



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

**Wednesday, December 8, 2010 7:00 P.M.**

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

1. **CALL TO ORDER** The meeting was called to order at 7:03 p.m. by Vice-Chairman Ingram.
2. **ROLL CALL** (one or more members of the Commission may participate by telephone).

**Present**

Vice-Chairman Steve Ingram  
Commissioner Jason Gad  
Commissioner Alex Matheson  
Commissioner Ryan Nichols  
Commissioner Kyle Robinson

**Absent**

Chairman Steve Sossaman  
Commissioner Reyes

**Staff**

**Present**

Director of Development Services Condit  
Community Development Manager Balmer  
Principal Planner Mike McCauley  
Community Dev. Assistant Laura Moats

**Absent**

3. **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. **There were no public comments.**
4. **Consent Agenda:** Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (\*). Prior to consideration of the Consent Agenda, the Chairman will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Commission and/or staff may remove any item for separate consideration.
  - a. **Consideration and Possible Approval of November 10, 2010 Work Study and Regular Session Minutes;**
  - b. **\*Public Hearing, Consideration and Possible Approval of RZ10-081/SD10-082, "Emperor Estates, Phase IV West", A request by Lennar Communities Development, Inc. for approval of a Preliminary Plat and Planned Area Development**

for a 109-lot residential subdivision located on approximately 34 acres at the northeast corner of Queen Creek and Sossaman roads.

**Motion:**        Commissioner Nichols  
**To approve Item a. on the Consent Agenda.**  
**2<sup>nd</sup>:**            Commissioner Gad  
**Vote:**            **All Ayes. Motion carried 5-0.**

#### **Item 4b: Emperor Estates Phase IV West, RZ10-081/SD10-082**

Mr. McCauley presented the staff report and power point, stating this request is part of the overall Emperor Estates residential planned community. It is zoned R1-6 with a PAD overlay. He illustrated the Preliminary Plat and Landscape Plan, noting there are two access points off of 193<sup>rd</sup> Street. The application includes a fence/wall plan which calls for partial view fencing outlining perimeter of the subdivision.

Mr. McCauley outlined the applicant's request as follows:

- PAD Request to allow relief from the alley design
- Remove stipulation that all garages need to be set back five feet from the front of the house
- Allow a solid six-foot wall along the western perimeter of the subdivision, abutting Sossaman Road
- Change limit of two-story homes adjacent to Sossaman and Queen Creek roads from one out of three homes to two out of three homes.

Mr. McCauley stated staff is recommending approval of the request subject to the Conditions of Approval listed in the staff report, with the exception of the last two bullet-points above, which staff is not supporting. Mr. McCauley added staff is also recommending approval of the Engineering Stipulations which were presented and distributed during Work Study, which he noted should be included in the Conditions of Approval.

Commissioner Nichols noted the Preliminary Plat shows certain tracts going five feet beyond the right-of-way and the property line. He asked if this is typical of Town standards, or if it is a deviation from Town standards. Mr. McCauley responded this is a typical Town standard.

Commissioner Gad referred to the Engineering stipulations, which require concurrent development, and asked if this is consistent with what the Town has required from other builders, or if this is unique to this application. Mr. McCauley responded he was unsure, and noted the Town tries to be consistent. Director Condit responded this is consistent with what's been done in other developments, particularly in phased developments; the Town desires off-site roads to be consistent with phases. Since this is not a phased development, off-sites need to be done concurrent to the rest of the development.

Commissioner Robinson asked if there are any other developments where solid fencing along arterial roads is required.

Mr. McCauley responded prior to the fence amendment ordinance, it was either a requirement, or a PAD was issued, but he did not have a list of the subdivisions. Director Condit responded the Lucia subdivision would be an example, since it was one of very first to be approved with the new fence standard for solid walls. He was unaware of any other developments with solid walls since that time.

