



**MINUTES OF THE REGULAR SESSION MEETING OF THE QUEEN CREEK
PLANNING AND ZONING COMMISSION**

Wednesday, March 14, 2007 7:00 P.M.

Council Chambers, 22350 S. Ellsworth Road, Queen Creek, AZ 85242

1. **CALL TO ORDER**

2. **ROLL CALL**

Present

Chairman Schweitzer
Commissioner Trapp-Jackson
Commissioner Sossaman
Commissioner Atkinson
Commissioner Perry

Absent

Commissioner Ingram
Vice-Chairman (vacant)

Staff

Present

Community Development Director Tom Condit
Planning Manager Brittingham
Principal Planner McCauley
Planner Sandidge
Planning Assistant Moats

Absent

3. **CONSIDERATION OF MINUTES**

- Consideration and possible approval of February 14, 2007 Work Study and Regular Session Minutes;

Motion: **Commissioner Perry**

To approve the February 14, 2007 Work Study and Regular Session Minutes as presented.

Second: **Commissioner Atkinson**

Vote: **All ayes. Motion carried (5-0).**

4. **PUBLIC COMMENT** Members of the public may address the Commission on items not on the printed agenda. Please observe the time limit of three minutes. Speakers' cards are available at the door, and may be delivered to staff prior to the commencement of the meeting

PUBLIC HEARINGS

5. **PUBLIC HEARING, DISCUSSION AND POSSIBLE ACTION ON CU06-136/SP06-135 "SPRINT CELL SITE AT QUEEN CREEK INDUSTRIAL COMPLEX**
A request by Steve Olson on behalf of Sprint Nextel for a Conditional Use Permit and Site Plan approval to locate a cell tower and wireless communication facility at Queen Creek Industrial Complex located in the vicinity east of Sossaman Road between Germann and Rittenhouse Roads.

Planner Sandidge presented the staff report. The request conforms to Town ordinance. Staff recommended approval of the request.

QUESTIONS FROM THE COMMISSION

Commissioner Sossaman questioned what the height is for the SRP poles. Planner Sandidge responded they are 65 feet tall.

Chairman Schweitzer opened the Public Hearing at 7:03 p.m. There were no public comments. The Public Hearing was closed.

Mr. Steve Olson addressed the Commission on behalf of Sprint/Nextel. He stated the cell tower will be located in an Industrial zoning district, with the intent to design the equipment area to allow for co-location of a second carrier. Mr. Olson suggested to staff that they may want to add a condition to allow more antennas for co-location of additional carriers. Sprint intends to install six antennas. Staff may wish to suggest allowing up to a total of 18 antennas to prepare for future co-locations.

There were no further questions from the Commission.

Planner Sandidge stated the staff report does include a condition that allows for 18 antennas.

Motion: **Commissioner Trapp-Jackson**

To approve CU06-136/SP06-0135, "Sprint Cell Site at Queen Creek Industrial Complex", as presented, subject to the conditions set forth in the staff report.

Second: **Commissioner Perry**

Vote: **All ayes. Motion carried. (5-0)**

6. **PUBLIC HEARING, DISCUSSION AND POSSIBL ACTION ON TA06-130 “TEXT AMENDMENT FOR WALL/FENCE REQUIREMENTS”**

A request by Mario Mangiamele of IPlan Consulting, for a text amendment to the Wall/Fence requirements of the Town’s Zoning Ordinance and Subdivision Ordinance. **This agenda item was continued from the February 14, 2007 Meeting.**

Principal Planner McCauley presented the staff report. The request is being presented by IPlan Consulting on behalf of the applicant, Leland Vance. Mr. McCauley summarized the applicant’s request for modifying the existing ordinance on wall/fence requirements.

The purpose of the applicant’s request to amend the ordinance includes: eliminating noise; creating more privacy for subdivision lots; and improving security and safety of homeowners and their property. Mr. McCauley informed the Commission that during review of this request, staff took into account what already makes Queen Creek unique (i.e. equestrian privileges, large lots, openness created by open-view fences, even those found in higher density subdivisions). Staff also feels view fences assist with security, and CPTED (Crime Prevention Through Environmental Design) standards which prevents criminal activity. CPTED has been adopted throughout the valley as well as the U.S.

