PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: **March 7, 2012**

TO: **Planning Commission**

FROM: **Ernie Duarte**
Executive Secretary

SUBJECT: **Land Use Code Simplification and Reformat Project: Articles 3 (General Procedures) and 8 (Land Division and Subdivision Standards)**

Issue – This item is for discussion by the Planning Commission in a Study Session.

The purpose of the Land Use Code Simplification Project is to simplify, reformat, and make more user-friendly the City's LUC, Development Standards, and Chapter 23A. The project has resulted in the development of three separate, but interrelated documents: the Unified Development Code (UDC), Administrative Manual, and Technical Standards Manual. A draft of each document has been completed. A more detailed summary of the project is provided below. To date, the Planning Commission has discussed each document at least one time.

The item under consideration is a review of Articles 3 (General Procedures) and 8 (Land Division and Subdivision Standards) of the proposed UDC. Drafts of each article, as well as disposition reports, are attached.

Recommendation – Staff recommends setting these articles for public hearing as follows: Article 3 on May 2nd and Article 8 on April 4th.

Background

Land Use Code Simplification and Reformat Project. The project's goals are to:

- Consolidate procedures;
- Clarify vagueness;
- Emphasize simplicity;
- Reduce need for cross-referencing (i.e. reduce page flipping) and redundancy;
- Use a simplified numbering system;
- Replace the development designator system with simpler dimensions by zone;
- Provide new language necessary for the transition from LUC to UDC; and,
- Acknowledge that other items may require revision during the project.

Revised Zoning Code and Other Associated Documents. The Land Use Code Simplification and Reformat Project consists of the following three documents:

1. *Unified Development Code (UDC).* The UDC establishes, among other requirements, the zoning regulations and review and approval procedures applicable to development and uses of land within the City of Tucson. See Attachment A for a summary of the UDC's eleven articles).

2. *Administrative Manual.* The Administrative Manual includes application submittal requirements, development review fees, and the City Development Review Committee procedure. The contents of the Administrative Manual are primarily from the City's Development Standards. The draft Administrative Manual was discussed by the Planning Commission in a study session at their meeting in December. No significant issues were raised

3. *Technical Manual.* The Technical Manual includes Historic Preservation Zone design standards and engineering-related site standards, such as solid waste collection, street design, and detention/retention standards.

The UDC, Administrative Manual, and Technical Manual will eventually replace the codes currently in effect, i.e. the Land Use Code, Development Standards, and Chapter 23A, as the governing zoning regulations within the City of Tucson.

Article 3: General Procedures (Attachments C)

Summary: Article 3 describes the procedures for review of most applications for land use and development activity in the City of Tucson, including zoning compliance review and procedures concerning appeals and variances, rezonings, land use plan amendments, text amendments to the UDC, and other miscellaneous permits and approvals.

SB1598 – In July 2011 the State adopted legislation that mandates all jurisdictions to revise timeframes for their development review processes. There are other provisions affecting the General Plan and inspections that are not germane to Article 3. This bill is called by its sponsors the "Regulatory Bill of Rights." It requires local governments to set timeframes for application completeness and substantive reviews. In the case of substantive reviews, if the local government does not meet the timeframe it must return the development review fee. Staff is working to incorporate SB 1598 into the Administrative Manual and make the appropriate links to Article 3. This version of Article 3 does not show how SB 1598 will work. Staff expects to have a version of Article 3 and the Administrative Manual that addresses SB1598 by the April Commission meeting.

Comparisons Between the LUC and the Proposed UDC:

1. The procedure requirements from various sections of the LUC, Development Compliance Code Chapter 23A, and the Development Standards are being consolidated into Article 3.

2. Sections 3.2 (General Requirements) – Application processing (including pre-application conference, neighborhood meeting, and application completeness standards) and public notice requirements have been standardized to the greatest extent possible to eliminate minor differences between the current standards;
3. Section 3.2.4.E.1 (Posted Notice) – The UDC still requires mailed notice for 50' and 300' notice procedures but would delete the posting requirement.
4. Section 3.3.5 (50' Notice Procedure) – The Rio Nuevo District major and minor review should both use the 50' notice procedure. The Board of Adjustment Appeals for the major seems overly burdensome especially with the adoption of the Infill Incentive Downtown Sub-district which suggest a more flexible procedure.
5. Section 3.3.6 (300' Notice Procedure) – In discussions with the Planning Commission and the LUC Committee it was agreed the 300' notice procedure for most overlay zones should not be required. This process is very resource intensive and in the last seven years of experience using it suggests that there are no appeals. It will remain for several items including the Infill Incentive District and C-1 liquor license mitigation plans.
6. Section 3.6 (Land Use Plan Adoption and Amendment Procedures) – The three plan-related procedures (General Plan amendments, specific plan adoptions, and redevelopment plan adoptions) that use the Planning Commission Legislative Procedure have been consolidated into a single section (i.e. Section 3.6.1);
7. Sections 3.6 & 3.7 (Land Use Plan Adoption and Amendment & UDC Text Amendment Procedures) – The land use plan and text amendment procedures have their own sections to better distinguish the differences between the two procedures;
8. Section 3.11.1 (Design Development Option) – The two Design Development Option (DDO) provisions have been consolidated into a single DDO section in the draft UDC;
9. Section 3.11.1.D.2.d (DDO – Specific Findings for Setback and Wall Height) – The DDO finding is the same as the unique topographic hardship as a variance. This is a very restrictive provision and most DDO request should not be able to comply. DDOs should be a relief mechanism that is not as restrictive as a variance. It can allow certain variation in dimensions when a design alternative or when a modification does not create a public health, safety or local nuisance. The City regularly approves DDOs that fit this description. It is appropriate to have the standards reflect the practice. Staff requests the Commission to comment on this issue.

Issues Requiring Further Consideration.

1. Incorporating SB1598 into the UDC documents, staff is evaluating how Article 3 will have to be revised. One likely outcome is that the timeframes for several procedures affected by the legislation will be removed from the Article 3, consolidated into a SB 1598 policy, and relocated into the Administrative Manual. Staff will have this matter resolved by the time this Article returns for a public hearing.
2. At one point staff proposed allowing administrative modifications of up to 10% or 6", whichever is less. This proposal has been removed from the draft and not under consideration at this time. However, staff would like to receive feedback from the Planning Commission regarding whether there is merit to considering this type of

modification following adoption of the UDC. Note: An ad hoc group of neighborhood representatives is opposed to this proposal. See the "Issues Requiring Further Consideration" section below for more details. Neighborhood representatives are opposed to the proposed 10% administrative modification on the grounds that these types of modifications should be processed as variances, which requires a neighborhood meeting, notice to surrounding property owners and the neighborhood association, and a public hearing.

