

**CITY OF TUCSON  
UNIFIED DEVELOPMENT CODE**

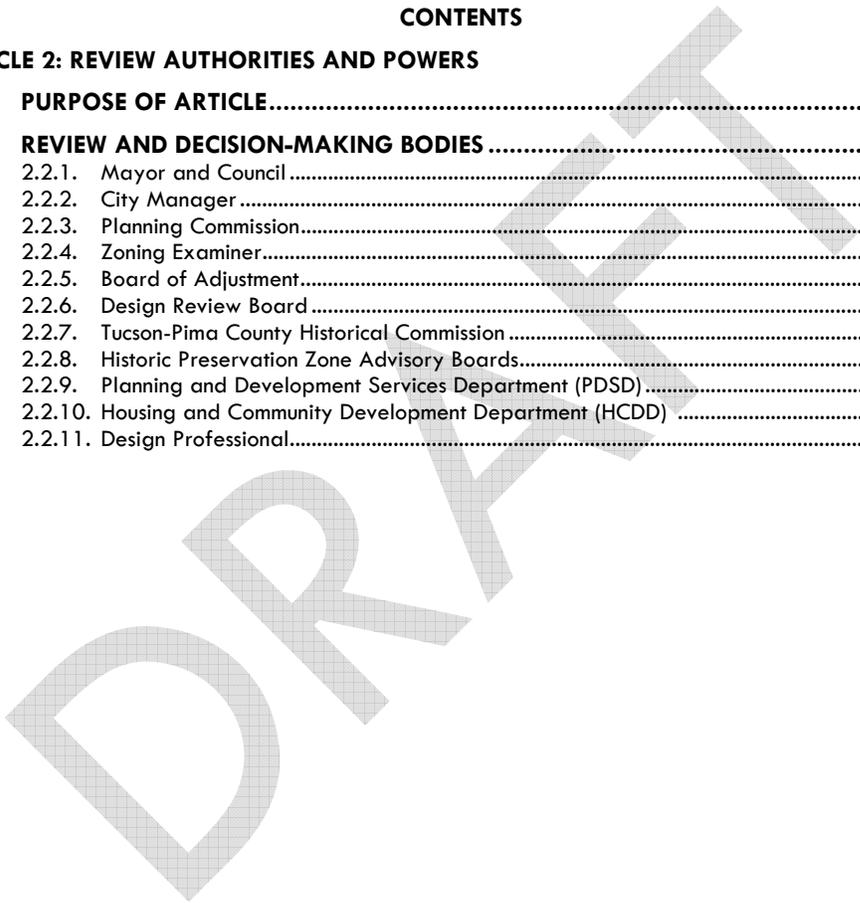
**PRELIMINARY FINAL PUBLIC DRAFT – JULY 2012**

*Note: The underlines and comments in the margin indicate proposed revisions to the June 2012 draft.*

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## ARTICLE 2: REVIEW AUTHORITIES AND POWERS<sup>1</sup>

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### 2.1. PURPOSE OF ARTICLE<sup>2</sup>

This Article describes the powers and responsibilities of the legislative and administrative bodies, appointive officers, municipal agencies, and boards and commissions involved in the planning, zoning, and division of land within the City.

### 2.2. REVIEW AND DECISION-MAKING BODIES

#### 2.2.1. MAYOR AND COUNCIL<sup>3</sup>

The Mayor and Council perform the following functions:

**A. General Plan**

The Mayor and Council shall adopt a comprehensive, long-range general plan for the development of the City known as the General Plan as mandated by the A.R.S., Section 9-461.05 et. seq. and in accordance with the procedures in Section 3.6, *Land Use Plan Adoption and Amendment Procedures*.

**B. Specific Plans and Regulations**

The Mayor and Council shall adopt specific plans, regulations, programs, and legislation as may be needed for the systematic implementation of the General Plan and as required by Arizona Revised Statutes in accordance with the procedures in Section 3.6, *Land Use Plan Adoption and Amendment Procedures*.

**C. Redevelopment Plans**

The Mayor and Council may adopt or amend redevelopment plans, which are policy plans addressing slum and blighted areas from the standpoint of providing economic incentives to stimulate development/redevelopment, in accordance with Section 3.6, *Land Use Plan Adoption and Amendment Procedures*.

**D. Unified Development Code (UDC)**

The Mayor and Council shall adopt and amend the UDC in accordance with Section 3.7, *UDC Text Amendment Procedure*.

**E. Establishment of Original City Zoning**

The Mayor and Council shall establish original zoning for land annexed into the City in accordance with Section 3.5, *Rezoning (Change of Zoning) Procedure*, and A.R.S. 9-471.

**F. Changes in Zoning District Boundaries (Rezoning)**

The Mayor and Council shall consider amendments to zoning district boundaries as set forth on the City Zoning Maps in accordance with procedures in Section 3.5, *Rezoning (Change of Zoning) Procedure*.

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<sup>1</sup> This section is taken primarily from Art. V. Div. I; Sec. 5.2.2.3 and 5.2.3.3; Sec. 4.14; Sec. 23A-6; and DS 1-03.1.0, 1-03.5.0, 1-07.5.0, 1-08.0, 1-09.0, 1-05.5.0, 9-08.2.2/5 and 11-01.17.0. See footnotes below and disposition report for a more detailed account of where these sections have been relocated from.

<sup>2</sup> Text from LUC Sec. 5.1.1.

<sup>3</sup> Text from LUC Sec. 5.1.2, with minor clarifications.

