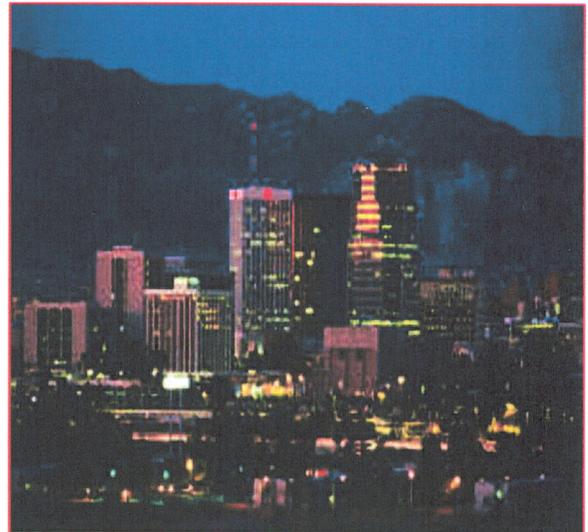


DIAGNOSIS

City of Tucson, Arizona

Land Use Code Revision Project



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PART 1: INTRODUCTION

PROJECT PURPOSE & GOALS

Recently the City of Tucson has initiated efforts to simplify its land development codes. This code simplification effort has focus on identifying ways in which the city's land use regulations and procedures hinder realization of community plans and policies—fostering better designed development, encouraging mixed-use projects, and protecting established neighborhoods, among others. In 2006 Clarion Associates prepared a preliminary analysis of the city's development codes focusing primarily on how they could be revised to foster mixed-use and infill projects and protect neighborhoods from incompatible development.¹ In addition, the report noted some key organizational issues such as the need to streamline and simplify the development codes over time and clarify the role of the Design Guidelines Manual.

Disenchantment continues to grow in all quarters with the development codes, particularly with regard to their complexity and lack of user-friendliness. The development community, professional land use consultants, and neighborhood groups all agree that a reorganization and new formatting of the Land Use Code (“LUC”) and related standards and procedures would be an important and logical next step in a comprehensive overhaul of the city's development codes. Some city staff agree, although there is strong resistance in some quarters to making any changes in the Land Use Code and related documents.

Clarion Associates has been asked to build on its earlier work and to identify how the development codes could be reorganized and reformatted to make them easier to use and to understand. We have also been asked to note potential substantive and procedural revisions to the development codes we heard about from interviewees that might be tackled in later update efforts. These include issues such as overlay district requirements, grading regulations, and the relationship between the Planning and Development Services Departments.

PROCESS OVERVIEW

The recommendations in this Diagnosis for reorganizing and reformatting the development codes are a result of a four-step process:

Step 1:

Review of Documents

The first step in diagnosing the city's development codes' organizational and formatting shortcomings was gaining familiarity with the governing documents. From the previous diagnosis, Clarion Associates already had a basic familiarity with the structure and organization of the city's development codes. In order to draft a more detailed and comprehensive review and propose solutions to the development codes' organizational

¹In this document, the term “development Codes” means the Tucson Land Use, Chapter 23A Procedures (Development Compliance Code), Development Standards, Design Guidelines Manual, and related land-use regulations.

and formatting problems, we have conducted a detailed review and analysis of the documents and the relationships among them (i.e., redundancies, conflicting information, etc.). This approach helped to highlight the key areas where the code might be consolidated, streamlined, and made more user-friendly, and it set the stage for the Step 2 interviews.

Step 2: Interviews with City Staff and Other Stakeholders

The consultants conducted stakeholder interviews with the following groups: planning staff, development services staff, city council aides, planning commission members, the city attorney staff, planning/design consultants, developers, representatives of the Southern Arizona Homebuilders Association, and neighborhood group members. The purpose of the interviews was to gather feedback and identify the key organizational and formatting issues for the drafting of this Diagnosis. We also circulated a detailed survey to these same groups that asked a series of questions regarding strengths and weaknesses of the current development codes.

Step 3: City Tour

City staff led a driving tour of the city to enable the consultants to see first-hand some of the land use patterns and controversial development issues in Tucson. Knowledge gained from the tour helped to inform our analysis of the development codes.

Step 4: Draft Diagnosis

Following the review of documents, interviews, and city tour discussed above, Clarion began to outline the key themes for this Diagnosis. The themes were refined based on discussion with city staff and serve as the foundation for the Diagnosis as set forth below.

MAJOR ISSUE SUMMARY

As with many land use ordinances throughout the country, the current problems with Tucson's development codes did not arise overnight. They are a result, in part, of piecemeal amendments over the last 20 years designed to address specific problems or to reorganize and improve the codes. Overall, however, the result is one of the most Byzantine systems of development regulations in the United States, one that spans over 1500 pages—triple the length of most modern codes in other cities of comparable size. All of these changes have resulted in a land development regulatory system that is fragmented, complicated, and very difficult to navigate for citizens, developers, and staff alike.

Based on the stakeholder interviews, staff comments, and Clarion's experience with development codes nationally, the following major organizational and formatting issues emerged that need to be addressed in an initial revision effort:

- The land use regulatory system is fragmented into four separate documents: the Land Use Code, Chapter 23A procedures, Development Standards, and the Design Guidelines Manual;
- Unwritten and hard to find interpretations of the development code provisions have created what some interviewees termed a “shadow code” not accessible to the general public and one that is unevenly applied;
- The development codes are practically bereft of any graphics, flow charts, and other quick-reference tools to make the documents user-friendly.
- The Development Standards and other substantive provisions are not applied consistently primarily because there are too many avenues for waivers and modifications of code requirements, sometimes without an open and transparent public process;
- The development codes have an extraordinary number of cross-references (in no small part because of a very complicated “development designator” system) that make for a complex system that is hard to understand and navigate; and
- Dimensional standards (e.g., setbacks, building height, etc.) are located within and applied through a complicated development designator system.

This all adds up to a hodge-podge of development requirements that are not only a puzzle to the average citizen, but also to many developer consultants who use the development codes frequently. Some interviewees told us that only by using the online version of the code are they able to somewhat efficiently navigate through the scattered substantive standards and procedures in the development codes.

This Diagnosis is intended to serve as a framework for discussing the organizational and formatting problems summarized above. By identifying key problem areas and proposing solutions, the Diagnosis can serve as a road map for modernizing the code and improving its usability. Addressing these organizational and formatting issues is an important precursor to tackling more substantive development issues. Substantive issues relate to matters such as zoning district requirements, dimensional standards, and design regulations. Such issues will be easier to address once the development codes are streamlined and integrated. This Diagnosis makes note of some key substantive code issues that staff and other stakeholders cited in the interview process.