3. Several items related to a more streamlined process are noted for 50' and 300' notices and the DDO findings that would simplify procedures.

Article 8: Land Division and Subdivision Standards (Attachments D)

Summary. Article 8 establishes criteria for land division and subdivision standards.

Significant Differences Between the LUC and the Proposed UDC. There are no significant changes to current code being proposed, with the following exceptions:

1. *Various provisions have been revised to be in sync with the Arizona Revised Statutes (ARS).* For example, the following revisions are being proposed in order to be consistent with ARS: the definitions of lot splits and minor subdivisions have been simplified, the minor subdivision criteria have been expanded, and the Record of Survey process has been deleted.
2. *Block Plats (UDC Sec. 8.4.1) and Residential and Non-Residential Condominium and Condominium Conversions (UDC Sec. 8.4.2):* These are two processes that have been clarified and revised and to be consistent with State statutes.
3. *General Requirements for Subdivisions and Minor Subdivisions, Acceptable Forms of Assurances (UDC Sec. 8.6.2.B):* Assurances (third-party land trusts) will no longer go to the Mayor and Council as long as the applicant uses the forms in the Technical Manual.
4. *Subdivision Design Standards – Streets, Access, Alleys, Easements Required, and Hydrology (UDC Sec. N/A):* These design standards are being relocated to either Article 7 (Development Standards) or the Technical Manual. These standards apply to more types of development applications than just land divisions and subdivisions, and therefore, should be located where they will have more general applicability.
5. *Subdivision Design Standards, Flexible Lot Development – Project Amenities and Site Improvements (UDC Sec. N/A):* The Project Amenities and Site Improvements section (LUC Section 3.6.1.4.C) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.
6. *Subdivision Design Standards, Flexible Lot Development (FLD) Submittal, Review, and Decision – Tentative Plat (UDC Sec. 8.7.3.P.1):* Staff is proposing to revise the FLD tentative plat review process to no longer require a neighborhood meeting and notice of application for the following reasons: 1) the FLD is much more prescriptive than the

previously adopted Residential Cluster Project ordinance, and, therefore, review and consideration for approval of proposed FLD projects is much more objective and much less subject to staff interpretation; 2) the FLD standards provide greater protections to adjacent property owners; and, 3) the additional notice requirements create a mistaken perception among interested parties that they can influence the PDSD Director's decision when, in fact, the decision is based on a project's compliance with all applicable criteria.

Issue Requiring Further Consideration. To the best of staff's knowledge, there are no issues requiring further consideration with Article 8.

Stakeholder Involvement and Feedback

Staff has sought input and feedback on this project from the Planning Commission, LUC Committee, an ad hoc group of neighborhood representatives, and, in the upcoming months, the Metropolitan Pima Alliance. See Attachment B for an accounting of the meetings with the various stakeholder groups.

Specifically, Article 3 has been discussed with the:

- *Planning Commission* (1 time, July 20, 2011) – no issues to report;
- *LUC Committee* (3 times) – the neighborhood representatives on the committee are opposed to the Design Development Option allowing modifications of up to 10% or 6" to be considered administratively. See Article 3's "Issues Requiring Further Consideration" for details; and,
- *Ad hoc Neighborhood Representative Group* – a) See Article 3's "Issues Requiring Further Consideration" for details on this group's opposition to the 10% or 6" modification proposal; and, b) The group does not object to the proposed procedural changes (i.e. no longer process Hillside Development Zone, Environmental Resource Zone, Scenic Corridor Zone, Historic Preservation Zone, Watercourse Amenity, Safety, and Habitat Zone, and Flexible Lot Development applications through the 300' Notice Procedure).

Article 8 has been discussed with the:

- *Planning Commission* (3 times; March 2, May 4, and September 21, 2011) – no issues to report;
- *LUC Committee* (2 times) – no issues to report; and,
- *Ad hoc Neighborhood Representative Group* – this article has not been discussed with this group; although, the group does not object to the proposed FLD procedural changes which is included in this article (i.e. no longer process FLD applications through the 300' Notice Procedure).

Attachments:
Attachment A – Summary of the Unified Development Code
Attachment B – LUC Simplification and Reformat Project: Stakeholder Involvement Timeline
Attachment C – Article 3: General Procedures (January 2012 Draft & Disposition Report)
Attachment D – Article 8: Land Division and Subdivision Standards (January 2012 Draft & Disposition Report)

S:\Land Use Code Revision\UDC\Planning Commission

ATTACHMENT A

Summary of the Unified Development Code

Article	Title
1	**General Provisions** (scope/applicability, severability, relationship to other ordinances, etc.)
2	**Review Authorities** (who makes decisions, scope of powers of decision-making bodies with summary table)
3	**General Procedures** (procedures for each review or permit type, e.g., rezonings and variances, with summary tables and flow charts)
4	**Zones** (listing of all zoning districts, permitted uses, use specific standards, accessory and temporary uses)
5	**Overlay Zones** (standards for special overlays)
6	**Dimensional Standards and Measurements** (height, setback, and similar dimensions; rules for measurements)
7	**Development Standards** (standards such as parking, loading, landscaping, native plant preservation)
8	**Subdivision Standards** (standards for subdivisions)
9	**Nonconformities** (provisions for nonconforming uses, structures, and lots)
10	**Enforcement and Penalties** (zoning enforcement standards and procedures)
11	**Definitions and Rules of Construction** (comprehensive set of definitions for use classes and other items)

ATTACHMENT B: LAND USE CODE SIMPLIFICATION PROJECT – STAKEHOLDER INVOLVEMENT TIMELINE

The following is an account of staff's meetings on the Land Use Code Simplification Project with the Land Use Code Committee, an ad hoc group of neighborhood representatives, and the Planning Commission.

