



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, OCTOBER 6, 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 Melinda Nay, Community Interfaith Church

PLEDGE OF ALLEGIANCE – Mayor, Council and public in attendance

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

a. Report from City Manager OCT6-09-499 CITY-WIDE

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

a. Report from City Manager OCT6-09-500 CITY-WIDE

5. LIQUOR LICENSE APPLICATIONS

- a. Report from City Manager OCT6-09-501 CITY-WIDE
- b. Liquor License Application(s)

New License(s)

- 1. Circle K Store #6469, Ward 1
1720 W. Irvington Rd.
Applicant: Kim Kenneth Kwiatkowski
Series 9, City 61-09
Action must be taken by: October 9, 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)

- 2. Saguaro Express, Ward 6
1051 S. Craycroft Rd.
Applicant: Nashwan Abo
Series 9, City 62-09
Action must be taken by: October 10, 2009

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

- 3. Hideout, Ward 1
3000 S. Mission Rd.
Applicant: Ramiro Salazar Flores, Jr.
Series 6, City 64-09
Action must be taken by: October 12, 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)

Location Transfer(s)

4. The Avenue Restaurant and Bar, Ward 6
522/526 N. 4th Ave.
Applicant: Andrew Ian Sommers
Series 6, City 59-09
Action must be taken by: September 28, 2009

Tucson Police Department and Revenue Department have indicated the applicant is in compliance with city requirements.

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

Public Opinion: Written Arguments Opposed Filed
 Written Argument In Favor Filed

5. Circle K Store #FTLWL, Ward 3
3128 N. 1st Ave.
Applicant: Kim Kenneth Kwiatkowski
Series 9, City 63-09
Action must be taken by: October 9, 2009

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

Public Opinion: Written Arguments Opposed Filed

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

c. Special Event(s)

1. St. Cyril of Alexandria Parish, Ward 6
4725 E. Pima St.
Applicant: Daren W. Lowry
City T74-09
Date of Event: October 15, 2009 - October 18, 2009
(Fundraiser for parish and school)

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

2. Southern Arizona Arts & Cultural Alliance, Ward 3
4502 N. 1st Ave.
Applicant: Jonas Wes Hunter
City T75-09
Date of Event: October 17, 2009 - October 18, 2009
(Food & wine tasting, arts & crafts, live music and children's activities)

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

3. Southern Arizona Blues Heritage Foundation, Ward 6
900 S. Randolph Wy.
Applicant: Richard Allen Romero
City T76-09
Date of Event: October 18, 2009
(Promote blues & heritage music within the community)

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

4. Arizona Historical Society, Ward 6
949 E. 2nd St.
Applicant: Joseph R. Alvarez
City T83-09
Date of Event: October 22, 2009
(Docent Council fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

1. Maverick King of Clubs, Ward 2
6622 E. Tanque Verde Rd.
Applicant: Jay Samuel Zucker
Series 6, City AC7-09
Action must be taken by: October 17, 2009

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

2. Lindy's Diner, Ward 6
431 N. 4th Ave.
Applicant: Gordon Lindon Reilly
Series 12, City AC8-09
Action must be taken by: October 9, 2009

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

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

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 L

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 (C9-04-18) CUSHMAN – ANKLAM ROAD, R-2 TO O-1, TIME EXTENSION AND CHANGE OF CONDITIONS

- a. Report from City Manager OCT6-09-504 WARD 1
- b. Hearing on a request to grant a five-year time extension and change of conditions for property located at 1601 W. Anklam Road. Applicant: Rowen Bensch on behalf of the property owners, Tucuma Investments.

The original five-year authorization expires on January 4, 2010. A public hearing is required because the request, if approved, will extend the time for completion of rezoning conditions more than five years from the date of the last public hearing.

The preliminary development plan is for converting an existing 3,000 square foot single-family residence to an office use and constructing an additional 6,100 square feet of office space in two new one-story buildings on 2.28 acres.

Staff recommends approval of the requested five-year time extension, from January 4, 2010, to January 4, 2015, and approval of the requested change of conditions. Within the following recommended conditions, deleted text is ~~struck through~~, new text is underlined:

1. A development plan in substantial compliance with the preliminary development plan dated August 20, 2004, 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 owner/developer shall install 18' radius returns at the access point to the property ~~vise~~ versus a standard driveway apron.
3. The owner/developer shall construct a four-foot wide sidewalk along the entire site frontage with a handrail installed at the back of the sidewalk where appropriate across Powderhorn drainage crossing area.
4. All areas identified as natural undisturbed open space (NUOS) or other designated open space shall be fenced off and protected prior to any on-site development activity.
5. The owner/applicant shall prepare a complete drainage report, including details of detention/retention.
6. Each detention/retention basin shall include a sediment trap, or other sediment control measure and shall provide for total drainage as approved by Development Services Department Engineering.
7. Detention/retention basin floors shall be graded to drain either toward the outlet structure or other logical point. Basin floors shall not be flat.
8. Basins shall not be rectangular in shape.
9. Vegetation shall be used as screening and/or a security barrier for a minimum of ten percent of the basin perimeter.