SUMMARY OF RECOMMENDATIONS

On the following pages, we discuss eight key recommendations to simplify the city's current land use regulatory documents and to make them more user friendly. The most important of these recommendations is to integrate the Land Use Code, Chapter 23A Procedures, Development Standards, and Design Guidelines Manual into a single document—what in other jurisdictions is known as a **unified development code**.

Our vision is that in the future, when a city land use planner or development consultant looks at their code bookshelf, they will see only one regulatory document that encompasses all of the procedures, zone districts and use regulations, and development/design standards that are currently scattered about these four stand-alone documents.

The unified development code (UDC) would be supplemented by an illustrated citizen's guide and an administrative manual. The citizen's guide would explain in plain English and through the use of illustrative flow charts and tables how various processes like rezonings work in practice, where to go to obtain necessary information and permits, and similar user information. This would replace many of the stand-alone zoning brochures that the city now publishes in handouts or on its website. Cities like Aurora, Colorado, that use such citizen have gained reputations as being committed to user-friendly land use regulatory systems.²

The administrative manual would contain application submittal requirements, fee schedules, landscape plant lists, and other routine items that now clutter up the development codes and add excessively to their length. Importantly, placing these in an administrative manual also allows for their amendment by staff without a lengthy public adoption process.

Finally, highly technical engineering standards such as those in the Development Standards dealing with street and bicycle facility design should be moved to a stand-alone technical

- 1. Integrate the Land Use Code, Chapter 23A Procedures, Development Standards, and Design Guidelines Manual Into A Unified Development Code**
- 2. Consolidate all procedures, zone district/use provisions, and substantive regulations into separate sections**
- 3. Illuminate the “Shadow Code”**
- 4. Increase the Number of Summary Tables, Flow Charts, and Illustrations to Make the LUC More User-Friendly**
- 5. Improve Quick-Reference Tools Such as the Index and Definitions**
- 6. Revamp the Development Designator System**
- 7. Draft a Citizen's Guide to Summarize Key Code Provisions and Procedures**
- 8. Adopt an Administrative Manual for Routine Requirements, Lists, and Fees**

²Clarion Associates has provided city staff with examples of or internet links to both citizen guides and administrative manuals. Many cities also maintain more technical engineering manuals that set forth detailed specifications for street and sidewalk construction, subdivision improvements, and similar information.

engineering manual. The city already has similar technical manuals for storm water detention/retention and drainage design. All of these technical manuals could be integrated in one document, which is what many communities have done.

This consolidation can go a long way towards bringing Tucson's codes into the 21st Century.

PART 2: KEY ACTIONS

Based on the major issues that emerged during the interview and reconnaissance phase of the project, this Diagnosis presents eight key actions the city can take to improve the organization and format of its development codes. This Part 2 discusses these eight actions in detail and sets forth Clarion's recommendations for the best solutions based on our understanding of Tucson's land use issues and best practices nationwide. We have also provided comparisons to neighboring communities' standards in some places in order to put Tucson's current standards in context.

INTEGRATE THE LAND USE CODE, CHAPTER 23A PROCEDURES, DEVELOPMENT STANDARDS, AND DESIGN GUIDELINES MANUAL INTO A UNIFIED DEVELOPMENT CODE

The city's current land regulations and procedures are spread through four separate documents: the Land Use Code (Chapter 23 of the Tucson Code), the Development Compliance Code (Chapter 23A of the Tucson Code), the Development Standards, and Design Guidelines Manual. While some experienced city staff generally feel they "don't find the land use code book clumsy or hard to follow," they sympathize with those who don't use it on a daily basis. As one staffer pointed out, "I would not have made that claim eight years ago when I first started using the code as a reviewer...it is very hard for the lay person, occasional user, and professionals to use and follow the way the code flows." A professional consultant has this to say: "It takes years of working with the code and help from city staff to understand enough about the basic necessities of the code to realistically work one's way around it."

This complex structure creates significant challenges for users. The documents contain multiple cross-references and sometimes overlapping or conflicting information, which results in considerable confusion for code users. A good example is the city's landscaping regulations that are found in both the Land Use Code and Development Standards. Section 2-06.3.0 of the Development Standards bans the use of turf except in "oasis" areas. However, Section 3.7.2.2 of the LUC allows turf grasses in not only oasis areas, but also on golf courses, cemeteries, and mobile home parks.

Additionally, code users must review and jump back and forth among the various documents even when considering relatively discrete issues such as platting procedures and standards. For example, platting is addressed in Section 2-03.0 of the Development Standards, Section 4.1.6 of the Land Use Code, and Sections 23A-33.1 and 33.2 of the Development Compliance Code (Chapter 23A). While there may have been some justification for splitting up the city's land use regulations into multiple documents at one time, integrating them into a single document will produce a more coherent, straightforward code and provide an opportunity to streamline and consolidate the code's provisions by removing conflicting or redundant information. All of this will benefit decision-makers, city staff, the development community, and the average citizen. Importantly, as noted by representatives of the economic development community we

interviewed, it will also allay concerns that businesses have about the complexity of the code and its applicability in various circumstances.

DEVELOPMENT STANDARDS

As noted above, many of the city’s regulations relating to landscaping and screening, pedestrian access, and protection of environmental resources are found in a stand-alone document called the Development Standards.³ Any regulation appearing in the Development Standards can be modified by staff without a public hearing or variance procedure. Examples include special district standards such as hillside development restrictions, grading, and vegetation retention standards contained in the Hillside Development Zone criteria (Section 9-04.0). In most codes, significant modifications to zoning district regulations require a variance.

We recommend that certain development standards be placed back in the Land Use Code for ease of reference and to increase certainty in the development review process. Examples of provisions that should be folded into a unified development code include historic preservation and other zone district regulations and street development and connectivity regulations. The city should also consider integrating other substantive land use regulations often found in a unified land development code—such as the regulations governing riparian/floodplain areas (Chapter 26 of the Tucson Code)—and a number of the “guidelines” in the design guidelines manual that could and should be codified as standards (e.g., those relating to large retail/wholesale development.)⁴

Other more technical specifications now found in the Development Standards should be placed in a separate engineering manual as is done in most communities. For example, we recommend that storm water detention/retention requirements, street specifications, and other technical requirements be moved to this engineering specifications manual. References in the code can direct users to the manual. By placing these highly technical provisions in a separate manual, the city will not only unclutter the LUC but can subsequently modify them without amending the LUC.

