



Town Council Regular Session

Item # 4.

Meeting Date: 01/14/2026

Requested by: Bayer Vella, Community and Economic Development

Submitted By: Michael Spaeth, Community and Economic Development

Case Number: 2500805

SUBJECT:

PUBLIC HEARING: ORDINANCE NO. (O)26-01, DISCUSSION AND POSSIBLE ACTION FOR PROPOSED TOWN CODE AND ZONING CODE AMENDMENTS REGARDING THE FOLLOWING:

1. COMPLIANCE WITH STATE LAW FOR ADMINISTRATIVE PLAN & PLAT REVIEW AND APPROVAL
2. GENERAL CODE CLEAN-UP INCLUDING SCRIVENER'S ERRORS
3. REQUIRING A CONDITIONAL USE PERMIT FOR BUILDING HEIGHT INCREASES IN THE PRIVATE SCHOOLS AND PARKS AND OPEN SPACE ZONING DISTRICTS

RECOMMENDATION:

The Planning and Zoning Commission recommends approval of the proposed amendments included in Attachment 1.

EXECUTIVE SUMMARY:

The primary purpose of this item is to consider proposed town code and zoning code amendments to reflect recent state law changes regarding the required review process for development and design review applications for permitted or entitled (non-discretionary) projects. More specifically, this includes the review of development plans, preliminary/final plats, architecture, art and other design-related development applications.

In House Bill (HB) 2447 (Attachment 2), the state recently enacted changes to ARS § 9-500.49 that impact the town's current approval process for permitted or entitled (non-discretionary) code-compliant projects. The new language includes the following:

Notwithstanding any other law, the legislative body of a city or town SHALL by ordinance do the following:

1. *Authorize administrative personnel to review and approve site plans, development plans, land divisions, lot line adjustments, lot ties, preliminary plats, final plats and plat amendments WITHOUT A PUBLIC HEARING [Emphasis added].*
2. *Authorize administrative personnel to review and approve design review plans based on objective standards WITHOUT A PUBLIC HEARING [Emphasis added].*
3. *Allow at-risk submittals for certain on-site preliminary grading and drainage work or infrastructure.*
4. *Allow applicants with a history of compliance with building codes and regulations to be eligible for expedited permit review.*

Town Council initiated a Zoning Code amendment in May directing staff to update code language to comply with the new state law.

The proposed code amendments include the following key elements:

1. Compliance with state law
 - A. Review process changes
 - i. Administrative approval for permitted or entitled (non-discretionary) code-compliant applications
 1. Exceptions
 - a. Enable Planning and Zoning Administrator approval where existing code includes specific criteria
 - b. Maintain Town Council approval where code requirements are vague or there are larger issues (e.g. increases to gross floor area, use of Environmentally Sensitive Open Space as recreation area, etc)
 - ii. Utilizing the existing Board of Adjustment appeal process for ALL administrative decisions, including administrative approval of permitted or entitled (non-discretionary) applications
 - iii. Maintain requirement for Town Council approval of final plat related dedications (e.g. public streets, public trail easements, etc.)
 - B. Allow at-risk submittal of certain grading and drainage applications
 - C. Allow expedited review of zoning and grading applications
2. General code "clean-up" resulting from state law compliance
 - A. Changes to other sections of code (Economic Expansion Zone, etc.)
3. Require a Conditional Use Permit for building height increase requests in the Private School (PS) and Parks and Open Space (POS) zoning districts

Town staff have been in communication with both the League of Arizona Cities and Towns (League) and other municipal planning departments who are similarly impacted by the new legislation to discuss proposed amendments that comply with the intent of the new legislation. The League drafted a model ordinance (Attachment 3) for communities impacted by the original legislation adopted in 2023 as a guide for potential changes.

The new state requirements became effective on January 1, 2026. Once the proposed amendments are adopted, the new code will apply retroactively to non-discretionary applications currently under review.