Timeline of Discussions with the Land Use Code Committee

December 8, 2008 – Overview of the LUC Simplification Project

January 14, 2009 – LUC Simplification Project

April 30, 2009 – Update on Clarion's Timeline and Plan Through 2010

August 26, 2009 – LUC Articles 1 and 2

November 5, 2009 – Update on the LUC Simplification Project (overall with emphasis on Article 3)

December 10, 2009 – Update on the LUC Simplification Project

September 16, 2010 – Update on the LUC Simplification Project

November 18, 2010 – Update on the LUC Simplification Project

December 16, 2010 – LUC Simplification Project: Article 6

January 20, 2011 – LUC Simplification Project: Articles 3, 6, & 7

February 17, 2011 – LUC Simplification Project: Article 11

March 17, 2011 – LUC Simplification Project: Articles 5 & 8

April 21, 2011 – LUC Simplification Project: Article 4

June 16, 2011 - LUC Simplification Project Update and Proposed Administrative Manual

July 21, 2011 – LUC Simplification Project: Articles 1, 2, & 3

August 18, 2011 – LUC Simplification Project: Articles 1, 2, 3, 8, 9, & 10

September 15, 2011 – LUC Simplification Project: Articles 5, 7, & 11 and Summary of Issues with the UDC

October 20, 2011 – LUC Simplification Project: Articles 4 & 6

November 17, 2011 – LUC Simplification Project: Articles 4 & 6

December 15, 2011 – LUC Simplification Project: Article 6 (update to committee on recent meeting with neighborhood representatives)

Timeline of Discussions with Ad Hoc Neighborhood Representative Group

August 20, 2011 – LUC Simplification Project: Articles 1, 2, & 3

October 6, 2011 – LUC Simplification Project: Articles 5, 7, & 11

December 8, 2011 – LUC Simplification Project: Articles 4 & 6

Timeline of Discussions with the Planning Commission

February 2, 2011 – LUC Simplification Project: Article 7

March 2, 2011 – LUC Simplification Project: Article 8 & 11

April 6, 2011 – LUC Simplification Project: Overview of the Project and Article 4

May 4, 2011 – LUC Simplification Project: Article 8 & 11

June 1, 2011 – LUC Simplification Project: Update and Administrative Manual

July 20, 2011 – LUC Simplification Project: Articles 1, 2, & 3

September 21, 2011 – LUC Simplification Project: Articles 8, 9, & 10

October 5, 2011 – LUC Simplification Project: Articles 5, 7, & 11

January 18, 2012 – LUC Simplification Project: Articles 4 & 6, Administrative and Technical Manuals

February 1, 2012 – LUC Simplification Project: Outstanding Issues with Articles 1, 2, 5, 7, 9, 10, and 11

ATTACHMENT C

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – MARCH 2012

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ARTICLE 3: GENERAL PROCEDURES

3.1. PURPOSE OF ARTICLE[1]

This article describes zoning and land use review procedures related to development activity in the City of Tucson.

3.2. GENERAL REQUIREMENTS[2]

This section establishes general requirements pertaining to pre-application conference, neighborhood meeting, public notice, public comments, application completeness, and other rules for processing applications after they are accepted for review. Individual procedures and their specific requirements are set forth in this Article.

3.2.1. PRE-APPLICATION CONFERENCE

A. Purpose

The pre-application conference is designed to assist the applicant by providing as much information as possible regarding City regulations and requirements and how they may affect the proposed project's scope and design, prior to submission of a formal application.

B. Applicability

A pre-application conference is required in accordance with the applicable procedure detailed in this Article. Table 3.2-1 sets forth the procedures for which a pre-application conference is required.

C. Requirements[3]

At the pre-application conference, the applicant shall describe to the PDSD the general goals, uses, and development characteristics (e.g., size, location, density, etc.) of the proposed project in sufficient detail to enable the city to identify potential code or plan compliance issues and discuss design issues and options. Depending upon the level of detail of the information provided for the proposed project or the need to include other City departments in the preliminary discussions, the PDSD may request additional pre-application conference(s).

D. Effect

Review is on a conceptual basis, therefore, comments made at this conference are advisory and do not constitute approval or denial of the project.

[1] Proposed new section added to provide introduction to article.
[2] The General Requirements section is a consolidation and standardization of the public notice requirements from various procedures.
[3] The code does not currently describe what a pre-application meeting requires of the applicant, so this provision was added.

3.2.2. NEIGHBORHOOD MEETING

A. Purpose

The neighborhood meeting is intended to provide an opportunity to inform potentially affected property owners of the details of a proposed development and application, how the applicant intends to meet the standards contained in the UDC, and to receive public comment and encourage dialogue at an early time in the review process.

B. Applicability

A neighborhood meeting is required in accordance with the applicable review procedures required in this Article, and Table 3.2-1.

C. Meeting Requirements[4]

1. Standards[5]

The applicant shall mail notices offering to meet at a specified time and place to discuss the proposed project with the persons and entities entitled to notice of the application in accordance with following requirements:

a. The offer must be made at least ten days prior to the date of the meeting and sent by first class mail to property owners as required in Table 3.2-1, registered neighborhood associations with one mile of proposal, and affected Council Ward offices.
b. The meeting shall occur at least 15 and not more than 60 days prior to the date of the submittal of the application; and
c. Documentation of the offer to meet and a summary of the meeting must be submitted with the application.
d. The meeting must be held at or near the subject site.

2. Exceptions[6]

a. For designation or amendment to a Historic Preservation Zone, the offer to meet shall be made no more than one year before the Zoning Examiner public hearing.
b. A neighborhood meeting is not required for amendments to the General Plan or for any amendment to the UDC.

3. Content of Neighborhood Meeting Notices

A neighborhood meeting notice shall contain the following:

[4] From LUC 5.4.1.2, a section was added for "exceptions" to account for any special requirements for certain procedures.
[5] Based on language from staff comments.
[6] Added in response to staff comment.

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a. The notice shall describe the substance of the application, include the date, time, and location of the meeting, and specify the contact person, company, or official applicant's name and phone number;
b. For Board of Adjustment variance applications, the notice shall contain property ownership information, a site plan, elevations, and other information necessary to fully describe the proposed project; and,
c. The notice shall advise the recipients of the notice that they may submit comments to the PDSD Director or, when applicable, speak at the public hearing.

4. **Preparation of Notice**
For neighborhood meeting notices, the applicant is responsible for mailing the notices. Applicants must obtain mailing labels from the PDSD and mail the notices to the persons and entities entitled to receive mailed notice in Table 3.2-1 in compliance with the mailing procedures in Section 3.2.4.B.5 .

3.2.3. APPLICATION REQUIREMENTS[7]

A. Application Required

1. The Director of the Planning and Development (PDSD) only initiates the review and processing of a complete application, except as provided below. The PDSD Director shall make a determination of application completeness within seven days of application filing. An application is considered complete if it is submitted in the required form, includes all mandatory information, including all supporting materials specified in the Administrative Manual, and is accompanied by the applicable fee. Rezoning Applications shall also submit evidence of plan compliance to be considered complete. If the application is determined to complete, the application shall then be processed according to this Article;

2. If an application is determined to be incomplete, the PDSD Director shall provide notice to the applicant with an explanation of the application's deficiencies. Incomplete submittals are generally not accepted for review. However, if an incomplete submittal be accepted for review, the applicant should be aware that, because of a lack of information, the review will take longer since comments cannot be finalized until after the resubmittal when the required information is provided.

