



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, MAY 12, 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 – Reverend Dr. William H. Knight, Water of Life Metropolitan Community Church

PLEDGE OF ALLEGIANCE – Mayor, Council and public in attendance

PRESENTATIONS:

- a. Proclaiming May 17 to 23 to be “Public Works Week”

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

- a. Report from City Manager MAY12-09-252 CITY-WIDE

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

- a. Report from City Manager MAY12-09-253 CITY-WIDE

5. LIQUOR LICENSE APPLICATIONS

- a. Report from City Manager MAY12-09-254 CITY-WIDE
- b. Liquor License Applications

New License(s)

- 1. Amici Ristorante Italiano, Ward 3
2970 N. Campbell Ave.
Applicant: Kori Lee Fitch
Series 12, City 25-09
Action must be taken by: May 31, 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)

- c. Special Event(s)

- 1. Tucson’s Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Megan Leslee Courtney
City T38-09
Date of Event: June 5, 2009
(To promote community event in downtown Tucson)

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

- d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) 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, 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 E

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: HOMELESS PREVENTION AND RAPID RE-HOUSING PROGRAM

- a. Report from City Manager MAY12-09-264 CITY-WIDE
- b. Hearing on the proposed Amendment to the Consolidated 2009 Action Plan for the Homeless Prevention and Rapid Re-Housing Program (HRRP).
- c. Resolution No. 21282 relating to public housing; approving an amendment to the Community Development Annual Action Plan for Fiscal Year 2009 to include the Homeless Prevention and Rapid Re-Housing Program (HRRP); authorizing and direction submittal of the amendment to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

9. PUBLIC HEARING: PANTANO ROAD, SPEEDWAY BOULEVARD TO 22ND STREET DISTRICT LIGHTING IMPROVEMENT

- a. Report from City Manager MAY12-09-260 WARD 2
- b. Hearing: This is the final hearing for the project. Interested parties may present objections to the legality of the assessment or any of the previous proceedings, or present evidence that the construction was not performed according to the contract.
- c. Resolution No. 21280 relating to Transportation; approving assessment and previous proceedings for the “Pantano Road, Speedway Boulevard to 22nd Street District Lighting Improvement,” in the City of Tucson, Arizona.

Staff recommends that the Mayor and Council adopt the subject resolution approving Assessments and Previous Proceedings.

10. PUBLIC HEARING: (SE-08-49) AT&T AT EL ENCANTO – BROADWAY BOULEVARD, C-1 ZONING, SPECIAL EXCEPTION LAND USE, CITY MANAGER’S REPORT, DIRECT ORDINANCE ADOPTION

- a. Report from City Manager MAY12-09-261 WARD 6
- b. Report from Zoning Examiner dated March 20, 2009
- c. Hearing on a Special Exception Land Use request to allow the installation of a new wireless communication facility concealed within a 70-foot high artificial palm tree and associated ground equipment within an existing office/commercial building, located on Broadway Boulevard, approximately 520 feet west of Country Club Road. Applicant: Steve Olson of Crown Communications on behalf of the Property owners, El Encanto Properties, LLC.

The special exception request is consistent with the policies and intent of the *Sam Hughes Neighborhood Plan* and the *General Plan*.

The Zoning Examiner and staff recommend approval of the special exception request after the public hearing and subject to the conditions in the ordinance provided.

Three written approvals and zero written protests were received for this case prior to the Zoning Examiner’s public hearing.

- d. Ordinance No. 10666 relating to zoning; approving a special exception land use with conditions, a wireless communication tower and antennas disguised as an artificial palm tree, 70 feet in height, in the C-1 zone, located on Broadway Boulevard, approximately 520 feet west of Country Club Road, in case SE-08-49, AT&T at El Encanto – Broadway Boulevard; and setting an effective date.

A simple majority vote will be necessary to approve the rezoning ordinance.

11. PUBLIC HEARING: (C9-08-11) RARIC PARTNERSHIP – 20TH STREET, R-2 TO I-1, CITY MANAGER’S REPORT

- a. Report from City Manager MAY12-09-262 WARD 5
- b. Report from Zoning Examiner dated September 19, 2008
- c. Hearing on a request to rezone approximately 1.12 acres from R-2 to I-1 zoning. The rezoning site is located on the northwest corner of 20th Street and Fremont Avenue. Applicant: William Podolsky, on behalf of the property owners, RARIC Partnership.

