

MARANA ORDINANCE NO. 2021.016

RELATING TO DEVELOPMENT; APPROVING A REZONING OF APPROXIMATELY 49 ACRES OF LAND LOCATED APPROXIMATELY ONE-QUARTER MILE SOUTH OF INA ROAD, WEST OF SILVERBELL ROAD, FROM R-16 (RESIDENTIAL) TO R-6 (RESIDENTIAL)

WHEREAS C & C Construction Co., Inc., (the "Property Owner") owns 49 acres of land located approximately one-quarter mile south of Ina Road, west of Silverbell Road within Section 2, Township 13 South, and Range 12 East, described on Exhibit "E" attached to and incorporated in this ordinance by this reference (the "Rezoning Area"); and

WHEREAS the Property Owner has authorized The Planning Center to submit an application to rezone the Rezoning Area from R-16 (Residential) to R-6 (Residential); and

WHEREAS the Marana Planning Commission held a public hearing on this Rezoning on July 28, 2021, and voted five to zero (with two Commissioners absent) to recommend that the Town Council approve this Rezoning, subject to the recommended conditions; and

WHEREAS the Marana Mayor and Town Council held a public hearing on August 17, 2021 and determined that the application for rezoning should be approved; 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-16 (Residential) to R-6 (Residential).

Section 2. 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 Owner 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 57 lots, laid out in substantial conformance with the tentative development plan attached as Exhibit A. Site disturbance in the 49-acre Rezoning Area shall not exceed 34% or 725,710 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 18-57 as designated on Exhibit A are restricted to one story and a maximum height of 20 feet. Two story homes are permitted on Lots 1-17 as designated on Exhibit A.
17. The preliminary plat for the Rezoning Area shall establish a minimum lot size of 6,000 square feet and the rezoning parcel will 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. There shall be a 120 - foot "No Disturbance" bufferyard along the southern boundary of the Rezoning Area (as identified on Exhibit A).
20. There shall be a 100 - foot "No Disturbance" bufferyard along the western boundary of the Rezoning Area (as identified on Exhibit A).

21. 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.
22. The minimum width of the two designated wildlife corridors shall be 230 feet and, where possible, revegetation shall occur in disturbed areas beyond the 230-foot minimum width. Reseeding with a native Mohave, Chihuahua and/or Sonoran arid/adapted mix of groundcovers, mid-story shrubs and canopy trees, including hackberry (*Cletis pallida*), is preferable for areas where it is impossible to reliably deliver water.
23. This Rezoning is subject to the Residential Design Standards found in the Marana Land Development Code as amended from time to time.
24. 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.
25. No view fencing shall be allowed on lots facing the two wildlife corridors.
26. 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.
27. 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.
28. Free-ranging domestic animals shall be prohibited in the subdivision and such language shall be placed in the Conditions, Covenants and Restrictions.
29. No side or 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.
30. 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.

31. 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.
32. The Property Owners shall landscape the area near the emergency access roadway with a continuous row of shrubs at the time of the emergency roadway construction, as depicted on Exhibit A, the Tentative Development Plan.
33. The Property Owners shall incorporate Low Impact Development techniques to accommodate drainage such as rock-lined channels with sandy bottoms and one and two rock dams.
34. The Property Owners shall install a non-asphalt, stabilized all weather surface for the emergency access road.
35. The Property Owners shall construct a 6-foot decorative masonry wall along the back of lots 33-43 located along the south boundary to reduce noise and light impacts as depicted on Exhibit A, the Tentative Development Plan.
36. The Property Owners shall install wildlife-friendly fencing in one of two locations identified on Exhibit A, the Tentative Development Plan, prior to building permit approval of lot 44 to discourage the creation of unauthorized trails and ATV roads to access the Waycross neighborhood.
37. Property owners shall secure a license from WAPA, and provide evidence of, for the areas on Street A that encroach into the WAPA/TEP easement prior to approval of the preliminary plat.
38. Property owners shall secure, and provide evidence of, a license from WAPA for pedestrian access from the cul-de-sac on Street A to the recreation area for the residents of Lots 18-48 prior to approval of the preliminary plat.
39. The two wildlife corridors located on Town owned A.P.N. 214-04-1150 and identified on Exhibit A, the Tentative Development Plan, shall be preserved in perpetuity to ensure continued wildlife passage. The corridors will be subject to a restrictive covenant or conservation easement and protected with fencing and flagging during construction.
40. The Property Owners shall enter into an open space covenant with a reputable conservation entity to ensure that the open space areas approved within the Rezoning Area remain open space in perpetuity.
41. The Property Owners and future owners of individual lots in the Rezoning Area shall use the attached redlined Town of Marana Regulatory Plant List, Exhibit D, to vegetate all developable landscape areas in the Silverbell Ridge Rezoning area.

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 17th day of August, 2021.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Jane Fairall, Town Attorney