- G. Appeals of Zoning Examiner (Examiner) Decisions, Special Exception Land Uses**  
The Mayor and Council shall consider appeals from Zoning Examiner decisions on Special Exception Land Use applications in accordance with Section 3.9.2, *Mayor and Council Appeal Procedure*.
- H. Plats**  
The Mayor and Council shall consider final plats in accordance with procedures in Section 8.4.5, *Final Plat*, and Arizona Revised Statutes. Authority to approve a tentative plat is delegated to the Director of the Planning and Development Services Department (PDSD).
- I. Special Exception Land Uses**  
The Mayor and Council shall consider Special Exception Land Use requests requiring Mayor and Council consideration in accordance with procedures in Section 3.4.4, *Mayor and Council Special Exception Procedure*.
- J. Enforcement**  
The Mayor and Council shall adopt policies for establishing rules and procedures deemed necessary or advisable for the enforcement of the UDC.
- K. Appointments**  
The Mayor and Council shall appoint the following individuals and members of boards and commissions:
1. Planning Commission in accordance with Section 2.2.3;
  2. Board of Adjustment in accordance with Section 2.2.5;
  3. Design Review Board in accordance with Section 2.2.6; and,
  4. Design Professional in accordance with Section 2.2.11.
- L. Appeals of Director's 300' Notice Procedure Decisions**  
The Mayor and Council shall consider appeals of the PSDS Director's decisions on applications under the Zoning Compliance 300' Notice Procedure in accordance with procedures in Section 3.9.2, *Mayor and Council Appeal Procedure*.
- M. Protected Development Right Plan Approvals**  
The Mayor and Council shall consider protected development right plans submitted in accordance with A.R.S., Section 9-1201 et. seq. and the procedures in Section 3.12.2, *Protected Development Right*.

**2.2.2. CITY MANAGER<sup>4</sup>**

The City Manager provides general supervision of and direction to the PSDS and the Housing and Community Development Department (HCDD) in the administration of the UDC, subject to the control of the Mayor and Council, and is given the authority to perform the following duties:

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<sup>4</sup> Text from LUC Sec. 5.1.3

- A. Enforcement**  
The City Manager assures that the UDC is enforced and that City agencies and employees provide assistance to the PDSB, HCDD, and other responsible boards and commissions in the planning, zoning, and division of land.
- B. Capital Improvement Program**  
The City Manager, with the assistance of the HCDD and PDSB Directors and other City agencies, shall prepare a coordinated program of proposed public improvements for the City on an annual basis.
- C. Establishment of Fees<sup>5</sup>**  
The City Manager recommends fees to the Mayor and Council to be imposed in connection with reviews necessitated by the application of the UDC.

**2.2.3. PLANNING COMMISSION<sup>6</sup>**

The Planning Commission is established to advise the Mayor and Council, PDSB, and HCDD on the adoption of long-range plans, policies, specific plans, and standards that affect land use and development. The Planning Commission serves in the capacity of a planning commission as provided in the Arizona Revised Statutes.

- A. Composition**  
The Planning Commission consists of 13 members as provided below.
  - 1. Appointment**  
Each member of the City Council appoints two members, both of whom must be residents of the City and at least one of whom must be a resident of the Council Member's ward. The Mayor appoints one member who must be a resident of the City. Should an appointment not be made within 30 days of when the position becomes available, the appointment can be made by a majority vote of the Mayor and Council. All members of the Commission serve without compensation.
  - 2. Qualifications**  
Members of the Planning Commission are appointed on the basis of their interest in the City and its future development, particularly as demonstrated by active participation in community affairs directly related to planning issues. No member shall hold any City, county, or state elective office or be a permanent employee of the City while appointed to the Commission.
  - 3. Terms and Removal from Office**  
The term of appointment and the removal of a member of the Planning Commission shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

<sup>5</sup> The fee schedule, along with other information such as submittal requirements, will be relocated outside the UDC in the Administrative Manual.  
<sup>6</sup> Text from LUC Sec. 5.1.5, with minor clarifications.

4. **Vacancies**  
All vacant positions on the Planning Commission shall be filled by appointment as described in Section 2.2.3.A.1. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

**B. Administrative Functions**

The Planning Commission's administrative functions shall be accomplished as follows.

1. **Election of Officers**  
The Planning Commission shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year.
2. **Meetings**  
The Planning Commission shall hold at least one meeting per month, except when there are no agenda items that require action, but may hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public, with the exception of executive sessions.
3. **Quorum and Voting**  
Seven members of the Planning Commission present at a meeting constitute a quorum. A concurring vote of seven members is necessary to make a recommendation to the Mayor and Council. A simple majority of those members present is required to approve or deny any other matter before the Planning Commission. If a concurring vote cannot be attained within the specified time allotted by the procedure on matters requiring Mayor and Council decision, the matter shall be forwarded to the Mayor and Council without recommendation.
4. **Records**  
The PDSD shall keep public records of the Planning Commission's public hearings, findings, and recommendations.
5. **Rules of Procedure**  
The Planning Commission shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the PDSD.
6. **Subcommittees**  
The Planning Commission may create such special subcommittees as it deems necessary or desirable in accordance with Chapter 10A of the Tucson Code. The members of such subcommittees shall be selected from among the members of the Planning Commission and may include other persons qualified to contribute to the work of the special subcommittee.

**C. Powers and Duties**

The Planning Commission shall perform the following duties:

**1. General Plan**

The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on the adoption of, and amendments to, the General Plan in accordance with Section 3.6, *Land Use Plan Adoption and Amendment Procedure*.

**2. Specific Plans**

The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, specific plans, including but not limited to area and neighborhood plans, and on regulations for the implementation of the General Plan in accordance with Section 3.6, *Land Use Plan Adoption and Amendment Procedure*.

**3. Unified Development Code (UDC)**

The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendments to, the text of the UDC in accordance with Section 3.7, *UDC Text Amendment Procedure*.

**4. Other Matters**

The Planning Commission shall review such other issues as might be required by the Mayor and Council, and upon agreement by seven of its members. The Planning Commission may consider any other matter that pertains or is reasonably related to its duties.

**2.2.4. ZONING EXAMINER<sup>7</sup>**

The position of the Zoning Examiner is established to conduct public hearings on rezoning requests on behalf of the Mayor and Council and to consider other land use applications as provided in the Unified Development Code (UDC).

**A. Position**

The Zoning Examiner serves in accordance with the following provisions:

**1. Appointment**

The Zoning Examiner is appointed by the City Manager in accordance with Chapter V, Sections 2 and 13, of the City Charter.

**2. Qualifications**

The Zoning Examiner is appointed on the basis of a demonstrated ability to perform the duties of the office, such as training and experience relevant to the conduct of administrative and adjudicative hearings and knowledge of the

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<sup>7</sup> Text from LUC Sec. 5.1.6, with minor clarifications.

principles and practices of land use planning. The Zoning Examiner may not hold a City elective office concurrently with this position.