3. Applications submitted with false or misleading information shall be deemed incomplete.

B. Sequential or Concurrent Review Process

[7] This is proposed new text and intended to strengthen and clarify the City's existing language about accepting complete applications. The proposed language clarifies the obligations of both the applicant and staff and makes a more efficient use of staff time and resources. It replaces the text from DS 2-05.4.0. In addition, all references in the current code to completeness provisions that may differ from these more uniform requirements will be deleted or changed to refer to this section.

1. Where an application under this Section requires review under more than one review procedure, the PDSD Director shall determine whether reviews will be conducted sequentially or concurrently, based upon the issues raised by each application.

2. Where the Director determines that reviews will be conducted sequentially, the date of acceptance for each procedure shall commence upon the date of decision of the prior procedure unless otherwise stated by the PDSD Director.

C. Appeal Procedure for Denial of Plan Compliance.

If an application is rejected because it is not consistent with the General Plan or any applicable specific plan, the rejection of the application may be appealed by the applicant to the Mayor and Council in accordance with Section 3.9.2.

D. Suspension and Withdrawal of a Rezoning or Plan Amendment Application

1. For rezoning and plan amendments only, an applicant may suspend an application at any time prior to the date published notice is given for the public hearing before the Planning Commission or the Zoning Examiner. When requested in writing by the applicant, the PDSD Director may authorize a delay of the plan amendment process for a maximum of 90 days. The applicant may request in writing an additional delay(s). The PDSD Director may delay the amendment process to permit a number of related plan amendment applications to be considered at the same time.[8] An application shall not be suspended for more than one year from the date of acceptance of the application.

2. The PDSD Director may withdraw a plan amendment application at any time and at the request of the applicant and/or the party who paid the filing fee. PDSD shall determine if the applicant is eligible for a refund, and if so, the amount of fees to be refunded.

3.2.4. PUBLIC NOTICE

A. Purpose[9]

The purpose of public notice is to inform interested members of the public and those who may be affected by a proposed development, or text or plan amendment, of the proposed action to allow and encourage timely public comment to the decision-making body.

[8] Three previous sentences of this subsection are adapted from DS 1-08.6.3.
[9] This is new text. We thought a purpose statement would be helpful to provide context for the reader.

TABLE 3.2-1 PUBLIC NOTICE AND PRODEDURAL REQUIREMENTS (PART 1)

				NOTICE**							
Procedure	Section	Pre-Application. Conference	Neighborhood Meeting	Mailing/ Distance	Posting	Publish	Neighborhood Association/ Distance	Application Acceptance	Notice of Decision	Decision Maker	Appeal
ZONING COMPLIANCE REVIEW											
50' Notice	3.3.4.E			R/ 50'			R/ Association including the site		R	PDSD Director	B/A
300' Notice	3.3.5	R	R	R/ 300'			R/ 1 mile		R	PDSD Director	B/A
NPZ Design Review	5.11.7	R		R/ 50'						PDSD Director	DRB
ADMINSTRATIVE MODIFICATIONS											
DDO	3.11			R/ 50'						PDSD Director	B/A
RND MDR Minor Amendment	5.11.9			R 50'						PDSD Director	B/A
SPECIAL EXCEPTION LAND USES											
PDSD Director SE	3.4.2			R/ 50'						PDSD Director	B/A
ZE SE	3.4.3	R	R	R/ 300'	R	R	R/ 1 mile	R		ZE	M/C
M/C SE	3.4.4		R	R/ 300'	R	R	R/ 1mile			M/C	
ZONING EXAMINER LEGISLATION PROCEDURE- REZONING											
Rezoning		R	R	R/ 300'		R	R/1 mile			M/C	
Major change to RZ condition or changes to Overlay Zone; Major amendments to PAD, PCD zone	3.3.4	R	R	R/ 300'		R	R/ 1 mile			M/C	
LAND USE PLAN ADOPOTION AND AMENDMENT											
Readoption of General Plan	3.7.3.A	Notice is in conformance with the requirements of A.R.S § 9-461.06								M/C	
Adoption of MS&R, Redev. or Specific Plan	3.7.3.B &.C	Notice is in conformance with the requirements of A.R.S. § 9-461.06								M/C	
Amendment to Gen. Plan, MS&R, Redevelop. . or Spec. Plan .		R	R	R/ 300'			R/ 1 mile			M/C	

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TABLE 3.2-1 PUBLIC NOTICE AND PRODEDURAL REQUIREMENTS (PART 2)

				NOTICE**							
Procedure	Section	Pre-Application. Conference	Neighborhood Meeting.	Mailing/ Distance	Posting	Publish	Neighborhood Association/ Distance	Application Acceptance	Notice of Decision	Decision Maker	Appeal
UNIFORM DEVELOPMENT CODE TEXT AMENDMENT											
Text Amendment, General	3.7					R/ 1/8th page display ad	R/ All N'hood Assoc. registered with the City			M/C	
Text Amend. Creating or Amending an Overlay zone	3.7			R/ 300" & all owners within Overlay Zone		R/ 1/8th page display ad	R/ All N'Hood Assoc. in the City			M/C	
APPEALS											
DRB Appeal				R/ 50'			R/ Assoc. of site		R	M/C	
M/C Appeal				R/ 300'			R/ 1 mile		R	M/C	
Takings App.	3.9.3.C								R/ Applic-ant only	ZA	
BOARD OF ADJUSTMENT APPEAL AND VARIANCE											
B/A Appeal	3.10.2			R/ 300'		R			R	B/A	
B/A Var.	3.10.3			R/ 300'		R	1 mile		R	B/A	
MISCELLANEOUS APPROVALS											
Protected Development Right										M/C	

B/A=Board of Adjustment
DDO=Development Design Option
DRB=Design Review Board
M/C=Mayor and Council
MDR= Modification of Development Regulations

MS&R=Major Streets and Routes Plan
PDSD=Planning & Development Services Department
PH=Public Hearing

RND=Rio Nuevo District
RZ=Rezoning
ZA=Zoning Administrator
ZE=Zoning Examiner
**See also Special Notice Requirements in Section 3.2.4.B.7

5. **Preparation of Notice**

   a. The PDSD will use the latest Pima County Assessor records to determine the property owners to be notified;

   b. Mailed notices must use mailing labels generated within 60 days of mailing[11]; and,

   c. Mailed notices for rezonings must be sent as first class mail. Other mailings shall be per PDSD policy.

