





# MAYOR & COUNCIL MEETING NOTICE & AGENDA

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Mayor and Council and to the general public that the Mayor and Council will hold the following meeting, which will be open to the public:

## REGULAR AGENDA

**TUESDAY, FEBRUARY 3, 2009 – 5:30 P.M.  
MAYOR AND COUNCIL CHAMBERS  
(CITY HALL, 255 W. ALAMEDA, TUCSON, AZ)**

**1. ROLL CALL**

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

INVOCATION – Pastor John W. Miller, Northwest Bible Church

PLEDGE OF ALLEGIANCE – Junior Girl Scout Troop #1247

PRESENTATIONS:

- a. Proclaiming February 7, 2009 to be “Beat Back Bufflegrass Day”
- b. Proclaiming February 12, 2009 to be “National Association for the Advancement of Colored People 100<sup>th</sup> Anniversary”
- c. Performance of “Lift Every Voice and Sing” (Black National Anthem) by Aliyah Powe, Levi Powe, and Carissa Powe and presentation of Certificates of Appreciation

**3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

- a. Report from City Manager FEB3-09-60 CITY-WIDE

**4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS**

- a. Report from City Manager FEB3-09-61 CITY-WIDE

**5. LIQUOR LICENSE APPLICATIONS**

- a. Report from City Manager FEB3-09-62 CITY-WIDE

- b. Liquor License Applications

New License(s)

- 1. Olive Garden Restaurant #1622, Ward 1  
1213 W. Irvington Rd.  
Applicant: Andrea Dahlman Lewkowitz  
Series 12, City 88-08  
Action must be taken by: February 15, 2009

Staff has indicated the applicant is in compliance with city requirements.

- 2. Olive Garden Italian Restaurant #95, Ward 3  
300 W. Wetmore Rd.  
Applicant: Andrea Dahlman Lewkowitz  
Series 12, City 89-08  
Action must be taken by: February 15, 2009

Staff has indicated the applicant is in compliance with city requirements.

- 3. Red Lobster #869, Ward 6  
5870 E. Broadway Blvd., Ste E-5 Park Mall  
Applicant: Andrea Dahlman Lewkowitz  
Series 12, City 90-08  
Action must be taken by: February 15, 2009

Staff has indicated the applicant is in compliance with city requirements.

- 4. Olive Garden Italian Restaurant #1219, Ward 6  
5410 E. Broadway Blvd.  
Applicant: Andrea Dahlman Lewkowitz  
Series 12, City 93-08  
Action must be taken by: February 15, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, “In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license”. (A.R.S. Section 4-201)

Person Transfer(s)

5. The Green’s Bar & Grill, Ward 5  
1310 S. Alvernon Way  
Applicant: Jonathan Lee Rousseau  
Series 6, City 92-08  
Action must be taken by: February 15, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant’s capability, qualifications and reliability. (A.R.S. Section 4-203)

c. Special Event(s)

1. Saving Animals from Euthanasia (SAFE), Ward 6  
900 S. Randolph Way  
Applicant: Roxanne Ethel Johnson  
City T106-08  
Date of Event: February 21, 2009  
(Raise awareness about animal welfare issues; educate & entertain the public)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent changes scheduled for this meeting.

**6. CALL TO THE AUDIENCE**

At this time, any member of the public is allowed to address the Mayor and City Council on any issue except for items scheduled for a public hearing at the meeting. Speakers are limited to three minute presentations. Speakers must state their name, address, whether they reside in the City of Tucson, whom they represent, and the subject matter. Any person who is representing a person other than themselves and is receiving compensation to influence an action by the Mayor and Council, shall, before speaking, identify themselves as a “retained speaker.” Pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

7. **CONSENT AGENDA – ITEMS A THROUGH F**

**FOR COMPLETE DESCRIPTION OF ITEMS**  
**SEE ATTACHED CONSENT AGENDA**

Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired by members of the governing body, that item will be removed from the Consent Agenda and will be considered separately.