Mr. McCauley summarized Staff’s position on the applicant’s requests, and Staff’s recommendation, as follows:

APPLICANT’S REQUEST:

1. Removal of fence provisions from the Subdivision Ordinance and consolidation into the Zoning Ordinance;
2. Modification to the terms and definitions used in an effort to clarify regulation;
3. R1-43 and larger lots: solid fences at property lines where adjacent to streets, regardless of landscape tract width, solid fences between adjoining lots; and partial view fences (4’ solid – 2’ view) for lots backing to the community open space system, or trails located in tracts containing a minimum width of 10 ft.;
4. R1-35, R1-18 and R1-15 lots: solid fences along all streets, regardless of landscape tract width; partial view fences (4’ solid – 2’ view) for lots backing to the community open space system, or trails located in tracts containing a minimum width of 10 ft.;
5. R1-12 and smaller lots: solid fences along all streets regardless of landscape tract width; partial view fences (4’ solid – 2’ view) for lots backing to the community open space system, or trails located in tracts containing a minimum width of 10 ft.;
6. Incorporation of Rules of Transition to provide for a seamless transition of Ordinance provisions.

STAFF'S RECOMMENDATION:

1. ~~Removal of fence provisions from the Subdivision Ordinance and consolidation into the Zoning Ordinance;~~
2. Modification to the terms and definitions used in an effort to clarify regulation;
3. ~~R1-43~~ R1-35 and larger lots to have solid fences PARTIAL VIEW FENCES (4' SOLID AND 2' OPEN) at property lines where adjacent to streets, OPEN SPACE and adjoining lots; ~~partial view fences (4' solid – 2' view) along open spaces containing a minimum width of 10 ft.;~~
4. ~~R1-35,~~ R1-18 and R1-15 lots to have solid fences PARTIAL VIEW FENCES (4' SOLID AND 2' OPEN) ~~along all~~ WHERE ADJACENT TO streets; partial view fences (4' solid – 2' view) along open spaces containing a minimum width of 10 ft.;
5. R1-12 and smaller lots to have partial view fences (4' solid – 2' view) WHERE ADJACENT TO STREETS and along open spaces containing a minimum width of 10 ft.; and
6. ~~Incorporation of Rules of Transition to provide for a seamless transition of Ordinance provisions.~~

Mr. McCauley stated that public comments in the form of emails and phone calls have been received by staff, both in support of and in opposition to the proposed amendment.

Staff is recommending approval as revised by staff and outlined in the staff report.

There were no questions from the Commission.

Applicant, Greg Davis of IPlan Consulting, 4684 S. Star Canyon Drive, Gilbert, addressed the Commission, and presented the applicant's request. Mr. Davis stated the applicant is proposing solid fencing where lots back up to or are adjacent to collector roads.

Mr. Davis compared the applicant's proposal to staff's proposal through the illustration of the Hastings Farms site plan.

The presentation also included illustrations of different types of solid walls along arterial roadways in two different communities, and the landscape buffers used in each.

Applicant Leland Vance, 19917 E. Calle de Flores, Queen Creek, addressed the Commission. Mr. Vance lives in Circle G Ranches. He has been a resident of Queen Creek since 1999. Mr. Vance presented his opinion regarding solid wall fencing and open view fencing, and provided examples outlining the purpose of the proposed amendment. Among them, Mr. Vance stated the population, dynamics, and demographics of Queen Creek have changed greatly. He feels families are more concerned with their quality of life and the safety and welfare of their families. He stated many individuals are deeply concerned about the fencing ordinance and exposure these view fences give to poor elements in this area.

Mr. Vance stated the open fence ordinance adopted many years ago “may have” been a good philosophy at that time, however he feels it now needs to be revised to help homeowners and families with greater privacy, protection, noise abatement and the value of their homes.

Further, Mr. Vance stated he feels a high percentage of lots on main arterials and feeder streets are mainly controlled by HOA’s. He suggested the Town give the right back to the HOAs to make decisions about fences in these communities; stating the Town’s responsibility would only be continuity and harmony that would not detract from the beauty or value of property. He asked the Commission to not micromanage properties that homeowners have rights to own and manage.

Chairman Schweitzer opened the Public Hearing at 7:33 P.M.