The preliminary development plan proposes the construction of a 19,831 square-foot building to be used as a metal fabrication facility.

The rezoning proposal is consistent with and supported by the policy direction in the *Greater South Park Plan* Subarea 2.

The Zoning Examiner recommends denial of I-1 zoning. Staff recommends the public hearing be held and the rezoning case be remanded back to the Zoning Examiner for a new public hearing to seek additional information. Should Mayor and Council determine that it is appropriate to authorize the rezoning to I-1, staff recommends the authorization be subject to the following conditions:

PROCEDURAL

- 1. A development plan in substantial compliance with the preliminary development plan dated July 8, 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. 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/or 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.

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 COMPATABILITY

8. The development plan shall demonstrate a one-foot no-access easement along the full length of the east property line.
9. Hours of operation, deliveries, and loading shall be limited to the hours of 6:00 A.M. to 7:00 P.M.
10. Open storage, air compressors, generators, outdoor loud speakers, house guard dogs, and outdoor fabrication and manufacturing processes are prohibited.
11. One canopy tree shall be provided within the vehicular use area for each four motor vehicle parking spaces, or a shade pattern caused by mature canopy trees, buildings, and other structures on the vehicular use area from 9:20 to 3:20 p.m. MST on June 21, must cover fifty percent of the paved area.
12. Landscape borders adjacent to the north and east property lines shall have canopy trees placed at a maximum distance of twenty-five feet apart, except at the east pedestrian access point.
13. All outdoor lighting shall be full cutoff and directed down and shielded away from adjacent residential zones and uses and adjacent local streets.
14. Required parking, loading, and vehicle maneuvering shall be conducted on-site.

15. The owner/applicant shall provide two single or one double wide enclosure areas for the purpose of storing one refuse and recycle container in each. Each enclosure should be positioned and designed in accordance with DS 6-01.3.0 & 6-01.4.0. Should an administrative waiver be granted to modify the recycling container requirement, the conditions of that waiver shall replace this condition. A copy of the waiver shall be provided to the Department of Urban Planning and Design for inclusion in the permanent file. A copy of the waiver shall also be submitted with the development plan
16. When visible from adjacent public right-of-way and residential zones or uses, structures shall be designed to have “five-sided” architecture. Building facades at rear and side are to be designed with attention to architectural character and detail consistent to the front facade. Where buildings exceed 20 feet in height, a variety of rooflines and plane lines should be applied to enhance the architectural character of the roof and incorporate water harvesting. Dimensioned elevations and color palette are to be submitted as a part of the development plan.
17. The north exterior wall of the building shall not exceed twenty feet in height whereas the overall building height shall not exceed forty-five feet.
18. All 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 wall surface.
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.

Thirty-one written approvals and eight written protests were received prior to the Zoning Examiner's public hearing on September 4, 2008, at that time requiring a three-fourths majority vote of Mayor and Council to adopt a rezoning ordinance. Subsequent to the Zoning Examiner's public hearing, seven additional written approvals and zero additional

written protests were received. Currently there are thirty-eight written approvals and eight written protests on file for this case. Five of the protests are within the 150 foot area, representing a 23.38 percent protest by area to the north and 50.52 percent protest by area to the east. The protests generally allude to the potential impacts of industrial and commercial uses could have on a neighborhood that is experiencing a trend in residential revitalization.

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

12. MASTER DEVELOPMENT AGREEMENT: WITH GARFIELD TRAUB DEVELOPMENT ARIZONA, LLC AND THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR THE SHERATON TUCSON CONVENTION CENTER HOTEL (CONTINUED FROM THE MEETING OF MAY 5, 2009)

- a. Report from City Manager MAY12-09-265 CITY-WIDE
- b. Resolution No. 21283 relating to Rio Nuevo; authorizing the Mayor to execute a Master Development Agreement on behalf of the City of Tucson with Garfield Traub Development and the Rio Nuevo Multipurpose Facilities District for the planning, design and construction of the Tucson Convention Hotel and improvements to the Tucson Convention Center; and declaring an emergency.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

- a. Report from City Manager MAY12-09-255 CITY-WIDE

14. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Tuesday, May 19, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.