

<b>TOWN OF FLORENCE</b>	<b>COMMUNITY DEVELOPMENT STAFF REPORT</b>	<b>AGENDA ITEM 6A</b>
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**TO:** PLANNING AND ZONING COMMISSION

**FROM:** MARK ECKHOFF, AICP  
COMMUNITY DEVELOPMENT DIRECTOR

**MEETING DATE:** SEPTEMBER 15, 2011 AND OCTOBER 6, 2011

**SUBJECT:** PZC-32-11-MGPA  
(NRDAE TEXT MGPA)

**REQUEST:**

This is an application by Pew and Lake, PLC on behalf of Curis Resources (Arizona) Inc. for the following:

**PZC-32-11-MGPA:** A Major General Plan Amendment to the Town of Florence 2020 General Plan. More specifically, this application requests a Text Amendment to the Town of Florence 2020 General Plan Land Use Element to create a new land use overlay classification entitled the "Natural Resources Development and Alternative Overlay", which would be defined as follows:

"The Natural Resource Development and Alternative Energy (NRDAE) Overlay is established to support the short and medium term beneficial use of natural resources located within the Town and/or the development and operation of alternative energy resources while at the same time preserving and protecting the long range goals for the underlying and principal General Plan land uses envisioned for the property. This overlay is intended to facilitate the exploration, development, harnessing and extraction of both renewable and non-renewable natural resources, as well as reclamation activities, while maintaining the opportunity for the ultimate development of the long range underlying land uses of the property as described by the Town's General Plan. This Overlay would not permit a major disturbance of land such as open pit or strip mining, but would facilitate interim land uses that could be compatible with surrounding land uses. Application of the Overlay shall be through the Major General Plan Amendment process and any application shall address the review considerations established for Major Amendments in the Town of Florence General Plan and supporting application materials. Planned Unit Development (PUD)

zoning that specifies the intended uses of a subject property consistent with the overlay and a plan for long term development consistent with the underlying General Plan land use designations, are required with the use of this Overlay.”

**RECOMMENDED MOTION:**

Motion for an unfavorable recommendation to the Mayor and Town Council for case number PZC-32-11-MGPA, a Major General Plan Amendment submittal by Pew and Lake, PLC.

**PROPERTY OWNER:**

Curis Resources (Arizona) Inc.  
1575 W. Hunt Highway  
Florence, AZ 85132  
(520) 374-3984

**APPLICANT:**

Pew and Lake, PLC  
1744 S. Val Vista Dr.  
Suite 217  
Mesa, AZ 85204  
(480) 461-4670  
[Sean.Lake@pewandlake.com](mailto:Sean.Lake@pewandlake.com)

**BACKGROUND:**

The Town of Florence 2020 General Plan currently contains five Overlay Districts: the Historic District Overlay, the Redevelopment District Overlay, the Southeast Florence Overlay, the Freeway Mixed Use Overlay and the Conservation Overlay. These Overlays are intended to add further refinement to the Town's 2020 General Plan and provide greater direction to ensure the overall goals, objectives and strategies of the 2020 General Plan can be fulfilled. Each of the Overlay designations is intended to work in harmony with the standard land use designations that are applied to properties within the Overlay Districts while recognizing the unique land use and development characteristics that might exist or be sought in each of these Overlay Districts.

This application proposes adding a sixth Overlay to the text of the 2020 General Plan to address, according to the applicant, a unique need for Florence. The 2020 General Plan envisions opportunities within the Florence Planning Area for some long-term intense land uses with its Employment/Light Industrial and Heavy Industrial land use categories. However, the 2020 General Plan does not specifically contemplate industrial or semi-industrial types of land uses that might

occur solely as interim uses, such as interim alternative energy development or in-situ copper mining land uses, such as the proposed Florence Copper Project. Rather than requiring that the location of such uses on a property be identified as Employment/Light Industrial or Heavy Industrial land uses, the applicant believes that the use of a new NRDAE Overlay land use designation would allow the Town to consider where natural resource development and alternative energy facilities might appropriately occur as interim land uses. The applicant further contends that the Overlay be considered as part of a comprehensive land use decision-making package that is tied to zoning actions and potentially Development Agreements. According to the applicant, this approach would allow mitigation of any impacts from the proposed interim land uses and the ability to prepare re-use plans for a site that would be consistent with the planned ultimate development of the site in a manner consistent with the underlying land use designations.