- 1) Jane Vance, 19917 E. Calle de Flores. Ms. Vance’s home backs up to Chandler Heights Road. She is strongly in favor of the proposed amendment due to noise, fireworks, traffic, 18-wheelers parked and started at 4:00 a.m.; stranger who jump the fence and pick citrus from the trees in their yard; prison laborers seen through the backyard. She stated a 16-foot trailer was stolen from their property and three holes shot in the back windows. She feels these things would not have happened with a six-foot solid fence. In addition, traffic is noisy.
- 2) William Curtis – Mr. Curtis did not wish to speak. He favors the proposed amendment. His comment was to “keep Queen Creek out of homeowners’ backyards.”
- 3) Janet Gordon – Ms. Gordon did not wish to speak. She is in favor of the proposed text amendment. “Let people choose their own fences.”
- 4) Larry Gordon, 19631 E. Camina Plata, Queen Creek. He is in favor of the proposed amendment. Mr. Gordon presented pictures to the Commission showing fences in his area. He has lived here since 1991. He stated at that time, types of fences that were being built was not an issue. He is grateful for being able to have fences due to the nighttime and the transients living adjacent to his backyard. He is in favor of property rights.
- 5) Tom March – 18622 E. Via de Arboles, Queen Creek. Mr. March opposes the proposed amendment. He feels the issues being raised tonight are related to law enforcement problems, and are not due to whether or not a fence is solid, or open view fencing. He feels Queen Creek is different in design from neighboring towns and cities. The existing code allows for variances and modifications through the PAD process, or on an individual basis.

Mr. March urged the Commission: “Do not give up control – it will be difficult to regain. Do not fix what is not broke. Fencing is okay. It’s law enforcement that’s lacking.”

- 6) Mark Beals, 19809 E. Calle de Flores, Queen Creek. Mr. Beals strongly supports the proposed amendment. His property is adjacent to two equestrian trails and backs up to Chandler Heights Road. He is concerned for his children’s safety. He stated that prowlers and transients walk around his property.
- 7) Sylvia Barrett, 19807 E. Happy Road, Queen Creek. Opposes the amendment. Ms. Barrett likes the openness and agrees with staff on 60/40 fencing. She feels that solid walls do not necessarily stop crime – citing the Johnson Ranch subdivision. She stated that residents agreed to openness many years ago. Rancho Jardines does not have any fences. She feels that walls close you off from your neighbors and hinder people from getting to know one another.
- 8) Roseann Sweet, 20230 E. Superstition Drive, Queen Creek. Opposes the amendment. Ms. Sweet moved here from Tempe in 1995. In Tempe, she had solid walls along the back and sides of her property. She stated the walls did not change feelings of security. Crime still happened, even with solid walls. She has been very involved in the Town’s planning process, including the implementation of the fencing guidelines. She stated that people need places to ride horses. With tall walls, horses will not safely navigate through equestrian trails and washes. In the past, chain link fences in Rancho Jardines allowed neighbors to see what was happening and help out when help was needed. She feels the community looks great with view fencing. She agrees with staff’s proposal, and asked staff and the Commission to keep in mind that there is already a variance process in place.
- 9) Clay Wagner, 23520 S. 201st Street, Queen Creek. He strongly supports the proposed amendment due to safety; the noise level; and privacy issues. His home backs up to Hawes Road in Terra Ranch. He can see and hear traffic in the evening.
- 10) Gary Billingsley, 20006 Pecan Lane, Queen Creek. He favors the proposed fence amendment, due to population growth, as well as safety issues. His home backs up to Hawes Road. He has woken up to see people in his backyard. He cannot enjoy his own property because the safety has been taken away.
- 11) Tom Stapley Mr. Staple strongly supports fence amendment. His family’s home backs up to Hawes Road. He feels the existing ordinance has created an attractive nuisance.
- 12) Don Stapley, Mr. Stapley favors text amendment as proposed. He and his son own the development at the southeast corner of Hawes and Chandler Heights roads. He feels the biggest challenge with this plan, as a developer, was the open-view fence issue, since so many of the lots back up to or side Chandler Heights and Hawes roads. He understands the history of Queen Creek, and feels what has happened is unintended consequences of a well intended fence plan. The urbanization of this community has created these consequences, and he believes people should have the choice to install solid walls along their property where it backs up to arterial streets. He urged the Commission to seriously consider and support the proposal.