**3. Term**

The Zoning Examiner serves at the pleasure of the City Manager. The City Manager may designate a qualified person as a temporary Zoning Examiner whenever the Zoning Examiner is unable to perform the duties of the office due to illness, potential conflict of interest, or similar reason.

**B. Administrative Functions**

The administrative functions necessary to discharge the duties and responsibilities of the Zoning Examiner are assigned to the Zoning Examiner, the City Clerk, and the Planning and Development Services Department (PDSD), as provided in the Zoning Examiner's Rules and Procedures. Copies of such rules and procedures shall be available to the public through the PDSD.

**C. Powers and Duties**

The Zoning Examiner shall perform the following duties:

**1. Rezoning**

The Zoning Examiner conducts public hearings on applications to rezone property and makes recommendations to the Mayor and Council in accordance with Section 3.5, *Rezoning (Change of Zoning) Procedure*.

**2. Special Exception Land Use**

The Zoning Examiner conducts public hearings on certain Special Exception Land Uses and, depending upon the applicable procedure, makes decisions, or provides recommendations to the Mayor and Council in accordance with Section 3.4.3, *Zoning Examiner Special Exception Procedure*.

**3. Expansion of Nonconforming Use**

The Zoning Examiner hears and decides requests to exceed the amount of expansion allowed for structures and land area devoted to a nonconforming use in accordance with Section 3.4.3, *Zoning Examiner Special Exception Procedure*, and Section 9.2.2, *Expansion of a Nonconforming Use*.

**4. Substitution of Nonconforming Use**

The Zoning Examiner hears and decides requests to substitute a land use for an existing nonconforming land use, when the proposed substitution is from a Land Use Class that is different from the one to which the existing nonconforming use belongs in accordance with procedures in Section 3.4.3, *Zoning Examiner Special Exception Procedure*, and the standards in Section 9.2.4, *Substitution with a Use from Different Land Use Class*.

**5. Other Responsibilities**

The Zoning Examiner shall perform such other functions as may be required by the City Manager or the UDC.

**D. Authority and Conduct of the Zoning Examiner**

1. The Zoning Examiner may obtain information from all parties, including PSDS review agencies, prior to the public hearing, provided all requests for information are in writing and the request and information are included as part of the public record. The Zoning Examiner may, after the close of the public hearing, obtain additional information or clarify information presented and of record at the hearing provided the request for additional information or clarification is requested in writing and such request and information are included as part of the record.
2. The Zoning Examiner may not communicate, directly or indirectly, with any party or party's representative in connection with any issue involved with a particular request, except upon notice and opportunity for all parties to participate; use or rely upon any communication, report, staff memorandum, or other material prepared in connection with the particular case, unless it is made a part of the record; or inspect the site with any party or party's representative, unless all parties are given an opportunity to be present.

**2.2.5. BOARD OF ADJUSTMENT<sup>8</sup>**

The Board of Adjustment (B/A) is established to hear and decide requests for variances from provisions of the UDC, appeals of Zoning Administrator's interpretations, appeals by the applicant from Administrative Design Review decisions, appeals from Limited Notice Procedure decisions and other land use issues as provided by the UDC. The B/A serves in the capacity of a "Board of Adjustment" as provided by the Arizona Revised Statutes.

**A. Composition**

The B/A consists of seven members as provided below.

1. **Appointment**  
Each member of the City Council appoints one B/A member who must be a resident of the appointing Council Member's ward. The Mayor appoints one B/A member who must be a resident of the City. Should an appointment not be made within 30 days of the date the position becomes vacant, the appointment can be made by a majority vote of the Mayor and Council. All members of the B/A serve without compensation.
2. **Qualifications**  
No member of the B/A may hold any City, county, or state elective office or be a permanent employee of the City while a member of the B/A.
3. **Terms and Removal from Office**  
The term of appointment and the removal of a member of the B/A shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

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<sup>8</sup> Text from LUC Sec. 5.1.7, with minor clarifications.

**4. Vacancies**

Any position on the B/A that is vacated shall be filled by appointment as described in Section 2.2.5.A.1. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

**B. Administrative Functions**

The B/A's administrative functions shall be accomplished as follows.

**1. Election of Officers**

The B/A shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year.

**2. Meetings**

The B/A shall hold at least one meeting per month, except when there are no agenda items that require action, but shall hold as many meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public, with the exception of executive sessions.

**3. Quorum and Voting**

Four members of the B/A present at a meeting constitute a quorum. A concurring vote of four members is necessary to decide any matter within its powers and duties as provided in Section 2.2.5.C. On all other matters before the B/A, a simple majority of those members present is sufficient to approve a motion.

**4. Records**

The Planning and Development Services Department (PDSD) shall keep public records of the B/A's hearings, findings, and decisions.

**5. Rules of Procedure**

The B/A shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the PSDS.

**C. Powers and Duties**

The B/A shall perform the following duties.

**1. Appeals of UDC Interpretations**

The B/A hears and decides appeals from interpretations made by the Zoning Administrator in the interpretation, application, or enforcement of the UDC or in the determination of a zone boundary location as provided in Section 1.5.1. For detailed enumeration of the procedures and standards for B/A decisions, see Section 3.10.1, *General Board of Adjustment Procedure*.

**2. Variances from UDC Provisions**

**a. Variance Powers granted to Board of Adjustment**

The B/A hears and decides requests for variances from the provisions of the UDC in accordance with Sections 3.10.1 and 3.10.3, *Board of Adjustment Variance Procedure*, and standards for a B/A decision.<sup>9</sup>

**b. Variance Powers not granted the Board of Adjustment**

The B/A may not:

- (1) Delete or vary any use-specific standards<sup>10</sup> applicable to a Special Exception Land Use as required by the UDC or as established as a condition by the decision-making body in granting the use, unless specifically allowed by the UDC.
- (2) Make any changes in the uses permitted in any zoning classification.
- (3) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
- (4) Grant a variance to any administrative requirement of the UDC or to any requirement which is not a specific development regulation or use-specific standards required of a land use.
- (5) Grant a variance to the use-specific standards required of Educational Uses as provided in Section 4.9.3.E.