KEY RECOMMENDATIONS

- **Put Development Standards Back in Land Use Code**
- **Place Certain Provisions Found In The Development Standards In A Technical Engineering Specifications Manual.**
- **Return Section 23A Procedures to the Land Use Code**
- **Codify Certain Design Guidelines**

³ What are termed “development standards” in the Tucson development codes are actually quite limited when compared to other jurisdictions. In Tucson, they cover landscaping, street standards, hillside development regulations and a few others. In other jurisdictions, “development standards” typically cover the entire range of site development regulations such as lighting, parking, dimensional standards (e.g., setbacks, etc.), open space, signage, and natural resource protection regulations as well as architectural design standards.

⁴ Because floodplain regulations often contain special review procedures, they can be set forth in the development standards as a stand-alone subsection. While some jurisdictions like Pima County have stand-alone floodplain ordinances like Tucson, we recommend integrating them so that all development regulations are in one document for easy reference and to help ensure all definitions, relief procedures, etc. are consistent.

Moving selected Development Standards into the Land Use Code and consolidating them with similar development regulations will make the revamped LUC easier to use. However, the issue of flexibility—which according to staff was one of the primary reasons the Development Standards were split out in the first place—needs to be addressed. As an alternative, the city should consider creating new provisions allowing staff to make limited administrative modifications, but to a wider array of development standards including dimensional standards (height, setbacks, etc.) and design standards (such as those contained in the design guidelines manual). These administrative modifications might be viewed as a middle ground between requiring time-consuming variances and the more wide-open system of granting the staff power to make changes/waivers to Development Standards as is now the case.

In many cities, the standard dimensional regulations for setbacks, parking, and similar provisions are geared to suburban developments on large greenfield sites. Tucson's regulations are not an exception. As a result, mixed-use and urban infill projects often run aground or are delayed as developers are forced to seek multiple minor variances or proceed through time-consuming planned area development-type processes. Many communities are addressing this inflexibility problem by adopting an administrative modification process that allows staff to grant minor modifications of dimensional standards. Thus, for example, in some jurisdictions, such as Fort Collins, Colorado, staff is able to modify a setback requirement of 20 feet by 20% (four feet) to accommodate an infill development on a constrained site. In practice, carefully drawn administrative modification processes not only help promote mixed-use and infill development but also help the average Joe and Jane Homeowner when building a deck or other minor home improvement that frequently requires some sort of setback or other variance.

As noted above, Tucson currently has a similar process for Development Standards called the Design Standard Modification Request (DSMR), as well as other waiver procedures. These multiple modification options create confusion over which one to use. For example, the Variance and Design Development Options (DDO) found in Sections 5.3.3 and 5.3.4, respectively, also provide opportunities to modify code requirements. The DDO, specifically, is for modifications to the dimensional requirements in the Development Designator System. Public notice is provided for pending DDOs (See Section 5.4.3.2.C.1 of the LUC.), but not DSMRs.

We recommend that a single administrative modification process for both dimensional and development standards be created in the Land Use Code to replace the multiple existing modification/waiver provisions. This new process should draw from successful elements of the internal staff review committee (Community Design Review Committee--CDRC) that has authority to grant modest modifications of the Development Standards. Allowing some modifications to the dimensional requirements should provide some relief from the rigid, "by the numbers" decision-making that too often controls the development review process, according to feedback we received in the stakeholder interviews.

Because modifications to otherwise applicable code requirements can affect neighboring properties, it is important to have clear regulations regarding notice of pending

modifications and the avenues for appeal. There must also be clear criteria to guide decision-makers in considering requests to administratively modify standards. The following are standards used in another western jurisdiction for reviewing proposed administrative modifications to development standards:

- (1) The requested modification is consistent with the comprehensive plan and the stated purpose of this Code;
- (2) The requested modification meets all other applicable building and safety codes;
- (3) The requested modification does not encroach into a recorded easement;
- (4) The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated; and
- (5) The requested modification is necessary to either: (a) address some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing standard to be modified. In determining if "practical difficulty" exists, the approval criteria for variances in Section 15.06.060.D.2.f.ii shall be considered.

Under the new procedure, the planning director would have authority to grant administrative modifications of numerical standards (e.g., setbacks) by up to 10%. Notice might be given to neighbors with an opportunity to comment in an informal meeting. As mentioned above, there is no formal public notice requirement or opportunity to comment on pending DSMRs, which must be approved or denied within five working days of the application date (See Section 1-01.4.0.4.7.B. of the Development Standards.). Appeals could be heard by the Zoning Administrator (as is the current practice) or the Zoning Examiner. No modification would be allowed for certain standards (e.g., environmental). Modifications in excess of 20% would be required to seek a variance from the Board of Adjustment under the existing process. The end result will be that there are only two ways to obtain relief from the Land Use Code's requirements—through administrative modification or through a variance—rather than multiple and confusing options as is now the case.

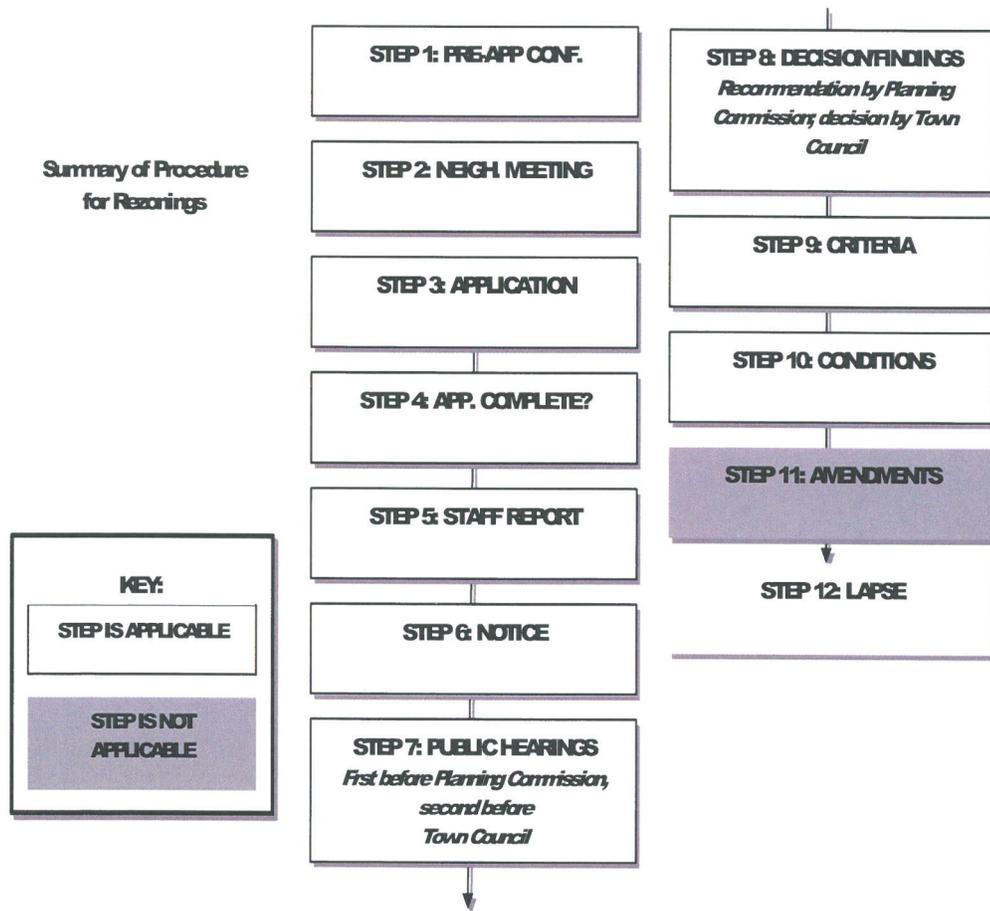
CHAPTER 23A PROCEDURES (DEVELOPMENT COMPLIANCE CODE)