This item was presented at study sessions in September (Planning and Zoning Commission) and October (Town Council). The proposed amendments comply with the new state law, while maintaining Town Council decision where code requirements are vague or larger issues. The Planning and Zoning Commission recommends approval of the proposed amendments. Additional information is provided in the Background or Detailed Information section of this report.

BACKGROUND OR DETAILED INFORMATION:

In 2023, the state passed legislation giving local jurisdictions the option of making the approval process for non-discretionary development and design review applications (e.g. Development and Landscape Plans, Preliminary and Final Plats, etc.), administrative. This year, in HB 2447 (Attachment 2), the legislature made the process mandatory for all jurisdictions. The new language includes the following:

*Notwithstanding any other law, the legislative body of a city or town **SHALL** by ordinance do the following:*

1. *Authorize administrative personnel to review and approve site plans, development plans,*

land divisions, lot line adjustments, lot ties, preliminary plats, final plats and plat amendments WITHOUT A PUBLIC HEARING [Emphasis added].

2. *Authorize administrative personnel to review and approve design review plans based on objective standards WITHOUT A PUBLIC HEARING* [Emphasis added].

3. *Allow at-risk submittals for certain on-site preliminary grading and drainage work or infrastructure.*

4. *Allow applicants with a history of compliance with building codes and regulations to be eligible for expedited permit review*

The proposed code amendments include the following key elements:

1. Compliance with state law
 - A. Review process changes
 - i. Administrative approval for permitted or entitled (non-discretionary) code-compliant applications
 1. Exceptions
 - a. Enable Planning and Zoning Administrator approval where existing code includes specific criteria
 - b. Maintain Town Council approval where code requirements are vague or there are larger issues (e.g. increases to gross floor area, use of Environmentally Sensitive Open Space as recreation area, etc)
 - ii. Utilizing the existing Board of Adjustment appeal process for ALL administrative decisions, including administrative approval of permitted or entitled (non-discretionary) applications
 - iii. Maintain requirement for Town Council approval of final plat dedications (e.g. public streets, public trail easements, etc.)
 - B. Allow at-risk submittal of certain grading and drainage applications
 - C. Allow expedited review of zoning and grading applications
 2. General code "clean-up" resulting from state law compliance
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1. COMPLIANCE WITH STATE LAW

1.A.i. Administrative approval for non-discretionary code-compliant applications

For the town, this will represent a change as many non-discretionary development or design review applications that currently require Town Council approval. While this represents a significant change for the town, to comply with state law, the proposed amendments will include the following:

The "non-discretionary" development or design review applications listed below will be reviewed and approved administratively when deemed code-compliant:

- Development Plans and Master Development Plans
- Preliminary Plats
- Final Plats (following Town Council acceptance of all public dedications)
- Commercial Architecture
- Model Home Architecture
- Public Art
- Other design review applications (Sign Criteria, Tier I and Tier II Cell Facilities)

The following "discretionary" applications where new entitlements or uses are requested will continue to require Planning and Zoning Commission recommendation and Town Council approval:

- General Plan Amendments
- Rezoning/PAD Amendments

- Conditional Use Permits
- Grading Exceptions
- Master Sign Programs
- PAD Sign Exemptions
- Other Use Requests (Type 2 Home Occupation Permits,

All applications will continue to be reviewed for conformance with all existing code requirements (General Plan, Design Principles, Design Standards, Oracle Road Scenic Corridor Overlay District, etc.).

1.A.i.1. Exceptions

As described above, to meet the new state law, all entitled development or design review applications are to be reviewed and approved administratively, with a few exceptions. In several sections, the existing code allows some flexibility (e.g. increases in building square footage, using Environmentally Sensitive Open Space (ESOS) as recreation area, etc.) with Town Council approval. To meet the intent of the new state requirements, these "exceptions" have been separated into the two following categories.