6. **Recipients of Notice**

   Mailed notice must be sent to:

   a. The applicant and all property owners within the distance specified in Table 3.2-1, whether or not the properties are within the corporate limits of the City;

   b. Any other persons the Director determines are affected by the application or has an interest in the matter;

   c. Pima County and other municipalities where the subject property being reviewed adjoins their boundaries;

   d. All persons who have registered their names and addresses with the municipality as being interested in receiving notice of UDC text amendments;

7. **Special Notice Requirements**

   In addition to the persons and entities entitled to receive notice listed in Table 3.2-1, notice also must be sent to the following, as applicable:

   a. Tucson International Airport or the Davis Monthan Air Force Base, as applicable for sites within the Airport Environs Zone and for all procedures using the Zoning Examiner Legislative or Special Exception Procedures. See Sections 5.6.6 and 5.6.10;

   b. Public service agencies affected by the application as determined by the PDSD Director;

   c. Council Ward office for General Plan amendments, UDC text amendments, text amendments creating an overlay zone; and the creation and/or amendment to specific plans such as area, sub-area, neighborhood, Major Streets and Routes and, redevelopment plans;

   d. For appeals, except Takings Appeals pursuant to Section 3.9.3.C, notice to the applicant, the same parties notified to the original

[11] The 300' Notice Procedure currently requires using labels generated within 45 days. Staff recommends amending this to 60 days to coincide with other procedures' requirements.

B. Mailed Notice

Mailed notices shall comply with the requirements of and Table 3.2-1 and Section 3.2.4.

1. Applicability

Mailed notice is required in accordance with the applicable review procedure detailed in this Article.

2. Notices of Acceptance of Application

The PDSD is responsible for sending a notice of acceptance of application for the application review procedures identified in Table 3.2-1.

3. Content of Notices of Application Acceptance and Public Hearing

Notices of acceptance of application and public hearing notices shall contain the following:

a. A general description of the type, size, and location, as applicable, of the matter to be considered;

b. A general description of the area affected;

c. An advisory that public comments regarding the matter may be submitted prior to the public hearing; and,

d. Whether a proposed rezoning is within the high noise or accident potential zone of the Airport Environs Zone[10](See Section 5.6); and

e. If the notice is for a public hearing, the time, date, and location of the hearing.

4. Content of Notice of Decision

Notices of Decision are required for the application review procedures identified in Table 3.2-1

Notices of decision shall contain the following:

a. The decision rendered; and

b. When applicable, information pertaining to appeals of the decision, such as when the intent to appeal is due and to whom it is submitted.

[10] Staff's suggested language regarding notice to DMAFB was moved to the airport overlay section because it is a specific notice requirement and does not involve the general content of the notice.

application, and those who provided oral or written comments on the application;.[12]

e. For Takings Appeals pursuant to Section 3.9.3, notice to applicant and to the person or body which made the administrative decision that is being appealed; and,

f. For UDC text amendments creating or enabling an overlay zones, to all property owners within the overlay zone and within 300' of the overlay zone.

8. Timing of Notice

a. General
Published notice, posted notice, and mailed notice shall be provided at least 15 days and not more than 30 days prior to the public hearing except as provided in Table 3.2.1 and Sections 3.2.4.D and .E. Notices other than for public hearings shall be sent or posted in accordance with PDSD policy.

b. Exception
For Takings Appeal Procedure applications, required public notice is mailed only to the appellant and to the parties entitled to notice of the administrative decision at least ten days before the appeal is heard.

C. Calculation of Notice Area

1. General
The required distance for notification is in accordance with the requirements of Table 3.2-1 for the applicable procedure.

2. Measurement

a. The distance of the required notice area is measured from the property lines of the applicant's property, except where a public right of way adjoins the property, the distance is measured from the right of way boundary line opposite the property line.

b. Adjoining property under the same ownership as the subject site and adjoining public right of way must be combined with in the property in determining the boundaries from which the notice is measured.

D. Published Notice
When required by the applicable procedure, published notice must be provided at least once in a newspaper with general circulation in the City and at least 15 days prior to the public hearing date. Notice shall contain the following: time, date and location of the hearing, general explanation of the

[12] Revised consistent with staff comment.

matter to be considered, and if applicable, general description of the affected area. For UDC text amendments notice must be published in a one-eighth (18th) page display ad.

E. Posted Notice

1. Applicability

When required by the applicable procedure in Table 3.2-1, posted notice must be in accordance with this section.

2. Timing and Location

Notice shall be posted on the affected property at least 15 days prior to the public hearing. At least one notice shall be posted for each street the property adjoins.

3. Content

At a minimum, the notice shall include the following:

a. The type of action (e.g., rezoning, special exception, text amendment/overlay zone, or variance);

b. The case name;

c. For a rezoning, the word "Zoning" visible from a distance of 100 feet and the existing and proposed zoning districts;

d. For B/A, description of the request;

e. The date, time, and location of the public hearing, if applicable; and

f. Beginning and end of public comment period; and,

g. The telephone number for the PDSD or other applicable City department.

F. Failure of Notice to Adequately Describe the Project

If, upon receiving a complaint, the responsible City agency determines that the notice required by this section failed to accurately or adequately describe the proposed development in a manner that substantially informs how the project will affect other property owners, PDSD may determine that the approval is invalid and that the application must obtain a new approval through the same process as required originally. The City's decision to invalidate an approval may be appealed by the applicant to the B/A in accordance with Section 3.10.2. [13]

G. Public Comments to Public Notice

Public comments shall be submitted to the PDSD Director. Comments involving a public hearing shall be forwarded to the appropriate officials conducting the

[13] Text relocated from other sections of the LUC but made more generally applicable.

public hearing (e.g. the Mayor and Council, Planning Commission, Zoning Examiner, and the Board of Adjustment).[14]

1. **All procedures requiring public comment**
   For all review procedures that require a public comment period, comment period is 20 days following the date that notice is mailed, except as provided below.

2. **Exception**
   For Zoning Compliance 50' Notice Procedure and Neighborhood Preservation Zone Design Review, the comment period is ten days.

3.3. ZONING COMPLIANCE REVIEW PROCEDURES[15]

3.3.1. PURPOSE

The purpose of the Zoning Compliance Review is to determine whether an application conforms to applicable zoning regulations.

