



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, APRIL 10, 2007 – 5:30 P.M.
MAYOR AND COUNCIL CHAMBERS
(CITY HALL, 255 WEST ALAMEDA, TUCSON, ARIZONA)**

1. ROLL CALL

2. INVOCATION AND PLEDGE OF ALLEGIANCE

INVOCATION – Roger Phillips, City Clerk’s Office

PLEDGE OF ALLEGIANCE – Mayor, Council and public in attendance

PRESENTATION

- a. Proclaiming April 9 to April 15, 2007, to be “Community Development Week”

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

- a. Report from City Manager APRIL10-07-193 CITY-WIDE

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

- a. Report from City Manager APRIL10-07-194 CITY-WIDE

5. LIQUOR LICENSE APPLICATIONS

- a. Report from City Manager APRIL10-07-198 CITY-WIDE
- b. Liquor License Applications

New License(s)

- 1. Embassy Suites Hotel - Tucson International Airport, Ward 5
7051 S. Tucson Blvd.
Applicant: Paul Lewis Gibson
Series 11, City 14-07
Action must be taken by: April 20, 2007

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

- 2. Circle K Store # Kino, Ward 5
N of NWC Benson Hwy. & Kino Pkwy.
Applicant: Kim Kenneth Kwiatkowski
Series 10, City 17-07
Action must be taken by: April 20, 2007

Development Services Department has indicated the applicant is not in compliance with city requirements.

- 3. Circle K Store # 6th Ave., Ward 5
SEC I-10 & 6th Ave.
Applicant: Kim Kenneth Kwiatkowski
Series 10, City 18-07
Action must be taken by: April 21, 2007

Development Services Department has indicated the applicant is not 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)

4. Best Western Executive Inn, Ward 3
333 W. Drachman St.
Applicant: Norma Jene Robinett
Series 6, City 15-07
Action must be taken by: April 28, 2007

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)

Person/Location Transfer(s)

5. Cata Vinos, Ward 3
3063 N. Alvernon Way
Applicant: Yvonne Kay Foucher
Series 7, City 16-07
Action must be taken by: April 28, 2007

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

Public Opinion: Written Arguments Opposed Filed

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

c. Special Event(s)

1. Comité de Festividades Mexicanas, Ward 1
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T13-07
Date of Event: May 5, 2007 - May 6, 2007
(To Celebrate Cinco de Mayo)

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

Public Opinion: Written Argument Opposed Filed

2. Satori, Inc., Ward 3
3727 N. 1st Ave.
Applicant: Phyllis L. Gold
City T21-07
Date of Event: April 21, 2007
(Auction/Fundraiser)

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

3. Tucson International Mariachi Conference, Inc., Ward 6
900 S. Randolph Way
Applicant: Carlos Dejud
City T22-07
Date of Event: April 28, 2007
(To Raise Funds for La Frontera Center, Inc.)

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

4. Tucson Pima Arts Council's Art Works Academy, Ward 1
140 N. Main Ave.
Applicant: Roberto Bedoya
City T26-07
Date of Event: April 13, 2007
(Fundraiser for Art Works Academy)

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

5. Amigos De Las Americas, Ward 6
1303 E. University Blvd.
Applicant: Michele Anzalone Grantham
City T27-07
Date of Event: April 15, 2007
(Fundraiser for Service Trips to Latin America)

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

6. Escaramuza "Flor de Primavera", Ward 5
4823 S. 6th Ave.
Applicant: Francisco J. Celaya
City T31-07
Date of Event: April 21, 2007
(Entertainment & Educate about Mexican Culture)

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

- d. Agent Change

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 D

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: ZONING (C9-01-19) CRETCHER DESIGNS LLC – OLD SPANISH TRAIL, SR TO C-1, TIME EXTENSION, CHANGE OF CONDITIONS, AND CHANGE OF PRELIMINARY DEVELOPMENT PLAN

- a. Report from City Manager APRIL10-07-197 WARD 2
- b. Hearing on a request to allow a five-year time extension, and change of conditions and preliminary development plan for a property located on the northwest corner of Old Spanish Trail and Harrison Road. Applicant: Dan Castro, Rick Engineering, representing Venture Development Group, on behalf of the property owner, Cretcher Designs, LLC.

The original five-year authorization will expire on May 13, 2007. A public hearing is required because the request, if approved, will extend the time for completion of rezoning conditions more than five (5) years from the date of the last public hearing.

The original preliminary development plan was for a 30,984 square foot mixed retail and food service development on the approximately 3.72 acres site. The proposed development now consists of a 20,032 square foot children's day care facility with a playground area of approximately 33,000 square feet. The revised preliminary development plan continues to be in compliance with the policy direction of the *Pantano East Area Plan* and the *General Plan*.