Jeff Gunderson, Senior Vice President of Lennar Homes, 1725 W. Greentree Drive, Suite 114, Tempe, addressed the Commission, requesting clarification on the Engineering Stipulations, specifically No. 1, which addresses off-site improvements on Rittenhouse Road. Mr. Gunderson stated he does not think the developer is required to develop Rittenhouse with this project. They intend to improve Sossaman and Queen Creek roads on the frontages of this parcel. Director Condit agreed with Mr. Gunderson.

Secondly, Mr. Gunderson requested discussion on the solid wall along arterial streets, specifically Sossaman Road, adjacent to the multi-use trail. He presented photographs of solid walls along the Hastings Farms subdivision on Cloud and Ellsworth roads, which he noted are depicted on the Town's trail maps as having trails on both Cloud and Ellsworth. He stated there are solid six-foot walls in this subdivision, as well as the Lucia subdivision. He stated Hastings and Lucia are their direct competitors. From his experience it is very difficult to sell lots backing to arterial roadways where there is not a solid wall. He stated he feels partial view fencing causes privacy, noise, and security issues. He noted because of the narrow constraints on the Emperor Estates parcel, there are not a lot of land planning options. He feels if Hastings and Lucia are allowed to have solid walls, then Lennar should be able to as well.

Mr. Gunderson stated he is in agreement with the 1:3 two-story staff stipulation. He noted there will most likely be an even mix of two-story and single story homes.

Vice-Chairman Ingram asked Mr. Gunderson for data backing up his statement that security is an issue with partial view fencing. Mr. Gunderson stated he did not have data, but he knows that if he lived there, with a trail designated for equestrian, there would be no privacy.

Vice-Chairman Ingram referred to a police department study that was completed which backs up the fact that view fencing is safer than high walls. Vice-Chairman Ingram asked staff for data on the Hastings Farms solid walls along Ellsworth and Cloud roads. Staff did not have information regarding the walls in these subdivisions.

Commissioner Gad asked staff if the current zoning would allow for a solid six-foot fence if a trail was not located on the western perimeter of this development. Mr. McCauley responded that was correct. If no community Open Space or trail was present, then a solid fence would be consistent with the Zoning Ordinance.

Mr. Gunderson stated currently the trail north and south of this site does not go anywhere. There are ownership restrictions and right-of-way issues. Lennar will be installing a trail with no connectivity. He stated Lennar did not question staff's recommendation for this trail, since the Open Space and equestrian uses are good. But by agreeing to install the trail, they have burdened themselves with this fence issue.

There were no further questions by the Commission.

Vice-Chairman Ingram reviewed the photos of solid walls along Ellsworth and Cloud roads (Hastings Farms) and along Hawes Road (Lucia). He pointed out there are several areas in Town where a multi-use trail is present, but does not have connectivity or is not finished.

Vice-Chairman Ingram opened the Public hearing at 7:29 p.m. There were no public comments, and the Public Hearing was closed.

Commissioner Gad stated his agreement with Staff's *Conditions of Approval*, for the most part. He stated he had pulled this item off the Consent Agenda in order to discuss the fencing issue. He is reviewing this from a homeowner's perspective. He feels the traffic pattern is much higher on an open trail, and as potential buyer in this development, he would not want a view fence looking out onto Sossaman Road. He agrees with the other Conditions of Approval, but does not support staff's Condition on fencing along Sossaman Road.

Commissioner Nichols stated he is concerned with Condition #2: *Condition/Stipulation number 31 in Ordinance 228-02, the requirement for a five-foot garage setback, will be revised so that it does not apply to "Emperor Estates Phase IV West"*. Commissioner Nichols stated his concern that this allows the builder to build the garage in front of the face of the home. He asked for clarification that repealing this item for Emperor Estates would allow the builder to have garages protrude in front of the homes as opposed to just requiring a setback. Mr. McCauley responded that would be possible; however, any design in the future would be required to go before the Commission for Design Review approval, at which time the Commission can review and make recommendations to Council on the elevations of the home on all four sides. Mr. McCauley noted the Commission may make a motion including desired language at their discretion.

Vice-Chairman Ingram requested clarification from staff, asking if the Commission could decide to strike this stipulation, leaving the decision to be made during the Design Review phase. Mr. McCauley responded that is correct. He stated the formal motion should include adjustments to the stipulations, as discussed.