3.3.2. REVIEW PROCEDURES

Compliance with all applicable zoning regulations is verified in accordance with one of the following review procedures:

A. PDSD Director Approval Procedure;

B. 50' Notice Procedure;

C. 300' Notice Procedure;

D. Zoning Administrator Approval Procedure
(See Section 1.5.1.B for details);

E. Historic Preservation Zone Design Review Procedure
(See Section 5.8 for details);

F. Neighborhood Preservation Zone Design Review Procedure (See Section 5.10 for details); or,

G. Rio Nuevo District Design Review and Modification of Development Regulations Procedures
(See Section 5.11 for details).

[14] Language revised consistent with staff comments.
[15] Text from Section 23A-31.

3.3.3. PDSD DIRECTOR APPROVAL PROCEDURE

A. Applicability[16]

Applications that are processed in accordance with the Planning and Development Services (PDSD) Director Approval Procedure include, but are not limited to:

1. Business licenses;
2. Changes of use;
3. Downtown Area Infill Incentive District – projects within the Downtown Core Sub-district requesting a modification of development regulations (Note: projects within the Greater Infill Incentive Subdistrict are processed in accordance with the 300' Notice Procedure, Section 3.3.6);
4. Electrical connections (certain types);
5. Expansion of existing premises;
6. Home occupations;
7. Individual Parking Plans for projects greater than 300' from R-3 or more restrictive zoning districts;
8. New construction;
9. Nonconforming same Land Use Class substitution;
10. Nonconforming parking areas;
11. Parking Design Modification Requests (except requests to modify the number of bicycle or motor vehicle parking spaces);
12. Projects within certain overlay zones;
13. Restricted adult activities;
14. Site plans (except for projects within overlay zones that require a different procedure)[17];
15. Temporary uses or structures;
16. Tenant improvements;
17. Wireless Communication uses (certain types);
18. Zoning Compliance for Site Improvements in Existence on May 1, 2005 (See Section 3.3.3.G below); and,
19. Other applications, such as blood donor centers and circus, carnival and tent shows.

[16] Section 23A-31 mentions only a few application types as examples of the application types that are processed in accordance with the Zoning Compliance Review. The proposed revision more greatly details the applicable application types.

[17] Staff is considering whether to delete site plans from this list because a site plan is an application submittal requirement and not an application type.

B. Pre-Application Conference

A pre-application conference is recommended, but not required, except as provided below. (See Section 3.2.1 for details on pre-application conferences.)

C. Application

Submittal of an application to the PDSD is required in order to process the request. (See the Administrative Manual for application submittal requirements.) Applications are reviewed for completeness in compliance with Section 3.2.3 and compliance with the neighborhood meeting requirements of Section 3.2.2.

D. Review

Applications are reviewed for compliance with applicable zoning regulations by the PDSD staff and other agencies, committees or advisory boards as required by the UDC, and others as may be deemed appropriate by the PDSD Director.

E. Decision

1. The PDSD Director decides whether to approve or deny an application;

2. The Director is not required to make a decision on an application until at least seven days following the acceptance of the additional submittal information or five days following the time for submission of a recommendation by an advisory body.

F. Site Plans – Supplemental Procedural Requirements[18]

1. Purpose[19]

The purpose of this section is to supplement the requirements of the PDSD Director Approval Procedure as they pertains to the processing of site plans. These supplemental procedural requirements ensure that an applicant provides sufficient information to enable the City to determine compliance with all applicable UDC requirements and other applicable City ordinances, standards, policies, and special conditions.

2. Applicability[20]

A site plan is required for the following types of development:

[18] This text from LUC Sec. 3.3.2.A to F has been rewritten according to language provided by staff. In general, the development plan sections in the current code are located in Sec. 23A-34, DS 2-05.4.0., and LUC Sec. 5.3.8. In addition, in response to staff comment, the entire current section on "site plans" has been deleted from the UDC because staff deemed the site plan procedures to be essentially redundant in purpose with the "development plan" procedure.
[19] Revised language provided by staff.
[20] Revised language provided by staff.

a. All new non-residential development;
b. All residential development with three or more dwelling units on one lot;
c. Existing development undergoing a change of use, building or structure additions, and/or a reconfiguration of an area outside a building;
d. Flexible Lot Developments not required to be processed in accordance with the subdivision requirements of Article 8; and
e. A residential, commercial, or industrial use reviewed as a subdivision plat, but no building permits may be issued until a site plan is approved for all or a portion of the subject subdivision plat.

3. **Application Processing**

Site plans are processed in accordance with the applicable requirements of the PDSD Director Approval Procedure, Sections 3.4.3.

4. **Review**

City departments and applicable outside public agencies shall review an application and return comments on the application within 20 working days. Comments for subsequent reviews must also be returned within 20 working days.[21]

5. **Approval[22]**

a. When a determination has been made that an application complies with all applicable regulations, the PDSD Director shall send a written approval confirmation to the applicant and sign the site plan. An approved site plan indicates that all reviews have occurred and all conditions have been met.

b. In the case of a rezoning, a written confirmation is used to initiate the preparation of the rezoning ordinance for Mayor and Council consideration. The PDSD Director shall sign the site plan once the rezoning ordinance is adopted and becomes effective.

c. An applicant has one year from the date of application to obtain approval of a site plan that complies with zoning and other development requirements in effect at the time of application, unless an ordinance adopted by Mayor and Council during this period states otherwise. A site plan application that has been in review for a period of one year and has not yet been approved is considered denied. To continue the review of a site plan for the property, a new site plan must be submitted that complies with regulations in effect at the time of resubmittal . The new submittal initiates a new one-year review period.

[21] Revised language provided by staff.
[22] Revised language provided by staff.

d. Approved site plans shall be filed with the official building records for the site and shall be the basis for the issuance of building permits.

6. Expiration of Approval[23]

Expiration dates for site plans are listed below. For the purposes of this Section, "construction or building permits" are those permits issued for the construction of the project, such as, but not limited to, infrastructure improvements, building foundations, buildings, paving vehicular use areas, or similar types of improvements related to the construction and implementation of the project. Permits for: a) clearing, grubbing, and grading of a site; b) construction of a section of sidewalk; c) installation of screening; d) paving of an access driveway but not the parking associated with the use; or e) any similar type of work are not considered "construction or building permits" for purposes of this Section, unless specifically stated otherwise by this Section or the process requiring the applicability of this Section.

a. Site Plan Approval Period[24]

Except in the case of a Protected Development Right Plan, Section 3.12.2, an approved site plan remains valid for a period of three years from the date of approval, subject to the following:

(1) If, at the end of three years, a building permit has not been obtained, a new site plan application must be submitted that complies with the regulations in effect at the time of the resubmittal.