8. **PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTERS 23) THE LAND USE CODE AND DEVELOPMENT REGULATION AMENDMENTS RELATED TO LANDSCAPING**

- a. Report from City Manager FEB3-09-71 CITY-WIDE
- b. Hearing on a text amendment to the *Land Use Code (LUC)* to increase the requirement from one tree per ten parking spaces to one tree per four parking spaces, and to amend the Development Regulations to require the removal, monitoring, and mitigation of buffelgrass.
- c. Ordinance No. 10632 relating to planning and zoning; amending certain portions of the Tucson Code, Chapter 23, Land Use Code, Article III, Development Regulations, Division 7, Landscaping and Screening Regulations, by amending Section 3.7.2.7, Plant Cover/Dust Control, requiring the removal of buffelgrass; and Section 3.7.2.3.A.1, Vehicular Use Areas, to require one tree for every four parking spaces; and Article III, Development Regulations, Division 8, Native Plant Preservation, by amending Section 3.8.1 Intent, and Section 3.8.4, General Provisions, to include monitoring and mitigation of buffelgrass; and declaring an emergency and setting an effective date.

Staff recommends approval of the proposed amendment to the *Land Use Code* and the Development Regulations.

9. **ZONING: (C9-08-18) FORT LOWELL – CRAYCROFT ROAD, R-1 TO HR-1, CITY MANAGER’S REPORT AND DIRECT ORDINANCE ADOPTION**

- a. Report from City Manager FEB3-09-66 WARD 2
- b. Report from Zoning Examiner dated December 26, 2008
- c. Request to rezone a City-owned parcel, 5.5 acres in size, and to amend the boundaries of the Fort Lowell Historic District to incorporate the property into the larger Fort Lowell Historic Park. The rezoning site is located on the southwest corner of Craycroft and Fort Lowell Roads.

The *General Plan* and the *Old Fort Lowell Neighborhood Plan* provide relevant policy guidance for the requested rezoning.

The Zoning Examiner and staff recommend the approval of HR-1 zoning.

- d. Ordinance No. 10630 relating to zoning: amending zoning district boundaries in the area located on the southwest corner of Craycroft and Fort Lowell Roads in Case C9-08-18, Fort Lowell – Craycroft Road, R-1 to HR-1 zone; and setting an effective date.

A simple majority vote will be necessary to adopt the ordinance.

**10. ZONING: (C9-08-15) CS&Z HOLDINGS – ALVERNON WAY, R-2 TO C-1, CITY MANAGER’S REPORT**

- a. Report from City Manager FEB3-09-67 WARD 6
- b. Report from Zoning Examiner dated December 16, 2008
- c. Request to rezone approximately 0.65 acres from R-2 to C-1 zoning. The rezoning site is located on the northeast corner of Alvernon Way and Lee Street. Applicant: Mike Grassinger of The Planning Center, on behalf of the property owner CS&Z Holdings, Inc.

The preliminary development plan proposes a single-story, 4,800 square-foot commercial building to support an office/retail/restaurant use.

The rezoning is consistent with and supported by the policies in the *Grant-Alvernon Area Plan*, as amended, and the *General Plan*.

The Zoning Examiner and staff recommend approval of the requested C-1 zoning subject to following conditions:

PROCEDURAL

- 1. A development plan in substantial compliance with the preliminary development plan dated September 23, 2008, and the Design Compatibility Report, is to be submitted and approved in accordance with Section 5.3.8 of the *Land Use Code*.
- 2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled “Agreement to Waive Any Claims Against the City for Zoning Amendment”.

3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. “Safe by Design” concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. Owner/developer shall enter into a Sewer Service Agreement with Pima County that specifies the improvements to be made to Pima County's public sewerage system, and the timing of said improvements.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

#### LAND USE COMPATIBILITY

8. All outdoor lighting shall be full cutoff, directed down and shielded away from adjacent parcels and roadways.
9. The building shall be designed to have “four-sided” architecture. Building facades at the rear and sides shall have architectural character and detail comparable to the front façade, including but not limited to color palette, rooflines, and exterior materials. Colored and dimensioned elevation drawings shall be submitted as part of the development plan submittal to demonstrate compliance with this condition.
10. A varied roofline or parapet line shall be integrated into the design. Elevation drawings shall be submitted as part of the development plan submittal to demonstrate compliance with this condition.
11. The color scheme shall be consistent with the Sonoran Desert environment, and shall complement the surrounding development. Information shall be submitted with the development plan, including colored elevation drawings and color photographs of development in the neighborhood, to demonstrate compliance with this condition.
12. All screen walls shall be graffiti-resistant, and have a texture and color that is consistent with or complements the texture and color of the building.