For a code to be effective, it is important that the procedures for review of applications be efficient and clear. Efficiency is achieved when the general review framework is not redundant, and the procedures and review standards result in a reasonable degree of certainty. Additionally, efficient procedures for each type of permit are streamlined to

the greatest extent possible, while ensuring that the community's substantive planning and development goals are used in all decision-making.

Currently, the procedures for the Tucson code are scattered through the Land Use Code, Chapter 23A, and the Development Standards. For example, subdivision platting procedures can be found in Section 4.1.6 of the LUC, Sections 1-09.0.0 and 2-03.0.0 of the Development Standards, and in Section 23A-33 of Chapter 23A. Similarly, procedures for development plan review are found in Section 5.3.8 of the LUC, Section 2-04.0.0 of the Development Standards, and in Section 23A-34. As a result, it is difficult and time-consuming to find the applicable procedures for a given application.

We recommend that the Chapter 23A procedures be placed in Article V, Administration, of the Land Use Code where other procedures such as rezonings, variances, and special exception land uses are now found. The procedures should be summarized in a table that lists each procedure, relevant decision-making bodies, and other pertinent information, similar to the table on page 16 of this Diagnosis. Flow charts should also be added like



the one below **from another community** that depict the steps in each decision make process are common in modern development codes.⁵

DESIGN GUIDELINES MANUAL

The Design Guidelines Manual adds to the complexity and confusion that surrounds the land use regulatory process in Tucson. The guidelines have never been officially adopted by the mayor and city council, but they are reportedly used by some staff in discretionary reviews (e.g., rezonings) as if they were mandatory. This creates another area of uncertainty for staff, decision makers, and applicants.

To exacerbate matters, some of the guidelines are very vague and general. Others are quite specific (e.g., connectivity) and are very typical of regulations that other similar communities include in their mandatory development standards. The perception of inconsistency in the use and application of the manual leads to disagreements among city staff, developers, and neighborhood organizations. Moreover, when questioned about how the manual is used in the development review process, responses from Development Services and Planning staff varied from “not at all” to “extensively.” Those who were not using it pointed to the difficulties in requiring developers to comply since the guidelines have never been officially adopted. On the other hand, others indicated they often used it to address issues of flexibility not inherent in the Land Use Code (although it was also acknowledged that efforts made were often reversed later in the process as a more strict application of the Land Use Code was made). Additionally, members of the development community expressed frustration at being asked to do one thing by one staff person and told they do not need to do it by another.

In view of these problems surrounding application of the Design Guidelines, we recommend that the city select key, frequently applied guidelines and incorporate them into the code as mandatory. Also, as one staff member explained, “It would be an advantage to have the design guidelines written into the specific sections of the LUC where applicable, for example, landscape section guidelines with the landscape section.”

A good example of a design guideline that might be made mandatory is found in Section IV Large Retail/Wholesale Development. This section contains the following “guideline” that is commonly a mandatory standard in other community’s design regulations: “Offer attractive and inviting pedestrian scale features, spaces, and amenities.” Examples include plazas and courtyards, pedestrian seating areas, and public art and fountains. This requirement (along with illustrations) should be inserted into the Land Use Code and written as a mandatory standard.

In other instances, where the Design Guidelines are vague or do not address key issues they should be dropped and not applied in the development review process. An example is the intent statement regarding rear and side building facades, which calls for “higher

⁵ Illustrative tables and flow charts in this Diagnosis are taken from other communities. They are NOT intended to represent the applicable procedures or administrative steps in Tucson.

quality facades at the rear and sides of new buildings through careful design and detailing.” The Design Guidelines Manual’s recommended solution is to “design side and rear building facades with attention to architectural detail comparable to the front façade, particularly if rear and side facades are visible from streets or adjacent properties.” This language is vague in that it does not specify what constitutes a comparable level of architectural character and detail or provide a list of options to satisfy the guideline such as a minimum façade transparency or variations in building materials and colors.

Vague guidelines should be clarified if they are to be codified or not included from the UDC. Any guidelines that were not codified could be retained in a design manual as purely advisory since some provide useful suggestions. However, it must be made abundantly clear in the document that they are suggestions, not requirements.

2 CONSOLIDATE INTO SEPARATE SECTIONS OF A UDC ALL PROCEDURES, ZONE DISTRICT/USE PROVISIONS, AND SUBSTANTIVE REGULATIONS

As briefly discussed above, Tucson’s development codes are highly scattered and contain redundant and conflicting information. Substantive requirements, procedures, and other information are not compartmentalized so that users can look to one area for specific information.

If a code user wanted to find applicable landscaping and screening regulations, he/she would need to look in Article III, Division 7 of the LUC and Section 2-06.0.0 of the Development Standards. Much confusion and time could be saved if all the landscaping and screening requirements were contained in one place in the LUC. An example of modern code organization from another city is shown to the right.