Staff appreciates the creativity that went into the development of the NRDAE Overlay concept and how, with this new Overlay, the applicant has attempted to address some of the concerns raised during last year's consideration of the Major General Plan Amendment for the proposed Florence Copper Project.

#### **ANALYSIS:**

When the Planning and Zoning Commission and Town Council are considering a Major Amendment to the General Plan, the applicant must justify the need for a Major Amendment to the General Plan through a series of questions:

##### **1. Why is the current land use/circulation classification not suitable?**

The Florence 2020 General Plan identifies many land use categories. These categories include single use land use designations and some mixed land use categories. The 2020 General Plan also currently provides five land use Overlay Districts that add further refinement to the 2020 General Plan and provide greater direction to ensure the overall goals, objectives and strategies of the 2020 General Plan can be fulfilled. As discussed in the 2020 General Plan, special zoning districts can then be adopted to facilitate the implementation of an Overlay District. The Town may also consider the future development of Specific Area Plans for the Overlay District areas that would be incorporated into the Town's General Plan.

In recent years, an increased interest has developed regarding green technologies that capitalize on natural resources and provide alternative sources of energy. According to the applicant, the proposed NRDAE Overlay land use designation would allow the short and medium beneficial use of renewable energy sources, such as solar and wind power, and recovery of nonrenewable resources, such as environmentally sensitive,

low impact mineral extraction. The applicant suggests that the 2020 General Plan's current land use categories do not encompass these aforementioned types of land uses, whether interim or perpetual, in a manner that clearly distinguishes them from other industrial or employment land uses. According to the applicant, this proposed Overlay designation would allow a property owner and the Town to craft regulations that allow both to benefit from the short to medium term uses of a property in a manner that mitigates impacts on the land and maintains the ability to develop it in concert with the long term vision of land uses per the 2020 General Plan. The applicant contends that most planning tools address only the initial development or the ultimate development of a property, while the NRDAE Overlay is a planning tool that will allow the Town to plan for both initial and long term development of a property.

Staff contends that:

- Though the proposed NRDAE Overlay is conceptually creative, the proposed NRDAE Overlay as written ineffectively describes the types of land uses that might be supported with this land use category. As such, the types of land uses that might be indicative of this Overlay District could be subject to broad interpretation;
- The other Overlay Districts currently included in the 2020 General Plan are designed to support the goals and objectives pertaining to certain defined areas, e.g. the Redevelopment District or the Historic District, of the community and to support the standard land use designations provided for specific properties that have these Overlay District designations. The proposed NRDAE Overlay actually works more as an entirely separate land use category that would not necessarily work in harmony with the standard land use designations applied to the properties with this new Overlay designation;
- A land use district, whether a standard category or an Overlay, should not be so complex as to require companion zoning and Development Agreement actions in order to clearly interpret the proposed uses planned within the Overlay District and to implement the use of the Overlay mechanism. For example, the applicant refers to this classification as an interim land use, but how does one define interim, how would the transition from an interim to a permanent standard land use designation occur and could there be scenarios where both the interim and the future permanent uses are occurring simultaneously?

2. **Does the proposal conform with land use goals? Will the proposed change in land use or circulation do the following?**

a. **Support the goals and objectives of the General Plan?**

According to the applicant, the proposed Overlay would allow Florence to evaluate and approve land uses and reuses of property during the entitlement process rather than forcing property to remain in an undeveloped state for an indefinite period of time until market conditions improve or change. Consequently, the applicant contends that new Overlay would allow property to be used for alternative land uses in the interim while market forces are maturing.