Staff recommends approval of the requested five-year time extension, from May 13, 2007, to May 13, 2012, approval of the requested change of conditions, and change of preliminary development plan subject to the following revised conditions. Within the recommended conditions, deleted text is ~~struckthrough~~, new text is underlined.

1. A development plan, in substantial compliance with the revised preliminary development plan, dated February 20, 2007, and the Design Compatibility Report, with amended sections, and Environmental Resource Report, is to be submitted and approved in accordance with Section 5.3.8 of the *Land Use Code (LUC)*, including, but not limited to:
 - a. No more than one vehicular access point from Old Spanish Trail
 - b. No more than one vehicular access point from Harrison Road
2. The owner/developer shall dedicate or verify existence of right-of-way, per the *Major Streets and Routes Plan*, along the Old Spanish Trail and Harrison Road frontages of the site.
3. The owner/developer will be required to participate in the Harrison Improvement District, or shall construct, or provide financial participation in the construction costs (prior to the issuance of the first Certificate of Occupancy) of additional pavement, curb and six (6) foot wide sidewalks (and/or alternative pedestrian facilities as approved by the Tucson Department of Transportation) along the Old Spanish Trail and Harrison Road frontages of the rezoning site.
4. Left turn lane and appropriate tapers shall be provided to serve the vehicular access point on Old Spanish Trail. The Department of Transportation shall approve the length of the left turn lane and tapers.

5. The driveway on Harrison Road shall be allowed only as a right in/right out unless approved by Traffic Engineering. Deviation from this configuration shall be based on development to the east and southbound left turn limitations.
6. A detailed drainage report, which includes detention/retention analysis, shall be submitted and approved. Five-year threshold retention volume storage shall be required.
7. Water harvesting techniques shall be utilized by conveying all rooftop, parking area access lane (PAAL), and parking area drainage to designated water harvesting areas, if possible, prior to discharging into the retention/detention facilities.
8. Existing drainage shall not be altered. Openings shall be provided under any walls or continuous decorative structures along the southeast and northwest property lines.
- ~~9. Provision for vehicular cross-access shall be provided to the existing restaurant to the north, subject to approval of the adjoining property owner. Provision for future vehicular access shall be provided for the vacant area to the north.~~
- ~~10. Any walls along the north site boundary adjacent to commercial zoning shall not exceed three (3) feet, unless that property is developed residentially, except as required for compliance with condition 34.~~
11. Any required or proposed masonry screen walls shall be constructed of, or painted with, graffiti-resistant materials. These screen walls shall incorporate one of the following decorative materials: (a) tile, (b) stone, (c) brick, (d) textured brick/block, (e) a coarse-textured material such as stucco or plaster, or (f) a combination of the above materials.
12. Any continuous wall greater than 75 feet in length and 3 feet in height visible from the public right-of-way shall vary the wall alignment (jog, curve, notch, or setback, etc.) and include trees or shrubs in the voids created by the variations.
13. A minimum of two (2) canopy trees shall be placed in the northwest corner of the property inside the required wall adjacent to the residential zoning.
- ~~14. A minimum of eight (8) canopy trees shall be placed inside the wall required adjacent to the west property line.~~

15. All outdoor pole and building lighting shall be directed down and away from residential parcels, adjacent commercial uses, and public roadways ~~and not exceed twenty (20) feet in height~~. Lighting shall not exceed fifteen (15) feet in height where adjacent to residential uses, and shall not exceed eighteen (18) feet in height where adjacent to commercial uses and public roadways.
16. All new dumpsters and loading spaces shall be placed at least fifty (50) feet from residentially zoned or developed property.
- ~~17. There shall be a pedestrian connection between the alley at the northwest corner of the property and the buildings.~~
18. Entrances to principal buildings facing Harrison Road and/or Old Spanish Trail shall include at least three (3) of the following: canopies, porticos, overhangs, recesses/projections, arcades, raised cornice parapets over the door, peaked roof forms, arches, outdoor patios, display windows, tile work and moldings that are integrated into the building structure and design, or integral planters or wing walls that incorporate landscaped areas.
19. Site design at street level shall include a variety of patterns, materials, textures, and colors ~~and a plaza with seating areas~~, and shall include shade and landscaping.
- ~~20. The central patio area in the space formed between buildings shall include at least one tree.~~
21. All sides of buildings shall have a consistent design treatment, including unified color schemes and architectural detailing.
22. Rooflines shall be varied and designed to screen rooftop equipment.
23. Design and color of all signage shall be coordinated with the overall development.
24. Outdoor shaded seating areas shall be provided in the playground area for employees and children.
- ~~25. At a minimum, the number and type of bicycle facilities required by the *Land Use Code* shall be provided.~~
26. The development plan application shall include elevation drawings and color renderings, which show compliance with rezoning conditions.