**D. Appeals of City Zoning Map Interpretation**

The B/A hears and decides appeals of Zoning Administrator's interpretations of the official City Zoning Maps in determining exact locations of zone boundary lines as shown on the City Zoning Maps in accordance with Sections 3.10.1 and 3.10.2, *Board of Adjustment Appeal Procedure*.

**E. Appeals of Design Development Option (DDO) Decision**

The B/A hears and decides appeals of decisions by the PDS Director on DDO applications in accordance with Sections 3.10.1 and 3.10.2, *Board of Adjustment Appeal Procedure*.

**F. Appeals of Administrative Design Review Decision**

The B/A hears and decides appeals of decisions by the PDS Director on Administrative Design Review applications in accordance with Sections 3.10.1 and 3.10.2, *Board of Adjustment Appeal Procedure*. In considering the appeal, the B/A shall apply the same findings required of the PDS Director.

<sup>9</sup> LUC Sec. 5.1.7.3.B.1, which provides the seven criteria for approving a variance, has been relocated to UDC Sec. 3.8.1 Variance.

<sup>10</sup> The term "performance criteria," which is associated with the current Development Designator System, is being replaced by a simpler system called "use-specific standards."

**G. Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permit<sup>11</sup>**

In accordance with Section 5.10.3.I, the B/A hears and decides appeals of the DRB affirming or reversing the Director's decisions of compliance or non-compliance with the neighborhood-specific design manual and compatibility review criteria in accordance with Sections 3.10.1 and 3.10.2, *Board of Adjustment Appeal Procedure*.

**H. Other Responsibilities**

The B/A shall perform such other functions as may be required by the UDC.

**2.2.6. DESIGN REVIEW BOARD<sup>12</sup>**

The Design Review Board (DRB) is established to review proposed buildings, structures, landscaping, architectural features, and site plans.

**A. Composition**

The DRB consists of seven members, of whom five are regular members and two are alternates, as provided below. Five members constitute the entire DRB panel at any meeting of the DRB. An alternate member may serve on the DRB panel at a hearing only if a regular member is not available for the hearing.<sup>13</sup>

**1. Appointment**

Any member of the Mayor and Council may make a recommendation for appointment of a DRB member. Such appointments are made by a majority vote of the Mayor and Council. Alternate members must be identified as such at the time of their appointment. The DRB members must be City residents. All members of the DRB serve without compensation.

**2. Qualifications**

Of the seven members, there shall be at least one registered architect, one contractor, and two registered landscape architects. No member of the DRB is to hold any City, county, or state elective office or be a permanent employee of the City while a member of the DRB.

**3. Terms**

The term of each member is four years, beginning with the date of appointment. Members are eligible for reappointment but shall not serve more than eight continuous years. After the eight continuous years of service, a member is eligible for reappointment after a break in service of one year.

<sup>11</sup> Text from Sec. 23A-32.1.2.g

<sup>12</sup> Text from LUC Sec. 5.1.8, with minor clarifications.

<sup>13</sup> The last sentence of this paragraph is a proposed addition in order to clarify the role of an alternate member.

**4. Vacancies**  
An appointment to fill an unexpired term is considered a new appointment to a full four year term in accordance with Subsection 3 above. Any position on the DRB that is vacated shall be filled by appointment as described in Section 2.2.6.A.1.

**5. Removal**  
A member of the DRB may be removed with or without cause by a majority vote of the Mayor and Council. A member who misses four consecutive meetings for any reason or fails to attend for any reason at least 40 percent of the DRB meetings held in one calendar year is automatically and immediately removed as a member of the DRB.

**B. Administrative Functions**

The DRB's shall accomplish the following administrative functions:

**1. Election of Officers**  
The DRB shall elect a Chair and Vice Chair from among its regular members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year. Should both the Chair and Vice Chair be absent from a meeting, an interim Chair shall be voted upon by those members attending.

**2. Meetings**  
The DRB shall hold meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

**3. Quorum and Voting<sup>14</sup>**  
Three members, who may be either regular or alternate members constitute a quorum for a DRB panel at a hearing. Alternate members may serve on a panel or vote on a matter only if they are serving as a replacement for a regular DRB member. Except as provided below, a concurring vote of a majority of the members present and voting is necessary to make a decision. When making a decision on an appeal the Director's decision on Neighborhood Preservation Zone design review applications, a concurring vote of a majority of the DRB (i.e. 3 out of 5) is necessary to make a decision.

**4. Records**  
The Planning and Development Services Department (PDSD) shall maintain public records of the DRB's actions, findings, and recommendations.

**5. Rules of Procedure**  
The DRB shall adopt rules of procedure necessary to carry out its functions. Copies of such rules shall be available to the public through the PDSD.

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<sup>14</sup> This section has been revised to clarify when alternate members may vote and to stipulate that a majority vote of the DRB, not just those present, is required when making a decision on an appeal to the PDSD Director's decision on NPZ design review applications.

**6. Required Action**

Applications reviewed for the purpose of providing a recommendation to another board, committee, official, or the Mayor and Council for a decision shall be forwarded without a recommendation should the DRB fail to act within 21 days of the date a plan is accepted for review by the DRB. Action by the DRB to continue deliberation to another meeting shall stay the 21 day requirement.

**C. Powers and Duties**

The DRB shall perform the following duties:

**1. Scenic Corridor Zone (SCZ), Development Review**

In accordance with Section 5.3.11.B, the DRB reviews development applications for projects located within a SCZ when requested by the PDS Director or applicant, in accordance with Section 3.3.3, *PDS Director Approval Procedure*. The DRB recommendation shall apply the same standards required in Section 5.3.11.C for the decision of the PDS Director.

**2. Scenic Corridor Zone (SCZ), Variances**

In accordance with Section 5.3.14, the DRB reviews, for recommendation to the B/A, all requests for variances from SCZ provisions and shall forward its recommendations in accordance with Subsection 2.2.6.B.6. The DRB recommendation shall apply the same findings required in Section 3.10.3.J for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

**3. Design Development Option (DDO), Appeals**

The DRB reviews, for recommendation to the B/A, appeals of decisions by the PDS Director on DDO applications in accordance with Section 3.10.2, *Board of Adjustment Appeal Procedure*. The DRB shall apply the same findings (Section 3.11.1.D, *Findings for Approval*) required of the PDS Director when making its recommendation.