An Example Of A Modern Code Organization

15.02	General Provisions
15.04	Review Authorities
15.06	Review Procedures
15.08	Zoning Districts
15.10	Use Regulations
15.12	Dimensional Standards
15.14	Development Standards
15.16	Subdivision
15.18	Nonconformities
15.22	Enforcement
15.24	Definitions

Similarly, standards for the Historic Preservation Zone district are found in Section 2.8.8 of the LUC and in Section 9-02.3.0 of the Development Standards. Such district-specific standards should all be in Article II, Division 1, Zones, of the LUC, rather than dispersed in separate portions or

KEY RECOMMENDATIONS

- **Consolidate District-Specific Regulations in one place**
- **Consolidate all Procedures**
- **Consolidate all Development Standards**

documents. The same can be said for procedures (recall that subdivision platting procedures are scattered in the LUC, the Development Standards, and Section 23A), application submittal requirements, and development standards. Consolidating the above-discussed and other concepts within select portions of the LUC will significantly decrease the need for cross-references, eliminate redundant or conflicting information, and shorten the overall length of the LUC.

3 ILLUMINATE THE “SHADOW CODE”

In our interviews, we heard considerable frustration over the fact that there is a body of development code interpretations that the public feels are not readily available or applied consistently. These interpretations have been

rendered by the Zoning Administrator in consultation with the City Attorney but referred to by interviewees as the “shadow code,” because some staff members and the public may typically not be aware of the interpretations even though they are intended to have a regulatory effect and cover important issues. For example, interpretations have dealt with such issues as whether nonconforming uses apply to parking requirements or only buildings, height and setbacks, whether certain ancillary uses may receive nonconforming use status, lot coverage requirements, floor area ratio requirements, loading space requirements, the use of streets and alleys for vehicle maneuvering, and screening and landscaping standards. Notice requirements have also been clarified through interpretations.

The Land Use Code’s Article I, Division 2 governs zoning interpretations⁶ but does not provide any direction for ensuring that the interpretations set a consistent precedent or are available to the public in a standardized format. Reflecting these interpretations in the code where appropriate (e.g., a clarifying definition) or methodically collecting and publishing them will ensure that everyone from city staff to the developers has a clear understanding of how the city is interpreting key provisions. The development review process should also be more efficient because staff will not have to revisit issues that have already been resolved in past interpretations.

According to staff, the Zoning Administrator has assembled interpretations into several documents and made them (or soon will make them) available on-line. However, we were not able to locate these interpretations anywhere on the city’s website.

⁶Section 1.2.1 of the LUC states that “where questions occur concerning the content or application of the Land Use Code, the Zoning Administrator shall render a final decision and interpretation on the matter.”

KEY RECOMMENDATIONS

- **Review Past Interpretations for Relevancy**
- **Fold Past Interpretations into the Code**
- **Establish Process for Rendering and Publishing Interpretations**

Based on this information, we recommend the following actions:

- Review all past interpretations for consistency with land use policy in Tucson today. In other words, determine whether past interpretations are still relevant. Post interpretations that are relevant citywide (vs. site specific) on the Tucson's website;
- Fold the relevant/current interpretations into the Land Use Code where appropriate. For example, if an interpretation clarifies a particular definition, the definition should be updated consistent with the interpretation;

Draft an administrative provision to be added to Article 1, Division 2, of the Land Use Code that establishes a mandatory process by which interpretations are rendered, recorded, and published. For example, in Scottsdale, Arizona, copies of all zoning interpretations are posted on the city's web site along with the code.

4

ADD USER-FRIENDLY SUMMARY TABLES, FLOW CHARTS, AND ILLUSTRATIONS

The adage about a picture being worth a thousand words is certainly true of zoning codes. Complicated lists (such as zone district use lists) can be captured and rendered comprehensible by simple summary tables. Design concepts that are difficult to describe in words can be clearly shown and easily understood with a drawing. Illustrations are particularly effective in describing landscaping and screening requirements, sign regulations, parking space configurations, and architectural concepts. Sometimes these graphics will supplement text, and in other cases they may replace text.

Nationally, codes in progressive communities utilize tools such as tables, procedural flow charts, illustrations, and photographs to make their codes more user-friendly. Tucson's development codes do have some useful procedural flow charts in Article V, Administration, that illustrate the steps for administrative and legislative procedures. For example, Section 5.4.2.4 contains a flow chart illustrating

the procedures for rezoning property to the Planned Area Development Zone. The Design Guidelines Manual contains helpful illustrations depicting such concepts as building entryway design (See Section III.B.2.b.). The city should build on this foundation and enhance a revised Land Use Code with a broad array of graphic aides. Staff has suggested, for example, that graphics could be used to illustrate setback measurement, open space calculations, lot coverage and floor area ratio calculations, and residential cluster requirements, among others.

Based on the interviews and our review of the code, we suggest the following specifics:

KEY RECOMMENDATIONS

- **Draft a Land Use Table**
- **Set Forth Decision-making Responsibilities in One Place**
- **Reorganize and Illustrate Procedures**
- **Illustrate Substantive Code Requirements**

LAND USE TABLE

In Tucson’s Land Use Code, permitted land uses are listed in Article II, Divisions 2 through 7. This material comprises more than 100 pages of code text with multiple cross-references. Modern codes, by contrast, list the uses permitted in the zoning districts through land use tables as depicted below. The need for cross-references is greatly reduced because use-specific requirements and Development Standards would each have their own dedicated section in the update Land Use Code instead of being dispersed throughout multiple documents. Summary tables, such as the one below from **another jurisdiction**, can convey a wealth of information in a simple and compact format and eliminate dozens of pages of code text in the bargain.

Table 4-1: Principal Use Table¹

P=Permitted | C=Conditional | *=Use-Specific Standard Applies in this Zoning District

ZONING DISTRICT	A	PR 1	PR 2	RR 5	R 1	R 2	R MF	R MU	R MH	C 1	C 2	C 3	C 4	C MU	M MU	M 1	M 2	M 3	Use-Specific Standards (Section)
Personal Services																			
All personal service uses (unless otherwise listed)								P*		P*	P*	P	P	P	P	P			87
Body modification establishment											C	C	C		C				
Cheque-cashing facility											C*	C*	C*		C*	C*			81
Funeral chapel or mortuary	C										C	C	C		P	P	P		

REVIEW/DECISION-MAKING RESPONSIBILITIES

The revamped Land Use Code should clearly, in one place, identify who specifically is empowered to make what decisions regarding all types of approvals and review processes. Tucson’s current code contains some such provisions in Article V, Division 1, for entities such as the mayor/city council, planning commission, board of adjustment, and staff. The current approach makes it difficult for applicants, staff, and review board members to determine the rules and procedures that govern various processes, as well as to gain a big picture of how the development review process works. We recommend a table that summarizes the review and decision-making responsibilities of all relevant entities, like the example from another city’s code shown below.

