area"); and

WHEREAS the Mayor and Council of the Town of Marana adopted Marana Ordinance No. 2002.19 on September 17, 2002, recorded in the office of the Pima County Recorder on September 27, 2002 at Docket 11894, Page 5220, Sequence 20021880958 ("the Original Rezoning Ordinance"); and

WHEREAS the Original Rezoning Ordinance rezoned the Rezoning Area from R-144 (single family residential, minimum lot size 144,000 sq. ft.) to "R-16" (single family residential, minimum lot size 16,000 sq. ft.), subject to certain conditions set forth in the Original Rezoning Ordinance; and

WHEREAS the Property Owners have submitted an application to modify the conditions of rezoning set forth in the Original Rezoning Ordinance; and

WHEREAS the Marana Planning Commission held a December 17, 2014 public hearing on Property Owners' application to modify the rezoning conditions, and voted 5 to 1 with one Commissioner absent to recommend that the Town Council amend the rezoning conditions as modified and supplemented by the Commission based on feedback from the Property Owners, the public, Town staff, and the Coalition for Sonoran Desert Protection; and

WHEREAS the Marana Town Council held a January 20, 2015 public hearing on Property Owners' application to modify the rezoning conditions and determined that the requested application should be approved subject to certain amendments.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Marana, Arizona, as follows:

Section 1. The rezoning adopted by the Original Rezoning Ordinance and amended by this ordinance is referred to as "this Rezoning."

Section 2. The conditions of rezoning set forth in the Original Rezoning Ordinance are hereby replaced with the following conditions of rezoning, the violation of which shall be treated in the same manner as a violation of the Town of Marana Land Development Code (but which shall not cause a reversion of this Rezoning), and which shall be binding on the Property Owners and their successors in interest (all of whom are collectively included in the term “Property Owners” in the following conditions):

1. Compliance with all applicable provisions of the Town’s Codes and Ordinances current at the time of any subsequent development including, but not limited to, requirements for public improvements and payment of application fees and applicable development impact fees.
2. Any preliminary plat or development plan for any portion of the Rezoning Area shall be in substantial conformance with the tentative development plan (shown as “Exhibit A” attached to and incorporated by this reference in this ordinance) presented to and approved by the Town Council as part of this Rezoning.
3. A master drainage study must be submitted by the Property Owners and accepted by the Town Engineer prior to Town approval of a preliminary plat or development plan for any portion of the Rezoning Area.
4. The Property Owners shall design and construct a continuous left-turn lane along the entire frontage of the Rezoning Area. The design shall be subject to approval by the Town Engineer.
5. A water infrastructure and phasing plan (WIP) must be submitted by the Property Owners and accepted by the water provider prior to approval of a preliminary plat for any portion of the Rezoning Area. The WIP shall identify all on-site and off-site water facilities needed to serve the proposed development. The WIP shall include all information required by the water provider, such as (but not limited to) analysis of water use and fire flow requirements, and well source, reservoir, and booster station infrastructure needed to serve the proposed development. If the water provider requires a water service agreement as a condition of service to the proposed development, the Property Owners must enter into a water service agreement with the water provider consistent with the accepted WIP.
6. A master sewer plan must be submitted by the Property Owners and accepted by Pima County Regional Wastewater Reclamation Department (the “wastewater utility”) prior to the approval of any final plat or development plan for the Rezoning Area. The master sewer plan shall identify all on-site and off-site wastewater facilities needed to serve the proposed development, and shall include all information required by the wastewater utility. If the wastewater utility requires a sewer service agreement as a condition of service to the proposed development, the Property Owners must enter into a sewer service agreement with the wastewater utility consistent with the accepted master sewer plan.
7. The Property Owners must design and construct any roadway, drainage, water, and wastewater improvements, and dedicate or acquire any property rights associated with those improvements, that the Town requires based on the data and findings of the accepted traffic impact analysis, the accepted master drainage study, the accepted WIP, the accepted master sewer plan, and other studies approved in connection with the approval of a preliminary plat or development plan for any portion of the Rezoning Area.