Commissioner Nichols stated he prefers the limitation be set tonight, with an option to still be able to review setbacks on a case-by-case basis in the future. Mr. Gunderson asked to speak to this point.

Mr. Gunderson stated that he would like to be able to have flexibility in order to provide a product that will have architectural diversity. He stated if this item stays in the Conditions of Approval, there will be no opportunity for diversifying their product, and it will necessitate another PAD amendment in the future.

Commissioner Gad stated he understands Town staff is looking to remove this from the updated Zoning Ordinance; therefore, regardless of this specific application, this item will be reviewed again in the future.

Commissioner Robinson stated he supports removing it from the Conditions of Approval.

Commissioner Gad stated he would like to encourage development creativity, with a requirement for Design Review before anything is final. He added there needs to be a balance between having policy requirements so nothing is missed; but given the fact that staff is considering this removal, he supports staff.

Vice-Chairman Ingram re-addressed the fence issue, stating this is last phase in the development and a recommendation for solid walls would be inconsistent with the rest of subdivision. He pointed out it has been Council policy to not allow any two-story homes abutting arterials, and added this policy has been followed on every subdivision in the past several years.

Commissioner Robinson stated he supports all Conditions of Approval, with the exception of view fencing along Sossaman Road. He feels it would be more desirable to have a landscaping buffer with a solid wall along this section.

Commissioner Gad requested a Parks & Recreation staff member come to a future meeting to discuss this policy with the Commission. He feels the partial view fence clearly does not allow hiding; however, a solid wall protects the homeowner from people having access to the backyard, and from people seeing into their back yard. He stated he will continue to support a solid wall in this location.

Director Condit revisited the Engineering Stipulation relating to Rittenhouse Road, and clarified the intent of the engineering stipulations.

Commissioner Nichols voiced his concern with the retention basin depth in areas where the ponding depth greater than three feet. He is concerned that this is not in accordance with the Town's engineering requirements, and would like to see that side slopes of this basin be modified to include a stipulation stating anything greater than three-foot ponding depth have a different/modified slope. He is concerned for lack of uses, and for safety issues. He stated he would like this in the proposed motion .

Director Condit agreed with this additional stipulation.

Commissioner Nichols asked if this can this be incorporated without adding a stipulation to pre-plat approval. Director Condit replied it can be addressed either way; however, it would

be helpful to discuss side-slope requirements in the stipulations or within a normal engineering review.

**Motion:**        **Commissioner Robinson**

To approve RZ10-081/SD10-082 Emperor Estates Ph IV West as proposed, with the exception of Item 4 of the *Conditions of Approval* to allow a solid 6-foot wall along the Sossaman Road section.

**2<sup>nd</sup>:**            **Commissioner Gad**

Discussion on the Motion: there was discussion about including the Engineering Department stipulations as supplied in the handout, as well as adding a stipulation that any portion of the retention basin with a depth greater than three feet have a side slope ratio of 8:1 minimum, and additionally amending the 2<sup>nd</sup> staff stipulation shown on page 4 of 5 of the Staff Report to indicate garages cannot protrude further than the main livable area space.

Commissioner Gad asked about the 8:1 ratio, questioning if it is a standard or, if not, where it came from. Commissioner Nichols stated it allows pedestrian access. The 4:1 ratio is pretty steep. A ratio of 8:1 is a lot more walk-able. He stated the three-foot pond depth is a common requirement among municipalities. If going to a greater depth, a ratio of 8:1 allows greater access for pedestrians.

**Vice-Chairman Ingram called for the vote:** It was clarified that the motion will include the deletion of verbiage on the Engineering Stipulations pertaining to the requirement on Rittenhouse Road.

Mr. McCauley asked for clarification from the Commission on it's recommendation to Council:

- Allow relief from alley design
- Remove stipulation about 5 foot garage requirement – but adding it should not protrude from rest of home
- Allow solid six foot wall along Sossaman Road
- The Commission is supporting staff's stipulation on two-story home stipulations
- Adding Engineering Stipulations to motion, with additional condition to the slope ratio for pond depths greater than three feet; Steeper for first three feet and shallower for last foot.