10. All basins shall have maintenance access ramps in accordance with the current City of Tucson drainage standards manual.
11. The detention/retention basin shall not be used as a sediment or pollution control measure during construction unless all sediments and pollutants are completely removed prior to use as a detention/retention basin.
12. New development shall complement the surrounding residential developments. The owner/applicant shall demonstrate compatibility for design elements such as screen walls, landscaping, rooflines, colors, materials, and architectural design. All exposed exterior walls and roofs of structures, retaining walls, and accessory structures, except satellite dishes shall be earth tone in color and will blend with the predominant colors found in the area.
13. Dimensioned elevation drawings with proposed colors and materials shall be included with the development plan at the time of review and approval by the Community Design Review Committee (CDRC). Color photographs of surrounding properties shall be included with the above information.
14. All exterior mechanical equipment on new buildings shall be screened from view of adjacent development and street frontages, and shall be architecturally integrated into the overall design of buildings and development.
15. Prior to approval of the development plan, a native plant salvage plan shall be approved by the Development Services Department – Landscape section, which identifies trees and cacti to be salvaged. An on-site temporary nursery shall be identified on the plan with a temporary irrigation system for the duration of the nursery. The landscape plan shall identify the location of transplanted and/or salvaged trees and cacti. Transplanted salvaged trees shall be on a permanent irrigation system for a minimum of two (2) years.
16. The owner/developer shall obtain written documentation from the Pima County Wastewater Management Department that treatment and conveyance capacity for the proposed development is available, no more than 90 days prior to submittal of the development plan. All development within the rezoning area shall coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
17. Should treatment and/or conveyance capacity not be available at the proposed time of development the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system cooperatively with others and the Pima County Wastewater Management Department.

18. The owner/developer shall complete the construction of all public and/or private sewerage facilities necessary to serve the rezoning area, obtain all necessary discharge authorizations from the Arizona or Pima County Department of Environmental Quality, and convey those sewerage facilities that will be publicly maintained to Pima County, before treatment and conveyance capacity will be permanently committed for new development within the rezoning area.
19. The owner/developer shall fund, design and construct an off-site extension of public sewer line G-136 in the Anklam Road right-of-way to the western edge of the rezoning area to accommodate future flow-through from the west.
20. The owner/developer shall fund, design, construct and maintain all necessary on-site sewers on a private basis, unless otherwise directed at the time of review of the development plan.
21. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Department in the required capacity response letter and as specified by the Development Services Department at the time of review of the development plan.
22. All new walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments. These treatments shall include the use of two (2) 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.
23. Four (4) inch fence block shall not be used for perimeter walls.
24. 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.
25. All outdoor pole and building lighting shall be full cut-off lighting - directed down and away from residential parcels and public roadways.

26. “Safe by Design” concepts shall be incorporated in the subdivision plat for review by the Tucson Police Department.
27. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
28. ~~Five~~ Ten years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.
29. 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.

30. The parking area(s) shall be provided with one (1) canopy tree for every four (4) required parking spaces.
31. 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”.

One written approval and eight written protests have been received for this case. None of the protests lie within the 150 foot protest area resulting in a zero percent protest by area in all four quadrants. The protest generally allude to traffic congestion and concerns about the long-term preservation and protection of Tumamoc Hill.

A simple majority vote will be necessary to adopt an ordinance rezoning the subject property once the conditions of rezoning are met.

9. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) SIGN CODE REGULATION OF BANNERS

- a. Report from City Manager OCT6-09-505 CITY-WIDE
- b. Hearing on a proposed amendment to the Tucson Sign Code addressing regulation of banners. The proposed amendment to the Tucson Sign Code makes the following changes to Section 3-67.C Temporary Signs: 1) to be more specific as to how banners are constructed, 2) reduce the maximum size of banners on smaller buildings, 3) revise the description of the building façade, 4) allow a maximum of two 45 day banner permits per use per year, 5) specify that the banner must be removed no later than the expiration date of the permit, and 6) clarify that banners are subject to the same safety related location requirements as other signs and in addition are prohibited from rooftops.
- c. Ordinance No. 10714 relating to advertising and outdoor signs, amending regulation of banners by amending the Tucson Code, Chapter 3, Sign Code, Article V, Sign Types and General Regulations, Section 3-67(c)(1), Temporary Signs; adding a new section 3-67(c)(1)(f); and declaring an emergency.

10. ZONING AMENDMENT: (C9-08-06) HISTORIC DEPOT AREA – TOOLE AVENUE, I-1 TO OCR-2, ORDINANCE ADOPTION

- a. Report from City Manager OCT6-09-506 WARD 6
- b. Ordinance No. 10715 relating to zoning: amending Ordinance No. 10588 to amend the map showing the OCR-2 District boundaries in the area located on the east side of north Toole Avenue at Congress Street in Case C9-08-06, Historic Depot Area – Toole Avenue from I-1 to OCR-2; and declaring an emergency.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

- a. Report from City Manager OCT6-09-502 CITY-WIDE

12. ADJOURNMENT

The next regularly scheduled meeting of the Mayor and Council will be held on Wednesday, October 14, 2009, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.