Additionally, similar sections from the Development Standards should be moved to Article V of the Land Use Code so that all decision-making authority and procedures can be found in one place. An example is the Community Design Review Committee “organization” and “function” provisions currently found in the Development Standards.

The sample table below **from another jurisdiction** illustrates how information about decision-making authority can be easily summarized in a table format:

SAMPLE TABLE: SUMMARY OF REVIEW AND DECISION-MAKING AUTHORITY

R = Review/Recommending Body D = Decision-Making Body A = Hears Appeals

Procedure	City Council	Planning Board	Board of Adjustment	City Staff
Text Amendments	D	R		R
Zoning Map Amendments (Rezoning)	D	R		R
Conditional Use		D	A	R
Temporary Uses			A	D

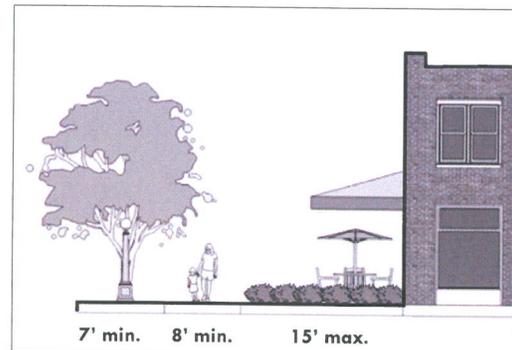
PROCEDURES

As mentioned earlier in this Diagnosis, the procedures for review of all types of applications under Tucson's Land Use Code are scattered through multiple documents. The procedures for development plans and subdivision platting are examples. This detracts from some of the more helpful tools that are contained in LUC Article V, Division 1's administrative provisions such as the provisions outlining the powers and duties of various decision-making bodies.

We recommend that, at a minimum, each major development review procedure be displayed through a flow chart similar to the ones contained in Article V. Procedures found in the Development Standards, such as Planned Area Development Zone rezoning procedures (Section 1-06.0.0), should be moved to Article V, and redundant text should be removed. Flow charts can reduce the need for code text to explain procedures.

ILLUSTRATE SUBSTANTIVE CODE REQUIREMENTS

Most modern codes contain illustrations of the concepts contained in the text—like this example from Austin, Texas', commercial design standards. Examples include setback measurement, floor area ratios, landscaping requirements, and design standards. Although Tucson's development codes—notably the Design Guidelines Manual—contain a few illustrations, we recommend that they be supplemented with some additional ones. For example, graphics or illustrations from the Design Guidelines Manual should be pulled into the Land Use Code if they represent current requirements that are applied in development application reviews. Other graphics could include photographs of buildings, parking, and other existing development examples that satisfy code requirements. Corridor district maps were also suggested by staff and others to assist users in understanding where corridor-specific regulations apply.



5 IMPROVE QUICK-REFERENCE TOOLS SUCH AS THE INDEX AND DEFINITIONS

Most local development codes contain reference sections designed to help users quickly find and understand key regulatory concepts. In the stakeholder interviews we heard from many that these tools in the current development codes could be improved.

After a integration and reorganization of the various development codes as discussed above, the Land Use Code index will require substantial revisions as the locations of various sections change and new topics added. The general format of the current index is helpful, and we recommend that it be carried forward as part of the overall reorganization.

The current code contains few appendices. Many codes use appendices for important information that does not fit well with the text of the code. The best example is zoning maps. We recommend that certain maps relating to overlay or corridor district designations, be included in appendices for easy reference. Additionally, the text should reflect the fact that the city's general zoning maps are available on-line.

Plant lists and other technical data are also frequently moved into appendices or stand-alone administrative manual. Removing these lengthy lists from the body of a zoning code makes it flow more smoothly and allows technical requirements to be updated by staff without amending the code or going through a lengthy public hearing process. Examples from the Tucson Development Standards include the lists of landscape plant materials, low-water use/drought tolerant plant provisions, and the list of protected native plants.

Currently, definitions for various terms and concepts are scattered about the Land Use Code, the Development Standards (e.g., the Glossary) and Chapter 23A. Clarion recommends consolidating these provisions into a single definition section that would appear at the end of the Unified Development Code where most readers will look for reference sections. Also, definitions should be added for key terms that are not explained in the code or revised where existing definitions are vague or confusing. For example, definitions of key terms such as alleys and new residential housing types should be added to explain new concepts and assist with interpretation when issues arise. Finally, in some instances there are multiple definitions in the development codes for key terms such as "open space." These definitions need to be reconciled and integrated.

KEY RECOMMENDATIONS

- **Revise the Index**
- **Add Appendices/Maps**
- **Consolidate All Definitions Under One Section**
- **Modify Page and Other Formatting Issues to be More User-Friendly**
- **Modify the Numbering System**

Page and other formatting issues also play a part in a development code's usability. Simple improvements such as the use of headers and footers can orient readers to where they are in the document. Tucson's current Land Use Code contains headers that orient readers to section numbers, but modern code headers provide more levels of detail down through various subsections. More creative use of font types and sizes will collectively illustrate the hierarchy of topics in the code. An example is shown below.

Chapter 9-9: Development Standards
 Sec. 9-9-5: Site Access Control
 (d) Access Permit Required

such street, the area has a limited amount of pedestrian activity because of the low density character, and there is enough on-street parking within three hundred feet of the property to meet the off-street parking needs of such area. The total cumulative width of multiple curb cuts shall not exceed the maximum permitted width of a single curb cut. The minimum spacing between multiple curb cuts on the same property shall not be less than 65 feet.

- (7) **Shared Driveways for Residential Structures:** A detached single-family residential lot that does not have frontage on the street from which access is taken may be served by a shared driveway that meets all of the standards and criteria for shared driveways set forth in the City of Boulder [Design and Construction Standards](#).
- (8) **Minimum Driveway Width:** The minimum width of a driveway leading to an off-street parking space shall not be less than nine feet. A driveway, or portion of a driveway, may be located on an adjacent property if an easement is obtained from the impacted property owner. (See [Figure 10](#)).