(2) If the project is being developed in phases and permits have not been issued for all phases within the three year period, developers of subsequent phases have one additional year to obtain permits. If, at the end of the four year period, permits have not been issued, review and approval of a revised site plan for the undeveloped portion(s), in compliance with all applicable requirements in effect at the time of resubmittal, are required prior to the issuance of building permits.

(3) If construction permits are issued within the required time period, but the construction of the project has not commenced and the permit and site plan approval periods expire, the approval of the site plan is considered expired. Review and approval of a revised site plan, in compliance with all applicable requirements in effect at the time of resubmittal, are required prior to the issuance of building permits.

(4) If construction permits are applied for but not issued within the time period required by this section, the time period is extended

[23] Text from LUC Sec. 5.3.8.2, with minor clarifications.
[24] This section is an attempt to to simplify the current code language..

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an additional three months to allow for completion of the review and for the issuance of permits.

(5) If the approval period has expired, the resubmittal to obtain approval of a new site plan initiates a new review period in accordance with Section 3.3.4.F.

7. Issuance of Permits

The following provisions apply to review and approval for the issuance of permits for site plans:

a. Approved Site Plan

The approved site plan on file with the PDSD is the basis for issuance of building permits. If the building plans differ from the approved site plan on file with the PDSD, a revised site plan will be required prior to issuance of the building permits.

b. Minor Changes

The PDSD Director may approve minor changes from the approved building or site plan without processing the plan through the entire review process. Determination as to whether the change is minor or major is made by the PDSD Director on a case-by-case basis. Changes in site design include, but are not limited to, minor changes to building height, density, land use, parking, and traffic circulation.

c. Major Changes

Major changes from the approved building or site plan require review and approval by the PDSD Director and affected review agencies. If the building or site plan is required as a special requirement imposed by the Mayor and Council as a condition of rezoning or special exception approval, a major change requires approval by the Mayor and Council prior to review of the revised plan.[25]

d. Change From, or Expiration of, an Approved Site Plan

Building permit applications must be accompanied by a copy of an amended site plan bearing the approval of the PDSD Director for construction that is not consistent with the approved site plan or for which the initial approval has expired.

G. Zoning Compliance for Site Improvements in Existence on May 1, 2005[26]

This Section encourages the re-use of and re-investment in older, nonconforming uses and buildings, and facilitates the issuance of a Certificate of Occupancy (C of O) or a Certificate of Zoning Compliance for a non-legally permitted use or building. The owner of property, at the time of a request for a Certificate of Occupancy or Certificate of Zoning Compliance may

[25] The Minor and Major Changes sections are proposed additions to the UDC to clarify the difference between the two types of changes. These provisions are consistent with the minor and major change provisions used elsewhere in the UDC.
[26] Text from recent 2010 amendment.

concurrently request that site improvements, including outdoor activity areas, in existence as of May 1, 2005 ("existing site improvements") be granted zoning compliance subject to the following:

1. This section only applies to developed property with nonresidential zoning that is not subject to any of the Overlay Zone in Sections 5.2, 5.3, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, or any change of zoning (rezoning), variance, or special exception approved subject to conditions, or the subject of an unabated zoning violation.

2. Existing site improvements are determined by referring to May 2005 aerial photography administered by the Pima Association of Governments (PAG) and available on the PAG and PDSD websites.

3. Existing site improvements are not subject to compliance with Section 4.10, 7.4 (Accessory Buildings and Uses), and with standards for setbacks, height, legal access provisions, and lot coverage [3.2.3, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, and 3.2.11; 3.3; 3.4; 3.7; and 3.8].

4. Properties granted zoning compliance under the provisions of this Section may be used for all principal Permitted Land Uses based on the zoning of the site subject to the applicable general restrictions in each zone, except for the following prohibited uses:

   a. Section 11.3.3.C Correctional Use
   b. Section 11.3.4.F Billboard
   c. Section 11.3.8 Restricted Adult Activities Use Group
   d. Section 11.3.4.B Alcoholic Beverage Service uses unless continuously licensed through the Arizona Department of Liquor Licenses and Control from May 1, 2005, to the present.
   e. Section 11.3.4.N Food Service uses unless continuously licensed through the Pima County Health Department from May 1, 2005, to the present
   f. Section 11.3.7.A Family Dwelling
   g. Section 11.3.7.B Group Dwelling
   h. Section 11.3.7.C Mobile Home Dwelling
   i. Section 11.3.7.D Residential Care Services
   j. In the C-2 and C-3 Districts Medical Marijuana Designated Caregiver Cultivation Location, Medical Marijuana Dispensary, Medical Marijuana Dispensary Off-site Cultivation Location
   k. In the I-1 and I-2 Districts Medical Marijuana Designated Caregiver Cultivation Location, Medical Marijuana Dispensary Off-site Cultivation Location

5. Required drop-off areas must be provided.

6. Use of the property must be in compliance with all applicable use-specific standards in Section 4.9.

7. This Section is applied to single or multiple parcels of land but may not be applied to partial parcels.
8. Changes to parking lot striping, maintaining the same number of parking spaces, or increasing the number of parking spaces, are permitted in compliance with Section 7.4.6 (Motor Vehicle Use Area Design Criteria) so long as no existing elements such as loading zones or dumpsters are deleted except as permitted under current standards.

9. The owner of the property shall:

   a. Submit a sworn affidavit that the use of the property will be in compliance with the Section, or
   b. Include the following in any lease/rental agreement for the property: "Tenant shall not cause or permit the Property to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation. Notwithstanding any contrary provision of this lease agreement, any occupancy or use of the premises in violation of this paragraph constitutes a material breach of this lease agreement entitling Lessor to invoke all remedies provided hereunder including termination."

10. A site inspection to verify that the use of the property is in compliance with this Section may be conducted at the discretion of the PDSD Director.

11. Applications are reviewed in accordance with the PDSD Director Approval Procedure, Section 3.3.43.

12. Zoning compliance granted pursuant to this section shall be valid only so long as the property and site improvements thereon remain in the same condition as on the date the zoning compliance is granted. Any subsequent development or modification to the property or site improvements will render zoning compliance under this section void and of no effect. Any modification or improvement not shown on May 2005 aerial photography administered by the Pima Association of Governments (PAG) will be considered a subsequent development of the property.