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**4. Environmental Resource Zone (ERZ), Variances**

**a.** In accordance with Section 3.10.3.G.2, the DRB reviews, for recommendation to the B/A, all requests for variances from ERZ standards, in accordance with Sections 3.10.1 and 3.10.3, *Board of Adjustment Variance Procedure*. The DRB recommendation shall apply the same findings required in Section 3.10.3.J for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

<sup>15</sup> The appeal procedure no longer applies given that projects within the ERZ and several other overlay zones would no longer be reviewed in accordance with the 300' Notice as proposed.

b. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee may review the variance request concurrently with the DRB and may provide written or oral testimony at the public hearing for the variance request. Any such testimony must address the required findings.<sup>16</sup>

**5. Landscaping and Screening Standards, Variances**

In accordance with Section 7.6.9.D, the DRB reviews, for recommendation to the B/A, all requests for variances from Section 7.6, *Landscaping and Screening Standards*, in accordance with Sections 3.10.1 and 3.10.3, *Board of Adjustment Variance Procedure*. The DRB recommendation shall apply the same findings required in Section 3.10.3.J, *Findings for Approval*, for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

**6. Gateway Corridor Zone, Variances**

In accordance with Section 5.5.6, the DRB reviews, for recommendation, all requests for variances from Section 5.5, Gateway Corridor Zone, in accordance with Sections 3.10.1 and 3.10.3, Board of Adjustment Variance Procedure. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.10.3.K, Findings for Approval, for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.<sup>17</sup>

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**7. Native Plant Preservation (NPP), Variances**

In accordance with Section 7.7.6.B, the DRB reviews, for recommendation to the B/A, all requests for variances from NPP standards in accordance with Sections 3.10.1 and 3.10.3, *Board of Adjustment Variance Procedure*. The DRB recommendation shall apply the same findings required in Section 3.10.3.J for granting a variance. In addition, the DRB may make any recommendation that would assist in mitigating any negative impacts which might occur should the request be granted.

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**8. Neighborhood Commercial (NC) Zone, Development Review**

In accordance with Section 4.9.13.M.1.d, the DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area.

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<sup>16</sup> Text from LUC Sec. 2.8.6.8.A.2.

<sup>17</sup> Text from LUC Sec. 5.1.8.3.H with minor modifications. This is being added in as a result of the variance procedure being re-inserted in the Gateway Corridor Zone ordinance (Sec. 5.5).

Deleted: Staff recommends that a recommendation from the DRB on variances to Gateway Corridor Zone requirements should no longer be required because this process is rarely, if ever, used

- 9. Office (O-1) Zone, Development Review** ← Formatted: Bullets and Numbering  
In accordance with Section 4.9.4.R.7, the DRB reviews all new office development in the O-1 zone, including Medical Service – Outpatient.
- 10. Communications Land Use, PDS Director Special Exception Procedure** ← Formatted: Bullets and Numbering  
The DRB reviews, for recommendation when requested by the PDS Director, Communications land uses in all zones that require approval in accordance with Section 3.4.2, *PDS Director Special Exception Procedure*.
- 11. Communications Land Use, Zoning Examiner Special Exception Procedure** ← Formatted: Bullets and Numbering  
The DRB reviews, for recommendation, Communications land uses in all zones that require approval in accordance with Section 3.4.3, *Zoning Examiner Special Exception Procedure*.
- 12. Communications Land Use, Mayor and Council Special Exception Procedure** ← Formatted: Bullets and Numbering  
The DRB reviews, for recommendation when requested by the Mayor and Council, or Zoning Examiner, Communications land uses in all zones that require approval in accordance with Section 3.4.4, *Mayor and Council Special Exception Procedure*.
- 13. Home Occupation: Travelers' Accommodation, Lodging, Development Review** ← Formatted: Bullets and Numbering  
The DRB reviews all Home Occupation, Travelers' Accommodation, and Lodging land uses in the various zones in which the use is permitted, as provided in Section 4.9.7.H.6.
- 18
- 14. Rio Nuevo and Downtown (RND) Zone, Development Review** ← Formatted: Bullets and Numbering  
The DRB reviews, for recommendation, all proposed development in the Rio RND Zone, as provided in Section 5.11.8. In formulating its recommendation, the DRB shall apply the design standards in Sections 5.11.4 5.11.5, and 5.11.6.
- 15. Neighborhood Preservation Zone (NPZ), Appeals<sup>19</sup>** ← Formatted: Bullets and Numbering  
In accordance with Section 5.10.3.H, the DRB hears and decides appeals from decisions of the PDS Director on NPZ Design Review application in accordance with Section 3.9.1, *Design Review Board Appeal Procedure*.
- 16. Other Responsibilities** ← Formatted: Bullets and Numbering  
The DRB shall perform such other functions as may be required by the UDC.

<sup>18</sup> Staff recommends that a recommendation from the DRB on Historic Preservation Zone appeal should no longer be required because this process is rarely, if ever, used.

<sup>19</sup> Text from Sec. 23A-32.1.2.f.

**2.2.7. TUCSON-PIMA COUNTY HISTORICAL COMMISSION<sup>20</sup>**

The Tucson-Pima County Historical Commission is established to advise the Mayor and Council, the City Planning and Development Services Department (PDSD), the Board of Supervisors, and the applicable county officials on issues concerning historic sites, historic structures, and new construction and demolition within Historic Preservation Zones or Historic Landmarks within the community. The functions and duties of the Tucson-Pima County Historical Commission as provided herein shall be performed by the Tucson-Pima County Historical Commission Plans Review Subcommittee

**A. Establishment**

The Tucson-Pima County Historical Commission is established and constituted as provided in Chapter 10A, Boards and Commissions, of the Tucson Code.

**B. Administrative Functions**

The Tucson-Pima County Historical Commission Plans Review Subcommittee's administrative functions are as provided in Chapter 10A, *Boards and Commissions*, of the Tucson Code.

**C. Powers and Duties within the Unified Development Code (UDC)**

In addition to the powers and duties provided in Chapter 10A, Boards and Commissions, of the Tucson Code, the Tucson-Pima County Historical Commission Plans Review Subcommittee shall perform the following duties.

**1. Establishment of an Historic Preservation Zone or Historic Landmark**

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review all requests to establish an HPZ or historic landmark in accordance with Section 5.8.3.D.