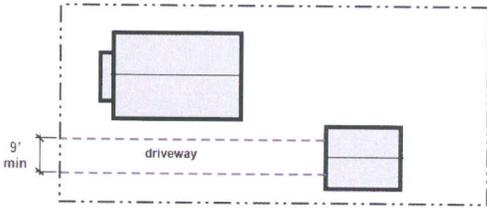


Figure 10: Minimum Driveway Width

- (9) **Exceptions:** The requirements of this Section may be modified under the provisions of [Section 9-2-14](#), "Site Review," B.R.C. 1981, to provide for safe and reasonable access. Exceptions to this Section may be made if the city manager determines that:
 - (A) The topography, configuration of a lot, or other physical constraints makes taking access from the lowest category street, alley or public access frontage impractical, or the character of the existing area is such that a proposed or existing access to the street, alley or public access frontage is compatible with the access of properties in such area.
 - (B) The site access and curb cuts would not impair public use of the public right of way, create safety or operational problems or be detrimental to traffic flow on adjacent public streets; and
 - (C) The site access and curb cuts will minimize impacts to the existing on-street parking patterns.

ACCESS PERMIT REQUIRED
 Prior to the issuance of a building permit, a proposed site access or curb cut to public right of way must receive any necessary permits, including:

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Land Use Code

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Detailed header directs readers to sections and subsections.

Illustrations explain code requirements.

Readable fonts.

Clear hierarchy of sections and subsections.

Finally, during the interview process we heard that the numbering system in the code is too complex and should be simplified. The planning staff, for example, feels that the numbering system is too legalistic and thus results in too many levels, which makes cross-referencing and citing specific code provisions too cumbersome. Moreover, the numbering

system is not in line with the remainder of the city's code, which has fewer levels and reads less like a highly complex statute than the development codes. Some of this complexity will be eliminated by virtue of the overall code reorganization called for in this Diagnosis. Removing redundant and conflicting information, such as that relating to landscaping standards and the platting process as discussed above, will reduce the amount of text as well as the number of cross-references in the code. Increasing the number of charts will also assist in simplifying the code's structure. Similarly, a zone district use table will eliminate dozens of pages of code text. We recommend that these improvements serve as the first phase of reforming the numbering system. After the reorganization of the code reveals the new structure and layout, then a second, more comprehensive overhaul of the numbering system might be considered.

6

REVAMP THE DEVELOPMENT DESIGNATOR SYSTEM

Tucson's Land Use Code, in Article II, Division 3, features a unique method for determining the setback, height, and other dimensional requirements

applicable to a given development application. This system involves many categories, cross-references, and tables. Very fine distinctions between similar uses in the same zone district are made relating to height and other dimensional standards for no apparent reason.

KEY RECOMMENDATIONS

- **Eliminate the Development Designator System**
- **Adopt a More Straightforward Approach for Dimensional Requirements**

During the staff and stakeholder interview process, Clarion heard from many interviewees that the development designator system is overly complicated and hard to understand or use. We recommend that the system be simplified or replaced with a more straightforward dimensional standards approach that lists dimensional standards by district and by general use category (instead of individual uses) in a summary table. An example of this approach (which was used by the city prior to 1995) is shown in the table below **from another jurisdiction**. This is the approach used by the vast majority of cities in Arizona and the nation.

Site Development Standards for Traditional Areas					
Standard	Residential Detached (Street Loaded)	Residential Detached (Alley Loaded)	Residential Variety	Mixed-Use	Nonresidential
Front Yard and Side Street Setback	10-30 feet	10-30 feet	0 or 5-25 feet	0–15 feet	0-20 feet
Side Yard Setback	5 feet	5 feet	[10]	0-5 feet	0 feet
Rear Yard Setback	5 feet	5 feet	5 feet	0 feet	0 feet

Site Development Standards for Traditional Areas				
Main Body/Primary Facade Width (Maximum)	50 feet	50 feet		
Minimum Lot Size	4,000 square feet	2,100 square feet		
Maximum Lot Size	10,200 square feet	8,400 square feet		
Lot Width	40-85 feet	30-70 feet		
Lot Depth	100-140 feet	70-120 feet		

SUMMARY OF THE DEVELOPMENT DESIGNATOR SYSTEM

The development designator system (DDS) is contained in Article III, Division 2 of the Land Use Code. Each land use identified in the code is assigned a development designator number. This number is then used to guide code users to the dimensional requirements set forth in various tables. In addition, each use contains cross-references and exceptions via provisions located in other portions of the code. An example of one of these tables is shown below. It should be noted that the Development Designator System provides dimensional requirements by use rather than by zone district, which is highly unusual. More modern codes typically apply such requirements at the zone district level, with some additional use-specific standards established for a few, rather than all, land uses.

Development Designator	Lot Size ¹	Units Per Lot ²	Building Height ³	Perimeter Yard ⁴
A	36 acres	1	30'	CC
B	180,000	1	30'	CC
C	144,000	1	30'	BB
D	36,000	1	30'	BB
E	36,000	2	30'	BB
F	16,000	1	25'	BB

An example of where the development designator system works unintended consequences is vertically mixed-use development. Setbacks are assigned to both the residential and commercial portions of the project. However, under the DDS, the commercial portion of the project must comply with the more restrictive residential dimensional standards. The result is that mixed-use developments are very difficult to make work in Tucson or are altogether infeasible. Eliminating the development designator system in favor of a more straightforward approach to dimensional standards will lay the groundwork for this issue to be resolved. It would also consolidate all dimensional and development standards in one section of the Land Use Code, with another section setting forth any additional use-specific standards. In other words, residential and commercial dimensional requirements could be listed separately. Eliminating the Development Designator System would also

dramatically reduce the number of confusing cross-references in the code, a common complaint we heard during the interview process. In revamping or eliminating the Development Designator System, the city must proceed carefully in making any substantive revisions that may create claims or new rights under Proposition 207.

7 DRAFT A CITIZEN'S GUIDE TO SUMMARIZE KEY CODE PROVISIONS AND PROCEDURES

Representatives from the development and design communities expressed

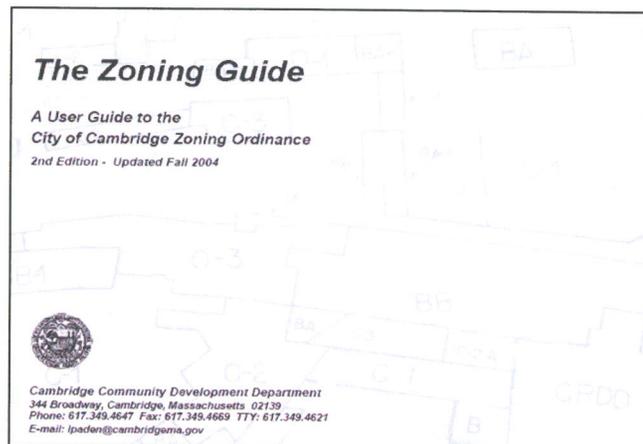
KEY RECOMMENDATION

- **Adopt a Citizen's Guide**

considerable frustration over uncertainty regarding the procedures that apply to various application types. Citizens complained that the various land use regulatory documents are so complicated that they could not understand how various processes worked. Even staff said it took years for them to fully understand how the various codes related to one another. Therefore, in addition to consolidating all the procedures in Article V, Administration, of the Land Use Code, we recommend adopting a citizen's guide to summarize key provisions of the Land Use Code and each major review process. The city has already taken a positive step in this direction by publishing "plain English" zoning brochures on topics such as rezonings, Land Use Code FAQs, hillside zoning, and development review board procedures. These brochures, some of which are available on-line, can serve as a starting point for more comprehensive Citizen's Guide.