13. All exterior mechanical equipment shall be screened from view from the surrounding properties and streets, and that the equipment and screening shall be integrated into the site design.
14. The landscape plan shall include one tree for every four parking spaces within the vehicle use area.
15. The owner/developer shall install a modified “pork chop” and a right-turn only sign at the exit onto Lee Street to ensure traffic is directed away from the neighborhood interior.
16. Reflective and pervious alternative paving materials shall be incorporated in pedestrian areas and adjacent to planting areas. These paving materials shall be shown on the landscaping plans at the time of development plan submittal.
17. Provide two single or one double wide solid waste storage/enclosure area/s for the purpose of storing one refuse and recycle container in each. Each enclosure should be designed per DS 6-01.3.0 & 6-01.4.0
18. All screen walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one or more visually appealing design treatments, such as the use of two or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
19. Six (6) inch wide fence block or greater shall be used for perimeter walls.

#### DRAINAGE/GRADING/VEGETATION

20. Should buffelgrass be present on the site, a buffelgrass mitigation management plan shall be created for the site as a component of the Native Plant Preservation Plan portion of the Landscape Plan.
21. Preparation of a complete Drainage Report, including details of detention/retention, is required. Should detention/retention be required, the following will apply:
  - a. Each detention/retention basin shall include a sediment trap, or other sediment control measures as approved by the City Engineer, to prevent sedimentation of the detention/retention basin. Each sediment trap, or other sediment control measure, shall have a provision for total drainage.

- b. Detention/retention basin floors shall be graded to drain either toward the outlet structure or other logical point. Basin floors shall not be flat.
  - c. Detention/retention basins in or adjacent to the residential area shall be located adjacent to a street or accessible common area. Basin sideslopes in the adjacent area(s) shall be designed and constructed in accordance with the requirements of the Detention/Retention Manual for human activity zones.
  - d. Rectangular basin shapes shall be avoided unless necessitated by recreational or visual amenities within the basin.
  - e. Vegetation shall be used as screening and/or security barrier for a minimum of ten percent of the basin perimeter.
  - f. All security barriers and screening for detention/retention basins shall meet Safe By Design guidelines.
22. Rain water harvesting must be conducted at this site per the requirements in Land Use Code (LUC) section 3.7.1.1.A, requiring that landscaping should accomplish natural resources conservation; LUC Section 3.7.4.3.B requiring integration of grading, hydrology and landscaping to make the maximum use of stormwater for on-site irrigation; and LUC Section 3.7.4.5.B requiring that stormwater and runoff harvesting be used to supplement drip irrigation for both new and preserved vegetation. Techniques to design and implement water harvesting are described in the City of Tucson's Water Harvesting Guidance Manual. This document can be downloaded as a pdf file from the following website: <http://dot.ci.tucson.az.us/stormwater/>.

To comply with the above-referenced LUC sections, rainwater harvested from building roofs, sidewalks, and parking lots shall be employed to assist in supporting landscaped areas including parking lot tree wells, landscape buffers, sidewalk plantings, and other vegetation locations at the site. Site plans shall include Water Harvesting Plan & Detail sheet(s) showing all water harvesting locations at the site including common areas, perimeter buffer areas and any retention/detention basins and should include the length, width and finished depth of the water harvesting areas, curb openings, raised walkways, use of mulch, and drainage arrows showing runoff routing to each water harvesting area and information on where overflow will be routed. Consult the Office of Conservation and Sustainable Development prior to the development of water harvesting plans.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

23. The owner/developer shall dedicate the east half right-of-way (60') of Alvernon Way per the *Major Streets and Routes Plan Map*.
24. The owner/developer shall dedicate a 30-foot radius spandrel at the southwest corner of the site.
25. The owner/developer shall dedicate any additional right-of-way for Lee Street as may be required by DSD/City Development Standards.

Four written approvals and one written protest were received prior to the Zoning Examiner's public hearing on December 1, 2008, at that time requiring a three-fourths majority vote of Mayor and Council to adopt a rezoning ordinance. No approvals or protests were received subsequent to the Zoning Examiner's public hearing. One of the protests is within the 150 foot area, representing a 24.95 percent protest by area to the east. The protest generally alludes to building and wall heights, setbacks, light standards, and vehicle access off of Lee Street. These items have been addressed in the recommended conditions.

Because the protest level exceeds 20 percent to the east, a three-fourths majority vote will be necessary to adopt an ordinance rezoning the subject property once the conditions of rezoning are met.

**11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

- a. Report from City Manager FEB3-09-63 CITY-WIDE

**12. ADJOURNMENT**

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, February 10, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.