- 13) Keith Perkins, 20011 E. Pecan Lane, Queen Creek. He supports the proposed amendment. Mr. Perkins shared his personal and professional perspectives. He is a native Arizonan, who came from a ranch and horse family. He stated that things have changed since he was a child growing up in this area. It is no longer a little community. He has six children and is concerned about their safety. This amendment is being proposed at the right time. He is an attorney who represents raped and murdered women and children. He feels crimes of opportunity happen when there is view fencing in the new era of Queen Creek. This plan does not change the current plan in a major way, other than on main arterial roadways.
- 14) Jill Clare, 21742 S. Arroyo Court, Queen Creek. She is against the Town's proposal, and in favor of Mr. Vance's proposal. Her property backs up to the wash. Vinyl fencing was required at the time she built her home. Vinyl fencing does not last. It weathers and breaks. Ms. Clare feels vulnerable being on the wash with view fencing, and no lighting in the wash due to the Dark Skies Ordinance. She agrees with the proposed amendment. Safety comes first. People have the right to live where they want to live. She stated you cannot keep a community from growing, and feels the Town should adapt for growth and changes.
- 15) Kathy Moyers, 20085 E. Pecan, Queen Creek. She is in favor of the fence amendment. Ms. Moyers provided an analogy of honeymoon, marriage and family to the growing pains of Queen Creek, stating that diversity and change must be welcomed, and out of necessity, the Town must have enough vision to allow solid walls. She stated rules and restrictions will always be controversial at first.
- 16) Lucy Kartchner, 23490 S. 201st Pl., Queen Creek. Ms. Kartchner is in favor of the proposed text amendment. Her home backs up to Hawes Road. She disagrees with the initial criminal safety view. When they purchased their home, they were concerned about the view fencing/no solid wall ordinance. Her family's property has been stolen in the middle of the night. She stated it is easy for strangers to get in and out of their yard.
- 17) Ben Allen, 20199 E. Calle de Flores, Queen Creek. Mr. Allen did not wish to speak. He is in favor of the amendment, due to his concerns about the safety of his children.
- 18) Jill Allen, 20199 E. Calle de Flores, Queen Creek. Ms. Allen lives in Terra Ranch. She is concerned about the safety of her children. She lives on a smaller lot, that backs to Chandler Heights Road. She stated that strangers walking by have stopped and talked to her children while they're playing in the yard. She would strongly like to see changes, mostly for safety, but also for the noise issue. She provided color photos of her backyard to the Commission.
- 19) Michael Moore, 19474 E. Via del Palo, Queen Creek. Mr. Moore is in favor of the proposed text amendment. He is co-owner and developer of the first two phases of Orchard Ranchettes, and owner of Goldmine Estates. He stated it is difficult to sell lots with view fences, especially the lots that are adjacent to streets. He noted that homeowners on these types of lots typically install privacy walls inside the setback or building envelope, that sit back from the view fencing. This creates an unsightly area

that is not beneficial. He feels the argument to keep the ordinance as is, is not compelling.

The ordinance must have purpose. "With R1-35 lots, owners will still erect a wall further inside the setback. "

- 20) Wes Moore, son of Mike Moore. He spoke in favor of the proposed amendment. Wes is the teenage son of Michael Moore. He told the Commission he lived in Mesa as a small child, and he stated the solid walls that enclosed his backyard made him feel safe.

Mr. Greg Davis addressed the Commission again to articulate that the proposal for solid fencing is not a requirement. It's an option. People who believe open fencing works, and developers who want equestrian trails, would still be allowed to do choose view fencing under the proposed amendment. The amendment would simply allow another option for developers and builders.

There were no further public comments. The Public Hearing was closed at 8:20 p.m.

Staff informed the audience that this agenda item will go to Town Council on 4/4 for final action. On 3/21, this agenda item will be introduced to the Town Council. There will not be public comments at the 3/21 meeting.

Chairman Schweitzer thanked Mr. Davis for the presentation.

COMMISSION DISCUSSION

Commissioner Trapp-Jackson requested staff provide clarification to the audience on the CPTED concept. Planning Manager Brittingham explained CPTED and the various methods that CPTED is implemented through landscaping, installation of windows in doors, etc.

Commissioner Sossaman addressed the audience to explain that he and only one other Commissioner were present when the current standards were implemented. At that time, he was opposed to open view fencing. In addition, back then majority of the population in Queen Creek was not subdivision dwellers, and not within Town limits. This ordinance was designed and crafted from the top-down. It did not come from developers. It came from staff members, and was fueled by people with horses. People who were on the Commission and Council felt comfortable with this ordinance at the time. He stated that what sets Queen Creek apart is not open fences. It's what Queen Creek did in the 80's with open space. He stated the average open space in Gilbert and Mesa is 9.7%. The percentage of open space in Queen Creek is 20%. He commended Leland Vance and Greg Davis for their narrative and presentation. Commissioner Sossaman feels the presentation puts into perspective how open space would change, how horse trails would not be impacted, etc. He felt staff would be willing to partially concur with the request.