**2. Amendments to an Existing Historic Preservation Zone or Historic Landmark**

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review any request to amend an existing HPZ or historic landmark in accordance with Section 5.8.3.D.

**3. Development Review**

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review any development proposal within an HPZ for compliance with design and construction requirements and standards in accordance with Section 5.8.5.

**4. Demolition Review**

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review all proposals to demolish any structure within an HPZ or a historic landmark in accordance with Section 5.8.7.

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<sup>20</sup> Text from LUC Sec. 5.1.9., with minor clarifications.

**2.2.8 Historic Preservation Zone Advisory Boards**

**2.2.8. HISTORIC PRESERVATION ZONE ADVISORY BOARDS<sup>21</sup>**

For each HPZ proposed or established, an HPZ advisory board is appointed to assist the Mayor and Council and the Planning and Development Services Department (PDS) in evaluating establishment of, or amendment to, an historic zone and in evaluating proposed development within an adopted Historic Preservation Zone.

**A. Composition**

Each HPZ advisory board shall consist of at least six, but not more than 15, members. Members may be either voting or non-voting advisory members.

**1. Appointment**

Members of each HPZ advisory board are appointed by the Mayor and Council.

**2. Qualifications**

For each HPZ advisory board, approximately one-third of the voting members must be residents within the historic zone; approximately one-third of the voting members must be property owners within the historic zone; and approximately one-third of the voting members must have special qualifications in such areas as archaeology, architecture, architectural history, local history, historic preservation law, landscape architecture, planning, construction, or other related field. The application information for all prospective members must be accompanied by a statement of interest, including the category in which they would serve. The information for members having special qualifications shall also reference the individuals' educational and professional experience. The PDS Director, the Historic Preservation Officer, and a member of the Tucson-Pima County Historical Commission Plans Review Subcommittee shall review the information for applicants in the special qualifications category and make recommendations prior to the nomination being forwarded to the Mayor and Council for consideration. Members serve without compensation.

**3. Terms**

The term of each member of an HPZ advisory board is for a maximum of four years, expiring on December 31 of the fourth year. Terms may be staggered to assure continuity. Members are eligible for reappointment.

**4. Removal**

A member of an HPZ advisory board may be removed by a two-thirds vote of the Mayor and Council.

**B. Administrative Functions**

Each HPZ advisory board shall perform the following administrative functions.

<sup>21</sup> Text from LUC Sec. 5.1.10, with minor clarifications.

**2.2.8 Historic Preservation Zone Advisory Boards**

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- 1. Election of Officers**  
Each HPZ advisory board elects a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year.
- 2. Meetings**  
Each HPZ advisory board holds as many regular meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.
- 3. Quorum and Voting**  
A majority of the voting members constitutes a quorum of an HPZ advisory board. The concurring vote of the majority of members present and voting is necessary to make any recommendation to the PDSD Director or to the Mayor and Council. If a concurring vote cannot be attained within the specified time allotted by the review procedure, the matter will be forwarded without recommendation.
- 4. Records**  
Each HPZ advisory board shall keep a public record of its actions, findings, and recommendations. Records may be found at the City Clerk's Office.
- 5. Rules of Procedure**  
Each HPZ advisory board may adopt rules of procedure necessary to carry out its functions. Copies of such rules will be filed with the City Clerk and made available to the public through the Planning and Development Services Department (PDSD).
- 6. Training**  
HPZ advisory boards shall schedule not less than one meeting per year for the purposes of training related to their design review responsibilities. The training shall be coordinated with the City's Historic Preservation Officer.

**C. Powers and Duties**

Each HPZ advisory board shall perform the following duties:

- 1. Establishment of Historic Preservation Zone**  
Upon receipt of a request to establish an HPZ, the Mayor and Council may establish an HPZ advisory board for the proposed historic zone to evaluate and make recommendations on the proposed establishment of the HPZ in accordance with Section 5.8.3, *Establishment and Amendment to Historic Preservation Zones*. As part of the review, the HPZ advisory board makes recommendations on the boundaries of the HPZ and which sites or structures are to be designated "Contributing Properties" and "Noncontributing Properties."
- 2. Historic District Amendments**  
Each HPZ advisory board shall make written recommendations to the PDSD Director and to the Mayor and Council concerning amendments to the boundaries of its HPZ and the addition or deletion of designated sites and

**2.2.9 Planning and Development Services Department (PDSD)**

structures in accordance with Section 5.8.3, *Establishment and Amendment to Historic Preservation Zones*.

**3. Historic Preservation**

Each HPZ advisory board shall review and make written recommendations to the PDSD Director on applications involving new construction, additions, alterations, and moving or demolition of existing structures located within its HPZ for compliance with the purpose and intent of the HPZ and all applicable provisions and standards.

**4. Permitted Uses**

The HPZ advisory board shall review applications for resident artisan uses and make recommendations to the PDSD Director.

**2.2.9. PLANNING AND DEVELOPMENT SERVICES DEPARTMENT (PDSD)<sup>22</sup>**

**A. Functions and Duties**

The PDSD shall generally administer and enforce the UDC, serve as the planning agency when applicable, and in addition shall have the following specific responsibilities:

**1. Implementation of and Compliance with the UDC**

The PDSD is responsible for the implementation of and assuring compliance with the applicable provisions of the UDC on all projects being developed under the existing zoning of a property, including applicable overlay zones.

**2. City Zoning Maps**

The PDSD is responsible for maintaining the official City Zoning Maps and for the coordination and review of any request to amend the zoning boundaries as provided on the maps.

**3. Board of Adjustment (B/A)**

The PDSD is responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the B/A's findings and decisions.

**4. Design Review Board (DRB)**

The PDSD is responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the DRB's decisions.

<sup>22</sup> Text from LUC Sec. 5.1.11. with significant changes from staff. This section reflects the recent reorganization and renaming of the Development Services Department (DSD) to the Planning and Development Service Department (PDSD), and the Department of Urban Planning and Design (DUPD) to the Housing Community Development Department (HCDD). All new and rewritten language is from staff.