1.A.i.1.a. Planning and Zoning Administrator approval

Where existing code includes specific criteria for evaluating flexible requirements, the proposed amendments enable Planning and Zoning Administrator approval. An example of this would be:

Zoning Code Section 26.5.C.1.b

b. Recreation areas shall not be narrower than sixty (60) feet wide at any given point unless approved by THE PLANNING AND ZONING ADMINISTRATOR ~~Town Council~~ due to any of the following:

- i. The recreation area is a trail or linear park*
- ii. Special circumstances such as size, shape or topography apply to the property*

With this existing requirement, the specific criteria are not vague and can be easily applied by the Planning and Zoning Administrator.

1.A.i.1.b. Maintain Town Council approval

Where existing code does not include specific criteria, the requirements are vague or have the potential for greater impacts, the proposed amendments maintain Town Council approval. An example of this would be:

Zoning Code Section 27.10.D.3.f.vi.a).3).C).iii.A).

A) Establishment of freestanding building pads fronting on or directly accessible from Oracle Road is permitted only on sites of five (5) acres or greater, with a minimum of fifty thousand (50,000) square feet or GFA (gross floor area) in the principal structures required for the first such pad. Additional pads, requiring further increments of principal building GFA, may be permitted only by express Planning and Zoning Commission approval RECOMMENDATION AND TOWN COUNCIL APPROVAL.

With this existing requirement, the flexibility enables Town Council approval of increases in building gross floor area which can impact adjacent properties. The decision to either approve or deny a request to increase building gross floor area should remain with Town Council.

1.A.ii. Establish that the existing "appeal of administrative decisions" process through the Board of Adjustment will be used for administrative approval of permitted/entitled (non-discretionary) applications

Arizona Revised Statutes Section 9-462.02 establishes that "A board of adjustment shall hear and decide appeals from the decisions of the zoning administrator..." Administrative approvals of "non-

discretionary" development and design review applications in compliance with state law are "decisions of the zoning administrator" and are to be appealed in the same manner and venue (e.g. Board of Adjustment) as other administrative decisions of the Planning and Zoning Administrator. The proposed amendments further clarify the following:

1. Who can file an appeal:
 - A. An "Aggrieved Party", defined as one of the following:
 - i. The property owner
 - ii. A property owner within 300 feet of the subject property
2. When an appeal can be filed:
 - A. Instances where one of the above alleges there was a demonstratable error in a decision or determination in the enforcement of a specific zoning ordinance or regulatory requirement.

To be consistent for all "administrative decisions", including the new administrative approval of "non-discretionary" development and design review applications, the proposed amendments utilize the existing Board of Adjustment appeals process. The table provided below includes a brief description of all "non-discretionary" application types which are proposed to be changed from "applicant appeal to Town Council" to "aggrieved party appeal to the Board of Adjustment" in the proposed amendments in Attachment 1.

Application Type	Application description
Plat Amendment	An amendment to an approved Final Plat
Minor Land Division	The division of land that is not part of a platted subdivision
Master Development Plan	A cohesive plan for parcels or lots that are part of a larger tract which may be developed in phases, but due to proximity, require an integrated and comprehensive design
Preliminary Plat	A preliminary plan and all associated data and construction details for the proposed subdivision of land. Includes associated Native Plant Preservation Plans, Landscape Plans and Recreation Plans (if applicable)
Final Plat	A final plan that substantially conforms to an approved Preliminary Plat that includes all certificates of approval and any proposed public dedications associated with a proposed subdivision that will be recorded in the Pima County Recorder's Office upon Town approval
Development Plan	A plan and all associated data and design details for non-residential developments. Includes associated Native Plant Preservation Plans and Landscape Plans
Model Home Architecture	Architecture required for model home subdivisions where homes are offered for purchase <u>off</u> previously approved model homes
Nonresidential Architecture	Architecture required for all multi-family and non-residential developments
Art	Art that is required for all non-residential development based on a 1% building valuation of the project
Sign Criteria	A set of proposed sign standards for a non-residential development
Small Cell Wireless Facility	A wireless facility where all <u>antenna</u> are located inside an enclosure not more than 6 cubic feet in volume and all other associated equipment are not cumulatively more than 28 cubic feet
Tier 1 Minor Wireless Facility	A wireless facility that is entirely indiscernible as a facility because it appears as a functional component of a building, structure, or the landscape
Tier 2 Minor Wireless Facility	A wireless facility that is discernible, but has used stealth applications to the greatest extent possible