Commissioner Sossaman encouraged the public to attend the Council meeting where action will be taken.

Chairman Schweitzer commended staff. It is Chairman Schweitzer's opinion that open space *is* also shown through view fencing.

Commissioner Perry spoke in opposition to the proposed amendment. He is not sure the proposal is the best answer, although it may be the easiest answer. He stated it is the same as what's being done in Chandler and Gilbert. If sound is an issue, he suggested that increased buffer yards be implemented. He is not sure adopting this amendment would be beneficial for addressing the specific issues raised tonight, as residents can still build six-foot walls within the building footprint.

Commissioner Atkinson agreed with Chairman Schweitzer and Commissioner Perry. He is not in support of solid walls, and does not agree with either the applicant's proposal or staff's proposal. He stated he would not back the request.

Commissioner Perry asked staff to comment on how this issue will be addressed in relation to the General Plan re-write.

Planning Manager Brittingham responded that the General Plan is a policy document, and would not address the ordinance at this level. It is not an implementation document, as the Zoning Ordinance is. He explained the Zoning Ordinance contains the rules by which the General Plan is implemented.

Commissioner Perry asked would this issue would be brought back to Commission if it became apparent during the General Plan re-write discussion. Mr. Brittingham responded it would depend on direction provided by Council, and what is voted on by the community. He reminded the Commission that it is important to remember whatever is voted for in the General Plan must be implemented by the Zoning Ordinance. This may change the expected identity of community at build-out and necessitate new rules to implement the new General Plan

Commissioner Trapp-Jackson stated that most of the issues raised by the residents relate to law enforcement, safety and security. The proposed amendment does not relate to, or alleviate those concerns. These issues need to be considered by a law enforcement task force. Amending the ordinance would not be the correct option. Ms. Trapp-Jackson stated she understands the passion and concerns about safety and security, but favors open view fencing and feels law enforcement issue should be addressed in a different forum.

Motion: **Commissioner Sossaman**

To approve TA06-130, Text Amendment for Fence/Wall Requirements, as presented.

The motion died for lack of a second.

Motion: **Commissioner Perry**

To deny TA06-130, Text Amendment for Fence/Wall Requirements, as proposed by the applicant, and deny the subsequent staff recommendation.

Second: **Commissioner Atkinson**

Discussion on the Motion: Commissioner Sossaman addressed the audience to inform them that the Commissioners all get along, but this is one issue that has caused consternation over the years with staff, homeowners, and developers. He does not agree with the existing ordinance. He backed up staff by stating staff did not write ordinance; staff was only enforcing the ordinance. He encouraged the public to contact Council Members before the Public Hearing at Town Council

Vote on the Motion: 4 Ayes, 1 Nay (Commissioner Sossaman)

Motion carried 4-1.

ITEMS FOR DISCUSSION AND POSSIBLE ACTION

Motion: Commissioner Sossaman

To appoint Commissioner Ingram as Vice-Chairman to replace outgoing Vice-Chairman Susan Shifman.

Second: Commissioner Perry.

Vote: All ayes. Motion carried (5-0).

ADMINISTRATIVE ITEMS (if not done during Work Study) REVIEW of next month's agenda items.

10. **REVIEW** of next month's agenda items - this agenda item was conducted during Work Study.
11. **REPORT** on Town Council Action. This agenda item was conducted during Work Study.
12. **COMMUNICATION** from members of the Commission and Staff.

Chairman Schweitzer expressed his pleasure with tonight's meeting and the manner in which it was conducted.

The next meeting of the Planning & Zoning Commission TAC for the General Plan Re-Write will be on Wednesday, March 28, 2007 at 6:00 p.m.

13. **ADJOURNMENT**

Motion: **Commissioner Sossaman**

To adjourn.

Second: **Commissioner Trapp-Jackson**

The meeting adjourned at 8:42 pm

PLANNING AND ZONING COMMISSION

By: _____
Paul Schweitzer, Chairman

Laura Moats, Planning Assistant

I, Laura Moats, do hereby certify that, to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the March 14, 2007 Regular Session of the Planning and Zoning Commission. I further certify that the meeting was duly called and that a quorum was present.

Dated this 15th day of March, 2007.

Passed and Approved this 11th day of April, 2007.