

MARANA ORDINANCE NO. 2018.023

RELATING TO DEVELOPMENT; APPROVING A REZONING OF APPROXIMATELY 17.3 ACRES OF LAND FROM ‘R-80’ (SINGLE-FAMILY RESIDENTIAL) AND ZONE ‘C’ (LARGE LOT ZONE) TO ‘R-8’ (SINGLE-FAMILY RESIDENTIAL); AND APPROVING A MINOR AMENDMENT TO THE MARANA GENERAL PLAN AMENDING THE LAND USE CATEGORY FROM RURAL DENSITY RESIDENTIAL (RDR) TO LOW DENSITY RESIDENTIAL (LDR), GENERALLY LOCATED .75 MILES NORTH OF MOORE ROAD ON THE WEST SIDE OF TORTOLITA ROAD

WHEREAS David L. Lam (as to two of the three parcels owned in fee title and as to the easement parcel) and David L. Lam and Hon T. Lam (as to the third of the three parcels owned in fee title) (collectively the “Property Owners”) own 17.3 acres of land generally located .75 miles north of Moore Road in Section 26, Township 11 South, Range 12 East, described and depicted on Exhibit “A” attached to and incorporated in this ordinance by this reference (the “Rezoning Area”); and

WHEREAS the Property Owners have submitted an application to rezone the Rezoning Area from ‘R-80’ (Single-Family Residential) and Zone ‘C’ (Large Lot Zone) to ‘R-8’ (Single-Family Residential), and to amend the 2010 Marana General Plan from Rural Density Residential (RDR) to Low Density Residential (LDR); and

WHEREAS the Marana Planning Commission held a public hearing on this Rezoning on November 28, 2018, and voted five to zero (with two Commissioners absent) to recommend that the Town Council approve this Rezoning, subject to the recommended conditions; and

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

Section 1. The zoning of the Rezoning Area is hereby changed from ‘R-80’ (Single-Family Residential) and Zone ‘C’ (Large Lot Zone) to ‘R-8’ (Single Family Residential).

Section 2. A minor amendment to the General Plan is hereby approved, changing the General Plan designation of the Rezoning Area from ‘RDR’ (Rural Density Residential) to ‘LDR’ (Low Density Residential).

Section 3. This Rezoning is subject to the following conditions, 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 general conformance with the conceptual land use plan 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. A detailed traffic impact analysis must be submitted by the Property Owners and accepted by Town staff prior to approval of a preliminary plat or development plan for any portion of the Rezoning Area.
5. A water infrastructure and phasing plan (WIP) must be submitted by the Property Owners and accepted by Tucson Water (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 the 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 gated access (if applicable) and 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 maximum number of single-family detached residential lots within the Rezoning Area shall not exceed 34.
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 Corps of Engineers and the State Historic Preservation Office, if federal permits are required for the development of the Rezoning Area.
13. A 100% clearance survey for the desert tortoise shall be completed by a qualified biologist at the Property Owners' expense and a survey report shall be submitted to the Town and to the Arizona Game and Fish Department (AZGFD) prior to issuance of any grading permits. If a desert tortoise is found during the survey or at any time during construction, the Property Owners shall immediately notify the Town and AZGFD, and the tortoise shall be moved in accordance with the most current *AZGFD Tortoise Handling Guidelines* at the Property Owners' expense.
14. The Property Owners shall not cause any lot split of any kind without the written consent of the Town of Marana.
15. Within 60 days after the adoption of this ordinance, the Property Owners shall provide the Planning Department with two bound copies and two electronic CD copies in PDF format (including graphics of the conceptual land use plan in JPEG or other suitable format) of the Tortolita Ridge Rezoning.
16. Before a certificate of occupancy can be issued for any dwelling unit on the Rezoning Area, the Property Owners shall have completed or shall provide evidence to the Town's satisfaction that the Property Owners have made a diligent effort to complete the process of having Pima County Assessor parcel number 218-44-022H into the Northwest Fire District.
17. The Property Owners shall enter into a written agreement addressing the funding, design and construction of off-site and on-site sewers to accommodate flow-through from any properties adjacent and up-gradient to the Rezoning Area that do not have adequate access to Pima County's public sewer system, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
18. The Property Owners shall submit final covenants, conditions, and restrictions for the Rezoning Area for Town review and approval prior to the Town Council consideration of the final plat.
19. The conditions, covenants, and restrictions governing the project must include a provision stating that all natural undisturbed open space shall be left entirely undisturbed and in their natural desert state, except for utility installations, constructed drainage ways and road

crossings, which shall be revegetated with native species similar to those found in the surrounding area.

20. Lots 1-14, 26-28, 33, and 34 as designated on the conceptual land use plan shall be restricted to single story homes.
21. The Property Owners shall construct a park area containing a ramada, picnic benches, barbeque pit, and grassy area prior to approval of the 34th building permit on the Rezoning Area.
22. The Property Owners shall construct a 20-foot-wide emergency access drive with a stabilized surface capable of supporting fire apparatus prior to the issuance of the 17th certificate of occupancy on the Rezoning Area.
23. The perimeter wall design shall be included as part of the subdivision landscaping plan to be reviewed and approved by the Town planning staff. The final design shall be complementary to both the built and natural environment of the surrounding area.

Section 5. 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 6. 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 18th day of December, 2018.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Hilary H. Hiser, Interim Town Clerk

Frank Cassidy, Town Attorney