**2.2.9 Planning and Development Services Department (PDSD)**

- 5. Historic Preservation Zones (HPZ)**  
The PDSD shall coordinate review of all alterations, new development, and demolitions within the HPZ and perform any other administrative function as required by Section 5.8, "H" *Historic Preservation Zone*.
- 6. Subdivision, Minor Subdivision, and Land Split**  
The PDSD is responsible for the review of all development proposals for compliance with the subdivision, including Flexible Lot Development, minor subdivision, and lot split standards as provided in Article 8, *Land Division and Subdivision Standards*.
- 7. Rezoning, Planned Area Development (PAD), Planned Community Development (PCD), Urban Overlay District (UOD), and Neighborhood Preservation Zone (NPZ)<sup>23</sup>**  
The PDSD shall review and provide recommendations for all PAD, PCD, UOD, and NPZ applications and any rezoning initiated by the Mayor and Council.
- 8. Special Land Use Exception<sup>24</sup>**  
The PDSD is responsible for review and recommendation for an application for a special land use exception in accordance with the UDC.
- 9. Amendment of UDC**  
The PDSD is responsible for review of and provide recommendations on amendments to the UDC.
- 10. Planning Commission<sup>25</sup>**  
The PDSD shall provide technical assistance to and be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the Planning Commission's findings and decisions.
- 11. Airport Regulations<sup>26</sup>**  
The PDSD shall administer and enforce airport zoning regulations in accordance with provisions of this UDC and applicable Arizona Revised Statutes.
- 12. Non-conforming Uses, Temporary Uses and Structures<sup>27</sup>**  
The PDSD shall evaluate and make decisions on non-conforming uses and temporary uses and structures in accordance with the UDC.

<sup>23</sup> This duty, with new text, was transferred from the current Planning Department to the PDSD.

<sup>24</sup> Duty added per staff comment.

<sup>25</sup> This duty was transferred from the current Planning Department to the PDSD.

<sup>26</sup> This duty was relocated from the purpose statement to the list where it better fits.

<sup>27</sup> Duty added per staff comment.

**2.2.9 Planning and Development Services Department (PDSD)**

- 13. 50' and 300' Notice Procedures<sup>28</sup>**  
The PDSD shall evaluate and make decisions whether an application will be reviewed in accordance with Section 3.3.4, *50' Notice Procedure*, or Section 3.3.5, *300' Notice Procedure*.<sup>29</sup>
- 14. Modifications to the UDC Standards<sup>30</sup>**  
The PDSD shall evaluate and make decisions on an application to modify standards such as setbacks, parking, screening and landscaping in accordance with the UDC.
- 15. Administrative Design Review<sup>31</sup>**  
The PDSD shall evaluate and make decision on an application under the Administrative Review Procedure in accordance with the UDC.
- 16. Amendments to and Administration of Specific Plans (including Area, Sub-Area, and Neighborhood Plans)**

  - a. Amendments**  
The PDSD shall review and provide recommendations to the Planning Commission and the Mayor and Council on amendments to specific plans. The PDSD may coordinate with the HCDD when developing its recommendation.
  - b. Administration**  
The PDSD shall provide for the maintenance and administration of specific plans.
- 17. Other Responsibilities**  
The PDSD shall perform such other functions as may be required by the Mayor and Council, City Manager, or the UDC.
- 18. Director of the Planning and Development Services Department (PDSD)<sup>32</sup>**  
The PDSD Director shall be the chief administrative officer of PDSD. The PDSD Director, or designee, shall be responsible for administering the functions and duties of PDSD listed in this section. The PDSD Director or designee may perform other functions and duties, including assisting the Zoning Administrator in enforcing the UDC, as may be required for the administration of the department or as provided by the City Manager or the UDC.

<sup>28</sup> Duty added per staff comment.

<sup>29</sup> The listing of example applications subject to the 300' Notice Procedure is proposed for deletion because it is redundant with Article 3 and many of the overlays mentioned are proposed to no longer require the 300' Notice Procedure.

<sup>30</sup> Duty added per staff comment.

<sup>31</sup> Duty added per staff comment.

<sup>32</sup> Staff recommends deleting the list of specific Director duties in LUC Sec. 5.1.11.2 and replacing with this more general purpose statement.

**2.2.9 Planning and Development Services Department (PDSD)**

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**19. Zoning Administrator**

The Zoning Administrator, who is appointed by the PSDS Director, shall perform the duties and responsibilities as described below. The PSDS Director shall designate a temporary Zoning Administrator whenever the Zoning Administrator is unable to perform the duties of the office due to illness, potential conflict of interest, or similar reason.

**a. Unified Development Code (UDC) Interpretation**

The Zoning Administrator shall interpret the City Zoning Maps and the provisions of the UDC in accordance with Section 1.5.1, *Interpretation by the Zoning Administrator*.

**b. Unified Development Code (UDC) Enforcement**

The Zoning Administrator shall enforce the UDC with assistance from the PSDS and the Housing Community Development Department as provided in Section 10.2, *Enforcement Authority*, and from other City departments as may be provided by the City Manager and Mayor and Council.

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**2.2.10 Housing and Community Development Department (HCDD)**

**c. Other Responsibilities**

The Zoning Administrator shall perform such other functions as may be required by the PSDS Director or the UDC.

**2.2.10. HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT (HCDD) <sup>33</sup>**

The Housing and Community Development Department (HCDD), as established by the Mayor and Council, shall serve in the capacity of a planning agency as provided in the A.R.S., Title 9, Article 6.

**A. Functions and Duties**

The HCDD is responsible for preparing, maintaining, and administrating the General Plan, certain specific plans, and redevelopment plans, assisting in the enforcement of the UDC, and other functions as deemed necessary or desirable for the City.

**1. Administration of General Plan**

**a. Preparation and Adoption**

The HCDD shall prepare the General Plan and amendments thereto, for consideration by the Mayor and Council in accordance with Section 3.6, *Land Use Plan Adoption and Amendment Procedure*.

**b. Implementation<sup>34</sup>**

The HCDD shall:

- (1) Investigate and make recommendations to the Mayor and Council concerning reasonable and practical means for putting the General Plan, or parts thereof, into effect in order that it will serve as a pattern and guide for the orderly growth and development of the City and as a basis for the efficient expenditure of its funds relating to the subjects of the General Plan. The measures recommended may include plans, regulations, financial reports, and capital budgets.
- (2) Submit an annual report to the Mayor and Council on the status of the plan and its implementation.
- (3) Endeavor to promote public interest in, and understanding of, the General Plan and regulations relating to it.
- (4) Consult with and advise public officials and agencies; public utility companies; civic, educational, professional, and other organizations; and citizens, generally, with relation to carrying out the General Plan.