The League of Arizona Cities has provided a model ordinance (Attachment 2) that includes utilizing a "hearing officer" when appeals of administrative decisions are received. In many jurisdictions, this is a specific person who is tasked with adjudicating formal appeals. For the Town, the Board of Adjustment is tasked with this role, as we do not have a formal "hearing officer".

1.A.iii. Town code amendments

The new state law requires administrative approval of Final Plats. These applications often include proposed public dedications (e.g. public streets or public trail easements, etc.). The proposed amendments in Attachment 1 still require these public dedications be approved by Town Council prior

to Town Staff formally approving the Final Plat.

1.B. Allow at-risk submittal of certain grading and drainage applications

This legislation does not enable/require pre-grading prior to development application approval - just review of a grading and/or drainage plan. No code changes will be necessary to comply with part of the new legislation.

1.C. Allow expedited review of zoning and grading applications

The Town currently allows for expedited reviews of building permit applications only (with an additional expedited fee). The code amendments will need to include language enabling expedited reviews of all applications for applicants with a history of compliance. Additionally, the Town's Development Fee Schedule will need to be revised to add an expedited review option (with associated costs) for all applications.

2. GENERAL CODE "CLEAN-UP"

Changes to other sections of code

The proposed changes also impact other sections of code, namely the Economic Expansion Zone (EEZ). Permitted or entitled (non-discretionary) code-compliant projects within the EEZ are currently approved administratively, while discretionary projects require Town Council approval. This change will make much of the EEZ redundant and unnecessary as the same approval process will apply to all properties in town. Some components of EEZ (e.g. allowing pre-grading of development parcels) will remain limited to those areas.

The proposed changes will similarly have an impact on the Town's Design Standards. As a result of the code amendments, they should be sharpened and made more specific (without being overly prescriptive). The aim will be to maintain the Town's high level of design requirements while allowing for aesthetic variety throughout the town. An update to the Design Standards previously approved as an Strategic Plan item that is anticipated to be presented to Town Council later this year.

3. CONDITIONAL USE PERMIT TO INCREASE BUILDING HEIGHTS

A building height increase application in the Private Schools (PS) or Parks and Open Space (POS) zoning districts currently requires only Planning & Zoning Commission approval - with the ability to appeal to Town Council. The proposed amendment now requires a Conditional Use Permit to enable the request with a final determination by Town Council.

PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission considered the proposed amendments at a public hearing in December 2025 and have recommended approval.

SUMMARY

In summary, the proposed amendments include the following:

1. Compliance with the new state law requirements of HB 2447 by enabling administrative review and approval of "non-discretionary" development and design review applications
2. Maintain Town Council approval for existing "flexible" zoning requirements that are vague or have the potential for greater impacts to neighbors.
3. Utilizes the existing Board of Adjustment appeals process for ALL "administrative decisions", including the review and approval of applications in compliance with state law
4. Maintaining Town Council approval where vague existing code requirements exist
5. Requires a Conditional Use Permit for building height increases in the PS and POS zoning districts

The Planning and Zoning Commission recommend approval of the proposed Town Code and Zoning Code amendments.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

Town Council may wish to consider one of the following motions:

I MOVE to APPROVE Ordinance No. (O)26-01, based on a finding they comply with state law and all applicable Your Voice, Our Future General Plan policies.

OR

I MOVE to DENY Ordinance No. (O)26-01, based on a finding that _____.

Attachments

ATTACHMENT 1 - (O)26-01 Ordinance and Exhibit A

ATTACHMENT 2 - HB 2447

ATTACHMENT 3 - DRAFT MODEL ORDINANCE OF SITE PLANS AUG 2023

Staff Presentation