The Citizen's Guide is intended to inform users of the code's structure and how the different sections work together. By providing quick references to the relevant provisions in the Land Use Code, a user can quickly locate all applicable procedures and substantive requirements for a given application type. While some on staff expressed reservations to creating a new document, the majority of interviewees felt that a user's guide with illustrative flow charts would be a very useful tool: "It would be incredibly helpful to the public and city staff if there were charts showing which desks and departments need to be spoken to for various types of projects." In a similar fashion, another suggested adding "examples of a project and provide the simple steps to arrive at the information necessary for the user to access specific requirements such as use, development criteria, parking, loading, etc."

These guides are not just for developers, but for the average



citizen. Land use codes are very lengthy and difficult to wade through. To really understand Tucson's development codes and how they fit together, it is almost a requirement that the user engage a development consultant or land use attorney. Streamlining and reintegrating the development codes will make them much more user-friendly, and a user's guide can assist with making the application and review processes as smooth as possible. Dozens of communities have adopted such guides in an effort to make their codes more user-friendly. These include: Aurora, Colorado; Franklin, Tennessee; Anchorage, Alaska; Cambridge, Massachusetts; and many others. The Development Handbook for the City of Aurora, Colorado, provides a good statement of the intent of a user's guide or handbook: "This handbook is a source of information for landowners, developers, consultants, and contractors regarding the procedures for development within the City of Aurora. It is hoped that the material contained within this handbook will aid in both the predictability and timeliness of processing and constructing your project. Our objective is to assist you in putting together the best possible set of plans that will result in your project moving smoothly through the review process in the least amount of time."

Examples of provisions in such guides often include:

- Description of the key personnel/desks that need to be consulted when moving a development application through the review process;
- A table or summary listing of the documents containing the planning requirements and regulations, where to obtain them, whether they are on-line, and the cost if any;
- Summary listing of departments, department heads, key contacts, phone/fax/e-mail/address/web page;
- Primary point of contact based on type of application or type of service required
- Information regarding regular meeting times and places for decision-making bodies;
- Description of key meetings, such as a pre-application conference, that must be held as part of the review process;
- Summary of key steps in the development review process, and provisions describing the timing and opportunities for possibly consolidating certain steps. An example in some communities is combining subdivision and rezoning review procedures;
- Summary of key steps for miscellaneous processes such as building permits and certificates of occupancy; and
- A set of frequently asked questions and answers.

The specific content of the Tucson Citizen's Guide should be based on the needs of the intended audience. For example, we heard that developers and consultants frequently are unsure of which desk to consult regarding application questions. Therefore, the user's guide should contain a list of the applicable desks and phone numbers arranged by application type. A plain-English guide explaining the basic organization of the Unified Development Code, where to find key topics like processes and uses, and where to get

permits, will help guide applicants through the application process. It will also reduce the need for city staff to correct and complete development applications by filling in correct information. During the stakeholder interviews, we heard that staff must frequently modify and complete applications because developers and their consultants are unsure of the applicable standards and other requirements. In reviewing this document, staff later stated they did not fill modify or complete applications.

8

ADOPT AN ADMINISTRATIVE MANUAL FOR ROUTINE REQUIREMENTS, LISTS, AND FEES

Tucson's development codes contain many lists of submittal requirements, technical information, and engineering requirements. In addition, native plant lists, fees, and other lists are also included in the development codes. This adds to the length and bulk of the development codes and requires formal amendments to make changes. We recommend placing such provisions in a stand-alone administrative manual that can be modified from time-to-time without amending the code. The city already takes this approach with storm water retention requirements, which are found in a separate manual. The manual will also reduce the length and complexity of the development codes. References in the code should direct users to the relevant portions of the manual. The key issues are discussed below:

KEY RECOMMENDATIONS

- **Adopt an Administrative Manual that includes:**

- ✓ **Application Forms**
- ✓ **Application Submittal Requirements**
- ✓ **Development Services and Planning Fees**
- ✓ **Subdivision Assurance Procedures**
- ✓ **Lists of Materials, Plants, and Other Code Compliance Options**

- Application forms and detailed requirements for application submittals should be placed in one administrative manual. Currently such requirements are scattered throughout the development codes (e.g., they are found in the Development Standards and in Article V, Administration, of the LUC). Planned Area Development rezonings the submittal requirements contained in Section 1-06.3.6 of the Development Standards could be moved to the manual, along with the submittal requirements in Section 2.6.3.6. of the Land Use Code. Placing submittal requirements for various application types into the manual will reduce the amount of text in the code, as well as make modifications to the submittal requirements more efficient. Also, application forms for all types of development proposals under the Land Use Code should be placed in the manual.
- The Development Services Department and Planning Department fees currently found in the Development Standards should be placed in the administrative manual. Moreover, some of the fees currently listed appear to be more appropriate for

inclusion with building code rather than Land Use Code materials. Examples include fire sprinkler plan review and permit fees and electrical plan review and permit fees. We recommend that such fees be reviewed to determine whether they should be included in the Land Use Code's administrative manual or somewhere else.

- The Subdivision Assurance Procedures found in Section 1-04.0.0 of the Development Standards, which deal with posting money as a guarantee that required subdivision improvements will be constructed, might also be moved to the administrative manual. A reference in the Subdivision Plat Approval procedures in the Land Use Code would direct users to the manual to determine what assurances are required. We heard in the stakeholder interview that bond assurance requirements (and release of assurances) for subdivision infrastructure are difficult to understand and may not be consistently applied. We recommend that these provisions be reviewed, and revised if necessary, from a substantive standpoint before they are moved to a manual.
- Lists of materials, plant types, and other options for satisfying code requirements can also be placed in the manual. Examples from the Development Standards include the lists of landscape plant materials, low-water use/drought-tolerant plant provisions, and the list of protected native plants.