27. The developer shall improve the segment of the existing Old Spanish Trail Bicycle and Pedestrian Path along the southern edge of the subject property to a minimum width of twelve (12) feet and provide a minimum fifteen (15) foot vegetative buffer composed of native plantings including at least ten (10) Velvet Mesquite trees between the trail and the southernmost edge of the development. The trail and landscaping plans for this area shall be submitted to and approved by the Tucson Parks and Recreation Department and Pima County Parks and Recreation Departments as part of the development plan process. The trail and associated landscaping shall be completed before the issuance of the first certificate of occupancy.
28. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as needed. Copies of testing plans, testing reports, data recovery plans and final reports shall be submitted to and approved by the City Historic Preservation Office prior to construction work commencing. If, during construction, human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the discovery will cease, the discovery site will be secured, and the Arizona State Museum will be immediately notified as required under A. R. S. 41-865.
29. The U. S. Fish and Wildlife Service guidelines regarding the Cactus Ferruginous Pygmy Owl shall be followed.
30. The Arizona Game and Fish Department guidelines regarding raptors, bats, Gila monsters, and special status plants and animals shall be followed.
31. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
32. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
33. Five years are allowed in which to comply with all Code requirements and conditions of rezoning.
34. ~~The perimeter screen wall shall be a minimum of seven (7) feet tall within 75 feet of the northwest corner of the property. From 75 feet to 85 feet from the northwest corner the wall height shall be a minimum of six (6) feet tall.~~

- 35. Provide a landscape buffer that includes one fifteen-gallon, native canopy tree, every twenty-five feet on center, along the full length of the western, southern and eastern perimeter of the site. Also provide one tree per 7 spaces for the interior parking bays, along with curb cuts to allow surface drainage into the tree wells. Landscape buffer shall include understory shrubs and groundcover planting. Trees to be on a permanent irrigation system.
- 36. Hours of operation for child care center shall be from 6:00am-6:30pm, Monday through Friday.

One (1) written approval and thirty-four (34) written protests have been received for this case resulting in a 26.96 percent protest by area to the north, a 44.87 percent protest to the south, a 1 percent protest to the east, and a 3.32 percent protest to the west. Six (6) of the protests are within the 150-foot area. Protests generally allude to traffic congestion, loss of desert habitat, the questioning of a need for commercial zoning, and the impact on the Old Spanish Trail bike path and scenic corridor.

A three-fourths (3/4) majority vote will be necessary to adopt an ordinance rezoning the subject property once the conditions of rezoning are met.

9. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTERS 23 AND 23A) THE *LAND USE CODE* AND THE *DEVELOPMENT COMPLIANCE CODE*; RELATING TO FOOD SERVICE AND SPIRITUOUS LIQUOR IN THE C-1 ZONE

- a. Report from City Manager APRIL10-07-200 CITY-WIDE
- b. Hearing on a proposed amendment to Tucson Code, Chapter 23, the *Land Use Code (LUC)* and Chapter 23A, the *Development Compliance Code*, affecting restaurants serving alcoholic beverages that are located in the C-1 zone and within 300 feet of a residential zone.
- c. Ordinance No. 10387 relating to planning and zoning, amending the Tucson Code, Chapter 23, *Land Use Code*, Article II, Zones; Division 5, Commercial Zones, Section 2.5.3.3, Special Exception Land Uses, and Section 2.5.3.4, Secondary Land Uses; Article III, Development Regulations, Division 5, Performance Criteria, Section 3.5.4.7, Sale of Spirituous Liquor in Conjection with Food Service Use; Article VI, Definitions, Division 2, Listing of Words and Terms, Section 6.2.18, Definitions – R, Restaurant; Amending Chapter 23A, *Development Compliance Code*, Article II, Review Procedures, Division 3, Special Zoning Review-Full Notice Procedure, Section 23A-51, DSD Full Notice Procedure and Section 23A-54, Conditional Use: Suspension or Termination of Designated Permitted, Secondary and Special Exception Uses; Clarifying the allowance of alcoholic beverage service; and setting an effective date.

Staff recommends adoption of the proposed amendments to the *Land Use Code* and the *Development Compliance Code*.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

- a. Report from City Manager APRIL10-07-195 CITY-WIDE

11. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, April 17, 2007, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.