**2. Preparation of Specific Plans (Including Sub-area Plans Area and Neighborhood Plans)**

The HCDD shall prepare new specific plans for consideration of adoption by the Mayor and Council. Specific plans include such elements as, but are not limited to, neighborhood and area plans, plans for major streets or parks,

<sup>33</sup> As mentioned above, this is the new name for the Dept. of Urban Planning and Design. The organization and duties of this section reflect staff comments.

<sup>34</sup> This section is taken from Sec. 5.2.2.3.

and land use standards and policy documents for the implementation of the General Plan. The Mayor and Council, with a recommendation from the HCDD, may adopt administrative rules and procedures for the implementation of specific plans.

**3. Capital Improvement Program**

The HCDD shall assist the City Manager and other City departments in coordinating the Capital Improvement Program, monitoring its implementation, and advising the Mayor and Council on its conformance with the General Plan and specific plans.

**4. Historic Preservation**

The HCDD shall perform the following duties:

- a. Oversee the General Plan's policies pertaining to historic preservation
- b. Assist in establishing local National Register Historic Districts and Historic Preservation Zones
- c. Perform the duties and responsibilities of the Historic Preservation Program, including creating and maintaining programs to encourage the recognition, restoration, and maintenance of the historic, archaeological, and cultural resources of the City and
- d. Work with and assist departments of the City and the Tucson-Pima County Historical Commission in matters affecting historic preservation.

**5. Enforcement of the UDC**

The HCDD shall assist the Zoning Administrator in the enforcement of violations of the UDC as provided in Section 10.2, *Enforcement Authority*.

**6. Other Responsibilities**

The HCDD shall perform such other functions as may be required by the Mayor and Council, City Manager, or the UDC.

**B. Director of the Housing and Community Development Department**

The Director of HCDD is the chief administrative officer of the HCDD and shall be responsible for administering the functions and duties of the HCDD. The Director, or designee, performs other such functions as may be required for the administration of the HCDD or as provided by the Mayor and Council, City Manager, or the UDC.

**2.2.11. DESIGN PROFESSIONAL<sup>35</sup>**

The position of Design Professional (DP) is established 1) to review building permits for projects located in the Neighborhood Preservation Zone (NPZ) overlays for compliance with applicable design manuals, and 2) to review proposed buildings, structures, landscaping,

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<sup>35</sup> Text from LUC Sec. 5.1.1.2 and 5.1.1.3 from the new FLD amendment. Per staff comment, we have consolidated the Design Professional (NPZ) and Design Examiner (FLD) positions but have retained the same qualifications and requirements when performing the respective duties.

architectural features, of proposed subdivisions, development plans, and site plans, as set forth in the UDC.

**A. Appointment and Qualifications**

**1. Appointment**

The PDSD Director shall recommend a candidate(s) for the position of DP. The Mayor and Council shall appoint one or more DPs.

**2. Qualifications**

**a. NPZ Review**

The DP shall be a registered architect, preferably with historic preservation experience.

**b. Subdivision Review**

The DP shall be a registered architect or landscape architect.

**B. Powers and Duties**

**1. Neighborhood Preservation Zone (NPZ) Design Review**

The DP shall review applications for building permits for projects located within adopted NPZs for compliance with the applicable Design Manual and Section 5.10.3, *Neighborhood Preservation Zone Design Review Procedure*. The DP will forward a written report with findings and recommendation to the PDSD Director. The Director shall take into account the recommendations of the DP when considering approval of the application.

**2. Flexible Lot Development (FLD) Project Review**

The DP shall review FLD projects for compliance with, but not limited to:

**a.** *Architectural Variation*, Section 8.7.3.M.1;

**b.** *Functional Open Space*, Section 8.7.3.F.1 & .2;

**c.** *Modifications to Street Perimeter Yard Setbacks*, Section 8.7.3.L.2;

**d.** *Privacy Mitigation*, Section 8.7.3.M.2.b;

**e.** *Transition Edge Treatment*, Section 8.7.3.M.2.a;

**f. Recommendation on FLD Review**

The DP shall forward a written recommendation with findings to the PDSD Director. The Director shall consider the DP's recommendation and render a decision on the FLD.

**g. Findings for FLD Privacy Mitigation Plan**

The DP may recommend a project if it meets the following findings:

(1) Will not be detrimental to public health and safety; and

(2) Will not impair an adequate supply of light and air to adjoining properties; and

(3) Will not create a nuisance to surrounding properties.

**3. Conditions**

**a. NPZ Review**

The DP may recommend conditions on the approval of a building permit to ensure that the design of the project mitigates the impact of the project on the subject development zone.

**b. FLD Review**

The DP may recommend conditions on the approval of an FLD to ensure that the design of the FLD mitigates the impact of the FLD and provides suitable transitions to the adjoining existing residential developments.

**4. Conflict of Interest**

The DP shall not render professional services under this section on any project if the DP's judgment could be affected by responsibilities to, or interest in another project or person or by the DP's own interests. The DP shall comply with City of Tucson Administrative Directive 2.02-14 and Policy 282, Ethics and Conflict of Interest for City Officers and Employees.

**5. Other Responsibilities**

The DP shall perform such other functions as may be required by the UDC. Additionally, the PSDS Director may request other design assistance and recommendations as needed in implementing the UDC.

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<sup>36</sup> The powers and duties of the CDRC is being relocated to the Administrative Manual for the following reasons: 1) CDRC is not a decision-making body; 2) CDRC is a policy group that reports to the PSDS Director; and, 3) CDRC's powers and duties can more easily be amended in the Administrative Manual than the UDC. References to the CDRC would be replaced throughout the UDC with "reviewed by the PSDS and other applicable outside review agencies" (or something to this effect). Text is from DS 1-03.0, with significant reorganization and simplification (e.g., section on membership (DS 1-03.2.2) deleted to avoid administrative complications, such as needing to amend the UDC to simply add or delete a member).