Staff contends that no General Plan land use designation is designed to force a property to remain in an undeveloped state. All properties within the Town of Florence have some type of General Plan land use designation and zoning that permits some type of use of every property within the Town of Florence. Staff further contends that the NRDAE Overlay is inconsistent with the following Goals of the Florence 2020 General Plan:

Land Use Element

- **Goal 1:** *Establish and maintain an orderly pattern of land use types and intensities to create an economically, culturally and environmentally sustainable community.*

The application of this Overlay as defined could encourage an un-orderly pattern of land use types and intensities that does not appropriately consider the long term consequences of the land uses that might be supported within this Overlay District because they are considered interim land uses.

- **Goal 3:** *Designate the use of land based upon conditions such as location, adjacent uses, access and natural terrain.*

The application of this Overlay as defined could allow short, medium term, and perhaps even longer term land uses since short, medium and long are not defined by the proposed Amendment, in a manner that would not be considerate of the specific conditions and circumstances of a property.

- **Goal 4:** *Provide for the everyday needs of Florence residents, workers and visitors by designating land uses that provide for diversity in housing, employment, services and activities.*

Current land use designations do not force property to be vacant, underused or underutilized as the applicant might suggest. The Town now has approximately 62 square miles of incorporated land mass with a variety of 2020 General Plan land use designations and zoning types to meet the needs of Florence residents and visitors. The proposed NRDAE Overlay, if applied to property, could limit opportunities for diversity in housing, employment, services and activities based on the potential incompatible nature of the subject Overlay designation.

- **Goal 6:** *Minimize conflicts between different types of land uses.*

The application of this Overlay as defined could increase opportunities for conflicts between different types of land uses since the ultimate type of land uses envisioned under this Overlay are not clearly defined and the emphasis on short term and interim land uses could detract from the true impacts of the allowable land uses whether they might be short, medium or long term.

#### Economic Development Element

- **Goal 1:** *Develop a sustainable economy in order to maintain a vibrant and healthy community.*

The creation of this new Overlay designation in itself does not offer any greater economic sustainability and the application of the land use could actually reduce the Town's long term economic sustainability by potentially supporting the incompatible placement of land uses on the Town's Future Land Use Map.

- **Goal 5:** *Expand private sector employment opportunities by strategically preserving land for development of employment centers and facilitating the provision of infrastructure to provide sites that are available for immediate development of employment and sales tax generating uses.*

The creation of this new Overlay designation in itself does not offer any tools to expand private sector development and the implementation of the Overlay could allow piecemeal and un-strategic consideration of potentially incompatible land uses on property under the guises of the potentially intense and incompatible land uses being of a temporary or interim nature.

**b. Conform to the proposed range of land uses, densities, and intensity of uses, hierarchy of transportation systems?**

According to the applicant, the Overlay will be another tool that the Town Council, Planning Commission and staff can use to allow multiple land uses, and densities and intensities of uses that will realize benefits for Florence. Furthermore, the applicant suggests that the “hierarchy of transportation” issue is not applicable for this text amendment. Instead, it is the application of the NRDAE Overlay to property that should consider this issue.

Staff contends that the proposed Overlay does not fit into the proposed range of land uses, densities and intensities of land uses clearly defined by the 2020 General Plan. The NRDAE Overlay might even be potentially misleading as there appears to be the potential of this land use designation supporting industrial land uses while not actually showing a land use designation of Employment/Light Industrial and/or Heavy Industrial on the Town’s Future Land Use Map. It is accurate that this Overlay does not address any transportation system considerations.

**c. Avoid creation of isolated uses that will cause incompatible community form and a burden on services and circulation systems?**

The applicant states that the Overlay will give the Town Council, Planning Commission and staff another land use tool to address compatible development for both short to medium term uses and long term uses. Furthermore, the applicant suggests that the Overlay and its implementation should allow mitigation of land use impacts in a manner that accommodates interim and ultimate development of a property that respects surrounding planned and existing land uses.

Staff contends that the creation of this Overlay District in itself does not create potentially problematic isolated land uses, but the application or implementation of the Overlay could support opportunities for intense and potentially incompatible land uses under the notion that the planned uses are of a short or medium nature, which again, are time frames undefined by this application or the 2020 General Plan.

**3. What unique physical characteristics of the site present opportunities or constraints for development under the existing classification?**

This is an item that requires consideration when the Overlay, if approved, might be considered for a specific site.