8. The final design of all streets and circulation facilities, including any gated or emergency access, must be accepted by the Northwest Fire District prior to Town Council consideration of a final plat for any portion of the Rezoning Area.
9. The Rezoning Area shall be limited to a maximum of 56 lots, laid out in substantial conformance with the tentative development plan attached as Exhibit A. Site disturbance in the Rezoning Area shall not exceed 37% or 948,000 square feet.
10. No approval, permit or authorization by the Town of Marana authorizes violation of any Federal or State law or regulation or relieves the Property Owners from responsibility to ensure compliance with all applicable federal and state laws and regulations, including the Endangered Species Act and the Clean Water Act. The Property Owners should retain appropriate experts and consult appropriate Federal and State agencies to determine any action necessary to assure compliance with applicable laws and regulations.
11. The Property Owners shall transfer to Marana, by the appropriate Arizona Department of Water Resources form, those water rights being IGR, Type I or Type II for the Town providing designation of assured water supply and water service to the Rezoning Area. If Type I or Type II is needed on the Rezoning Area, the Town and the Property Owners shall arrive at an agreeable solution to the use of those water rights appurtenant to the affected portion of the Rezoning Area.
12. Prior to the issuance of any grading permits, the Property Owners shall submit evidence to the Town that all federal permit requirements have been met through the Army Corps of Engineers and the State Historic Preservation Office, if federal permits are required for the development of the Rezoning Area.
13. The Property Owners shall not cause any lot split of any kind without the written consent of the Town of Marana.
14. The Property Owners shall provide the necessary authorization and documentation from the Western Area Power Administration (WAPA) with the subsequent plat submittal.
15. All open space easements and wildlife corridors shall be left entirely undisturbed and in their natural desert state, except for necessary utility installations, which shall be revegetated. All such easements and corridors shall be dedicated to the appropriate entity, acceptable to the Town and at a time acceptable to the Town. All utilities shall be underground, and all utility trenches shall be revegetated to be identical with the surrounding desert with the exception of the overhead electric WAPA easement which shall be to WAPA specifications.
16. Lots 4-12, 19-40, and 46-56 as designated on Exhibit A are restricted to one story and a maximum height of 20 feet. Two story homes are permitted on Lots 1-3, 13-18, and 41-45 as designated on Exhibit A.
17. The preliminary plat for the Rezoning Area shall establish a minimum lot size of 16,000 square feet, with a maximum graded pad envelope of 10,000 square feet, including driveways, but not including utility installations. Pad envelopes will be graded individually. The 58.78 acre Rezoning Area parcel will not be mass graded.
18. There shall be no connectivity between Waycross Road, Martingale Lane, Bridle Way, or Abington Lane and any access point, right of way, road, or lot within the Rezoning Area.

19. Any grading within areas of 15% or greater slopes for driveways, walls, or other utilities shall be minimized and require approval by the Town Engineer.
20. There shall be a 120-foot “No Disturbance” bufferyard along the southern boundary of the Rezoning Area (as identified on Exhibit A).
21. There shall be a 100-foot “No Disturbance” bufferyard along the western boundary of the Rezoning Area (as identified on Exhibit A).
22. The Property Owners, through the Town of Marana’s normal notification process, shall notify the impacted parties, as specified in Exhibit B attached to and incorporated by this reference in this ordinance, if any request is made to modify, eliminate, or add to the conditions listed in this ordinance.
23. The minimum width of the two designated wildlife corridors shall be 200 feet and, where possible, revegetation shall occur in disturbed areas beyond the 200-foot minimum width.
24. These conditions in their entirety, and all associated attachments, shall apply to the current proposal and to any and all subsequent proposals regarding development, subdivision, or rezoning of the Rezoning Area.
25. This Rezoning is subject to the Residential Design Standards found in the Marana Land Development Code as amended from time to time.
26. The Property Owners agree to enter into a finance contract establishing their contribution for schools. The Property Owners shall provide written documentation that an agreement with the Marana Unified School District is completed prior to the issuance of the first single-family residential building permit for the Rezoning Area. A receipt of payment shall be provided with each individual residential building permit.
27. No fences or walls shall be constructed on lot lines outside the individual grading disturbance envelopes for each lot, and such language shall be placed in the Conditions, Covenants and Restrictions.
28. All outdoor lighting shall be down-lit and shall adhere to “dark sky-friendly” lighting design, and such language shall be placed in the Conditions, Covenants and Restrictions.
29. The centerline of the internal loop road’s southern entrance to Silverbell Road will be no less than 340 feet north of the 100-year floodplain of the Animal Wash, the large wash shown on the southern portion of the tentative development plan and such language shall be placed in the Conditions, Covenants and Restrictions.
30. There will be no grading encroachment into the Erosion Hazard Setback (if any) on Lots 19-26 inclusive, Lots 34-47 inclusive, Lots 50-51, and Lots 53-55 (as identified in Exhibit A) and such language shall be placed in the Conditions, Covenants and Restrictions.
31. All Natural Undisturbed Open Space set-asides shall be protected in perpetuity, by either a Restrictive Covenant or Conservation Easement and such language shall be placed in the Conditions, Covenants and Restrictions. Prior to or upon requesting a building permit for any lot in the Rezoning Area, the Property Owners shall record a covenant, to run with the land, memorializing the terms of this condition.
32. Free-ranging domestic animals shall be prohibited in the subdivision and such language shall be placed in the Conditions, Covenants and Restrictions.

33. No backyard gates shall be constructed leading to undisturbed open space areas on each lot or within the two onsite wash corridors and such language shall be placed in the Conditions, Covenants and Restrictions.
34. Upon the effective date of this Ordinance, the Property Owners shall have a continuing responsibility to remove from the Rezoning Area invasive non-native species, including those listed in Exhibit C attached to and incorporated by this reference in this ordinance. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. Property Owners and future owners of individual lots in the Rezoning Area shall keep private lots including enclosed yards free of invasive non-native plant species detailed in Exhibit C. Prior to or upon requesting a building permit for any lot in the Rezoning Area, the Property Owners shall record a covenant, to run with the land, memorializing the terms of this condition.
35. The Property Owners shall place "no trespassing" signs along the south boundary of the Rezoning Area and signs directing people to stay out of the washes.

Section 3. All ordinances, resolutions and motions and parts of ordinances, resolutions, and motions of the Marana Town Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.


Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 20th day of January, 2015.



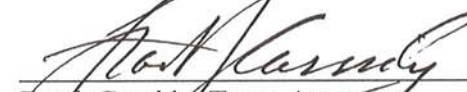
Mayor Ed Honea

ATTEST:



Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:



Frank Cassidy, Town Attorney