Additional Discussion: Mr. Gunderson stated there was a big hardship on drainage challenges with this piece, and added the developer had already worked with the Town's Engineering Department on this section. He stated they will lose a large number of home sites if they do this.

Mr. Balmer suggested two options: the applicant can request continuance or, the Commission vote on this tonight and when it goes to Council, the applicant can speak to Council about their recommendation at that time.

**Vote on motion with amendments as stated during discussion: 2-3 Motion failed.**  
(Matheson, Robinson and Nichols voting Nay).

Commissioner Robinson proposed eliminating the reference to Rittenhouse Road and amended his original motion to include this as part of Engineering Stipulations. The motion was restated:

**To recommend approval of RZ10-081/SD10-082, Emperor Estates Phase IV West, as proposed by staff, with the exception of Item 4 on the Conditions of Approval, which will be stricken in order to allow a six-foot solid wall on the western perimeter; and the removal of the reference to “Rittenhouse Road” in the first item on the Engineering Stipulations.**

**2<sup>nd</sup> to Commissioner Robinson’s amended motion: Commissioner Gad.**

Additional Discussion ensued. Vice-Chairman Ingram stated he would like to see an amendment to the motion to state Engineering staff will revisit the issue of the retention basin side slopes before it is presented to Council.

Commissioner Nichols’ stated his opinion is that changing the side slope will not significantly impact the builder’s ability to sell homes, and will not be significant impact on community.

Further discussion followed. Commissioner Gad asked that should this be approved, the engineering stipulations should be a collaboration between the developer and staff. Tom Condit clarified that is correct.

**Vote on motion: Motion carried 4-1 (Robinson voting ‘nay’).**

**Vice Chairman made a motion to requesting Town Staff revisit the Engineering Stipulations regarding the retention basin side slopes for ponding depths greater than three feet, and that this occur before the Public Hearing at Town Council.**

**Vote: All ayes. Motion carried unanimously. 5-0**

- 5. Discussion on Proposed Update to the Zoning Ordinance,** A proposal by staff, at the direction of the Town Council, to update the Zoning Ordinance to reflect changes as a response to the 2008 General Plan Update.

Mike McCauley presented the staff report, noting Staff is seeking comments on the Zoning Ordinance update, but is not requesting any formal action be taken at this time. This the first comprehensive update to the Zoning Ordinance, which aligns the Town’s zoning regulations with the vision established by the Town’s recently amended General Plan and Subdivision Ordinance.

He presented a summary of the proposed changes by chapter and noted that the entire existing ordinance will be repealed and replaced with the proposed Update.

Mr. McCauley informed the Commission part of the update process also includes the development of a companion document to the Zoning Ordinance: the *Design Standards and Procedures Manual*, which will include design review elements and development applications. Both the Zoning Ordinance Update and the Design Standards and Procedures Manual will be presented for final action simultaneously at a later date.

Mr. McCauley stated as part of the update process, several municipalities were interviewed, including the Towns of Buckeye and Gilbert, and the cities of Chandler, Mesa, Scottsdale and Tempe. Staff also requested review comments from the development community. To date, several firms have submitted review comments and suggestions. Staff will be meeting with these individuals on a one-on-one basis in the near future. These comments will be passed along to the Commission. The *Design Standards and Procedures Manual* will be sent to reviewing agencies for comments. Staff is encouraging additional input from the development community in the meantime.

The “Next Steps” in the process are to:

- Receive and compile comments from Planning and Zoning Commission;
- Complete a final draft of the Design Standards and Procedures Manual’
- Distribute the Design Standards and Procedures Manual for review and comments;
- Schedule Public Hearing for Planning and Zoning Commission on Zoning Ordinance and Design Standards and Procedures Manual;
- Schedule an introduction for Town Council consideration;
- Schedule Public Hearing for Town Council final action.