**4. What is the ability and capacity of the water and sewer system to accommodate development that may occur as a result of the General Plan Amendment without system extensions or improvements?**

This is an item that requires greater consideration when the Overlay, if approved, might be considered for a specific site. However, staff contends that this new Overlay designation opens the door to some potentially unknown land uses and possibly some land uses that could have impacts on the Town's water and sewer systems. Referring to question number one, this new Overlay category is written in a manner as to not fully ascertain what types of land uses might be supported under this Overlay designation and furthermore: there are no stated limitations on how this Overlay could be used; there is no definition of the life span of the Overlay District or how the Overlay might transition to the long-term standard uses envisioned for a property; it is unclear under what conditions might the new Overlay designation be ideally applied; and it is unknown what areas of the community might be best-suited for this proposed Overlay.

**5. What is the ability of existing police and fire department personnel to provide adequate emergency services according to acceptable response standards set by the community?**

This is an item that requires greater consideration when the Overlay, if approved, might be considered for a specific site. However, staff contends that this new Overlay designation opens the door to some potentially unknown land uses and possibly some land uses that could have impacts on the Town's public safety resources. Referring to question number one, this new Overlay category is written in a manner as to not fully ascertain what types of land uses might be supported under this Overlay designation and furthermore: there are no stated limitations on how this Overlay could be used; there is no definition of the life span of the Overlay District or how the Overlay might transition to the long-term standard uses envisioned for a property; it is unclear under what conditions might the new Overlay designation be ideally applied; and it is unknown what areas of the community might be best-suited for this proposed Overlay.

**6. What is the ability of the proposed public and private open space, recreation, schools, and library facilities to meet the projected demand of future development without reducing services below community standards?**

This is an item that requires greater consideration when the Overlay, if approved, might be considered for a specific site. However, staff contends that this new Overlay designation opens the door to some potentially unknown land uses and possibly some land uses that could have impacts on important community services. Referring to question number one, this new Overlay category is written in a manner as to not fully ascertain what



types of land uses might be supported under this Overlay designation and furthermore: there are no stated limitations on how this Overlay could be used; there is no definition of the life span of the Overlay District or how the Overlay might transition to the long-term standard uses envisioned for a property; it is unclear under what conditions might the new Overlay designation be ideally applied; and it is unknown what areas of the community might be best-suited for this proposed Overlay.

**7. What is the proposed fiscal impact of future development based on evaluation of projected revenues and the additional cost of providing public facilities and services to accommodate projected increases or decreases in population and development that could occur as a result of the General Plan amendment?**

This is an item that requires consideration when the Overlay, if approved, might be considered for a specific site. There is no productive way of measuring the fiscal impact of this Overlay without knowing the specific site location, project description and other associated relevant details that would be considered when, if approved, this Overlay is being considered for implementation on a specific property.

**8. How will the proposed amendment affect the ability of the community to sustain the physical and cultural resources, including air quality, water quality, energy, natural and human-made resources necessary to meet the demands of present and future residents?**

This is an item that requires greater consideration when the Overlay, if approved, might be considered for a specific site. However, staff contends that this new Overlay designation opens the door to some potentially unknown land uses and possibly some land uses that could have impacts on air, water and other valuable resources. Referring to question number one, this new Overlay category is written in a manner as to not fully ascertain what types of land uses might be supported under this Overlay designation and furthermore: there are no stated limitations on how this Overlay could be used; there is no definition of the life span of the Overlay District or how the Overlay might transition to the long-term standard uses envisioned for a property; it is unclear under what conditions might the new Overlay designation be ideally applied; and it is unknown what areas of the community might be best-suited for this proposed Overlay.

**9. What changes, if any, in Federal or State laws or policies that may substantiate the proposed amendment?**

Staff is unaware of any changes in Federal or State law necessitating a need for this proposed Major General Plan Amendment. This item should be given additional consideration when the Overlay, if approved, might be considered for a specific site.

## **FINDINGS:**

The following findings have been made on this request and are provided for the consideration of the Planning and Zoning Commission and the Town Council:

- Though the proposed NRDAE Overlay is conceptually creative, the proposed NRDAE Overlay as written ineffectively describes the types of land uses that might be supported with this land use category. As such, the types of land uses that might be indicative of this Overlay District could be subject to broad interpretation;
- The proposed NRDAE Overlay actually works more as an entirely separate land use category that would not necessarily work in harmony with the standard land use designations applied to the properties with this new Overlay designation;
- A land use district, whether a standard category or an Overlay, should not be so complex as to require companion Zoning and Development Agreement actions in order to clearly interpret the proposed uses planned within the Overlay District and to implement the use of the Overlay mechanism;
- The NRDAE Overlay is inconsistent with some of the Goals stated within the voter-approved Town of Florence 2020 General Plan;
- The proposed Overlay does not fit into the proposed range of land uses, densities and intensities of land uses clearly defined by the 2020 General Plan. The NRDAE Overlay might even be potentially misleading as there appears to be the potential of this land use designation supporting industrial land uses while not actually showing a land use designation of Employment/Light Industrial and/or Heavy Industrial on the Town's Future Land Use Map;
- The application or implementation of the Overlay could support opportunities for intense and potentially incompatible land uses under the notion that the planned uses are of a short or medium nature, which are time frames undefined by this application or the 2020 General Plan; and
- This new Overlay designation opens the door to some potentially unknown land uses and possibly some land uses that could have impacts on Town and community resources and services.

## **PUBLIC PARTICIPATION:**

The Town has reached out to Town citizens and other property owners through a significant public participation process that includes:

- “Sixty Day” Major General Plan Amendment review packets were forwarded to all appropriate and interested parties per State requirements. In all, 69 Sixty Day packets were distributed to various agencies, property owners, elected officials, appointed officials and Town staff;
- A Press Release for the 2011 Major General Plan Amendment cycle was provided on the Town’s webpage and also forwarded to the local Press;
- Legal advertisements in the local Town paper;
- Two public hearings for the Town of Florence Planning and Zoning Commission at two different locations; and
- Town Council public hearing.

Per State and Town of Florence regulations, public hearings are required for Major General Plan Amendments and Major General Plan Amendments may only be acted on by a jurisdiction one time per year.

The 2011 Major Amendments to the General Plan Process hearing schedule for the Planning and Zoning Commission/Town Council is as follows:

- \*September 15, 2011, 5:30 p.m. Planning and Zoning Public Hearing
- \*\*October 6, 2011, 5:30 p.m. Planning and Zoning Public Hearing
- \*\*November 7, 2011, 6:00 p.m. Town Council Public Hearing

\*Anthem at Merrill Ranch Sun City Union Center  
3925 N. Sun City Blvd., Florence, Arizona 85132

\*\*Town Hall Council Chambers  
775 North Main Street, Florence, Arizona 85132

In addition to the Town’s public participation efforts, the applicant made significant efforts to share with the public how the proposed Overlay, if approved, could be used for the proposed Florence Copper Project site. An organized opposition group (Protect Our Water Our Future) conducted their own community outreach to share their concerns about how the proposed Overlay District might be used for the aforementioned project.

It is noted that the Town of Queen Creek, the only municipal governmental entity to comment on this year’s applications, provided a neutral response on all of our 2011 Major General Plan Amendment requests under consideration. CAAG (Central Arizona Association of Governments) also provided a comment of “no

comments” on all of our 2011 Major General Plan Amendment requests under consideration.

Staff has received very few communications directly pertaining to this application, but staff has received substantial comments, both favorable and unfavorable, on companion case PZC-33-11-MGPA that seeks to implement the new land use Overlay proposed by this application.

**STAFF RECOMMENDATION:**

It is noted that the Commission is holding two hearings on the Major General Plan Amendment cases this year. Action, in a form of a recommendation to the Town Council, shall only be provided at the second meeting on October 6, 2011.

In accordance with the findings presented on this request, staff recommends that the Planning and Zoning Commission forward an unfavorable recommendation to the Mayor and Town Council on case number PZC-32-11-MGPA, a Major General Plan Amendment submittal by Pew and Lake, PLC.