Questions from the Commission:

Commissioner Gad asked for an explanation of *Transfer of Development Rights*. Mr. McCauley replied it is not necessarily a change. He explained the *Transfer of Development Rights* refers to a particular element of a site that may not be developable to its full potential. A property owner can transfer the rights on the development to another developer who purchases the developer rights.

Commissioner Gad asked if the Town Center and regional commercial areas would be receiving areas. Mr. Balmer responded the Transfer of Development rights in this area mostly has to do with hillside developments, such as those close to the Santans, which cannot be developed. In Town Center, the idea is to intensify the density and also protect the open space. Mr. Balmer clarified the Transfer of Development Rights is not related to eminent domain. It is a voluntary negotiated agreement.

Vice-Chairman Ingram asked about notification requirements with zoning cases, and specifically if they are listed in the Zoning Ordinance or the Design Standards and Procedures Manual. Mr. McCauley was unsure. Mr. Balmer responded staff will check; He



believes as long as it is an ordinance requirement, and includes a change in zoning, it will be included in the Zoning Ordinance and to the best of his recollection, has not changed. Vice-Chairman Ingram stated he would like to see the notification requirements for large lot cases increased. Mr. McCauley responded the distance of notification is based on the size of site.

Commissioner Gad asked if cell tower antennae would be an automatic staff determination. Mr. McCauley responded this would still require Commission/Council approval under the Conditional Use Permit process. Mr. Balmer added staff is looking to respond to the industry's request for allowing antennae higher than 65-feet. The allowable height for any new will pole be up to 75 feet.

Commissioner Nichols noted the bullet point calls out 'existing utility and light poles'. He asked for clarification that it is either existing poles, or new poles, or existing AND new poles.

Commissioner Gad briefly discussed tall poles which emit radiation, and requested staff go back and review the language. He cautioned to allow greater flexibility, but maintain oversight so things are not automatically identified.

Mario Mangiamele of Iplan Consulting addressed the Commission, and thanked staff for allowing his firm to review and comment on the Zoning Ordinance rewrite. He stated he was addressing the Commission on behalf of a contingency of property ownership. He stated he did a comparative analysis during the initial review period and found a number of substantive changes which he thinks are noteworthy for consideration by the Commission and staff. He believes this rewrite will lead to a document that is easier to read. He stated he feels there are some internal inconsistencies; however, he understands staff will meet with stakeholders to address comments. He stated he has provided a matrix to staff so that items of concern are addressed.

Mr. Mangiamele thanked the Commission for the opportunity to talk, and stated he would like to ensure there will be sufficient time to allow for public input. He requested that once the remaining draft documents are released, he have an additional four weeks minimum to review those documents and provide review comments.

There were no further comments or questions.

## **ADMINISTRATIVE ITEMS**

- 6. Review** of next month's agenda items: this item was completed during Work Study.
- 7. Report** on Town Council Action: this item was completed during Work Study.

- 8. Communication** from members of the Commission and Staff  
Vice-Chairman Ingram revisited the Emperor Estates Engineering Stipulations issue, and requested Commissioner Nichols put something in writing for staff to review.

Commissioner Gad requested, if possible, to fit in time during the next Work Study for someone from the PTOS Committee and Parks & Recreation staff to come in and provide clarifications and further information on the PTOS Plan and related policies.

**9. Adjournment**

**Motion:** Commissioner Nichols  
**To adjourn.**  
**2<sup>nd</sup>:** Commissioner Gad  
**Vote:** All ayes. Motion carried 5-0.

The meeting adjourned at 8:34 p.m.

**PLANNING AND ZONING COMMISSION**

By: \_\_\_\_\_  
Vice-Chairman Ingram

ATTEST:

\_\_\_\_\_  
Laura Moats, Community Development Assistant

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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 December 8, 2010 Regular Session Meeting of the Planning and Zoning Commission. I further certify that the meeting was duly called and that a quorum was present.

Dated this 8th day of December, 2010.  
Passed and Approved this 12<sup>th</sup> day of January, 2011