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13. Requests for zoning compliance pursuant to this Section must be submitted to the PDSD, and all applicable fees must be paid, prior to the expiration date of the ordinance adopting this Section 3.3.4.G, as provided herein.

3.3.4. 50' NOTICE PROCEDURE FOR ZONING COMPLIANCE REVIEW[27]

A. Purpose

Proposed development that involves minor modifications, small deviations to design criteria, or minor construction subject to design review shall comply with the following general procedures. This procedure is intended to provide notice to parties who may be affected by the development.

B. Applicability

The 50' Notice Procedure applies to the following applications:

1. Approval of resident artisan uses in the Historic Preservation Zone;
2. Certain wireless facilities;
3. Design Development Options (DDO) in accordance with Section 3.11;
4. Parking Design Modification Requests to the required number of bicycle and motor vehicle parking spaces;
5. PDSD Director Special Exception applications;
6. Requests for demolition of contributing, nonhistoric structures in Historic Preservation Zones;
7. Rio Nuevo District Modification of Development Regulations – Minor (see Section 5.11.8for Minor and Major criteria); and,[28]
8. Other types of applications if the PDSD Director makes one of the following findings:
    a. There is a minor change in the development criteria that is requested;
    b. There are few, if any, changes in the physical attributes of the property;
    c. There is a potential for impact upon the neighborhood or the adjacent properties;
    d. Where there are commercial and office developments, (1) through (3) above apply and there is a benefit to area properties from the proposed redevelopment of the property; or,
    e. There is an administrative special exception land use designated in the UDC related to the proposed development.

[27] Text regarding procedural requirements is from 23A-40.

[28] The RND MDR criteria reflect current code. RND MDR applications that do not meet these criteria go to the B/A for a decision. Staff is evaluating whether to revise the RND MDR process to require the 50' Notice Procedure for all RND MDR applications.

C. Pre-Application Conference Recommended

A pre-application conference with City staff is recommended, but not required. See Section 3.2.1 for details on the pre-application conference.

D. Neighborhood Meeting Recommended

The applicant is recommended, but not required, to conduct a neighborhood meeting with surrounding property owners and neighborhood association representatives.

E. Application

Submittal of an application to the PDSD is required in order to process the request. See the Administrative Manual for application submittal requirements. Applications shall be reviewed for completeness in compliance with Section 3.3.3.

F. Notice of Submittal of the Application

Notice of the application shall be provided in accordance with Section 3.2.4.B.

G. Public Comment Period

For ten (10) days following the date on which notice is provided, the public may submit comments on the proposal to the PDSD.

H. Review

Review is conducted by the PDSD staff and other agencies, committees or advisory boards as required by the UDC, and others as may be deemed appropriate by the PDSD Director.

I. Decision

The PDSD Director shall approve or deny an application no earlier than one day after the expiration of the public comment period and no later than ten days after the expiration of the public comment period. The PDSD Director may impose conditions for approval of the application or may require further processing of the application in accordance with the 300' Notice Procedure, Section 3.3.6.

J. Notice of the PDSD Director's Decision

The PDSD Director shall provide written notice in accordance with Section 3.2.4 within three days of the decision.

K. Appeals

A party of record may appeal the PDSD Director's decision to the Board of Adjustment (B/A). Appeals must be filed in accordance with Section 3.10. A notice of intent to appeal must be received by the PDSD within five days after the notice of decision. The complete appeal materials must be filed within 30 days of the decision.

L. Waiver of Comment, Notice of the Decision and Right to Appeal

The required time period for public comment, for notice of the decision, and for the filing of an appeal may be waived, if the applicant provides written

documentation that all parties of record have waived one or more of these provisions.

3.3.5. 300' NOTICE PROCEDURE FOR ZONING COMPLIANCE REVIEW[29]

A. Purpose

The purpose of this procedure is to require notice to parties who may be affected by the development.

B. Applicability[30]

The 300' Notice Procedure applies to the following applications:

1. Mitigation plans for certain restaurants serving alcohol;
2. Projects within the Greater Infill Incentive Subdistrict of the Downtown Area Infill Incentive District requesting a Modification of Development Regulations; and,
3. Individual Parking Plans for projects within 300' of R-3 or more restrictive zoning districts.

C. Pre-Application Conference

A pre-application conference with City staff is required in accordance with Section 3.2.1.

D. Neighborhood Meeting

The applicant is required to conduct a neighborhood meeting in accordance with Section 3.2.3. The applicant shall provide notice of the neighborhood meeting in accordance with Section 3.2.3.

E. Application

Submittal of an application to the PDSD is required in order to process the request. See the Administrative Manual for application submittal requirements. Applications are reviewed for completeness in compliance with Section 3.2.3.

F. Mailed Notice of the Application

Mailed notice of the application are required in accordance with Section 3.2.4.B.

G. Public Comment Period

For twenty (20) days following the date on which notice is mailed, the public may submit comments on the proposal to the PDSD.

H. Review

Review is conducted by the PDSD staff and other agencies, committees or advisory boards as required by the UDC, and others as may be deemed appropriate by the PDSD Director.

[29] Now that the B/A and ZE Full Notice Procedures have been relocated to their respective sections, the Zoning Compliance 300' Notice (PDSD FNP) is the only remaining procedures in this section. Thus, we have relocated or deleted some of the introductory provisions that applied to all three procedures in order to streamline this section. Text from Sec. 23A-51 DSD Full Notice Procedure, with minor reorganization and clarifications.

[30] This provision no longer requires projects within the HDZ, SCZ, ERZ, HPZ, and WASH overlay zones listed to be processed using the 300' Notice Procedure.

I. Decision

The PDSD Director decides whether to approve or deny an application. A decision may not be made prior to the expiration of the 20 day period for public comment, nor may it be made later than 20 days after the expiration of the comment period or five days after the latest recommendation from review agencies and a city advisory board, whichever is later.

J. Notice of Decision Required

The PDSD Director shall provide written notice in accordance with Section 3.2.4.B.4 within three (3) days of the decision.

K. Appeals

1. The PDSD Director's decision may be appealed to the Mayor and Council on the grounds that the decision is not in conformance with the criteria established by the UDC;
2. Appeals are processed in accordance with Section 3.92;
3. The notice of intent to appeal must be filed with the City clerk no later than 14 days after the date of the decision;
4. The complete appeal materials must be filed with the City Clerk within 30 days of the decision; and,
5. A copy of the appeal is provided to the PDSD Director at the time it is filed.

L. Site Inspection

Prior to the issuance of an occupancy permit, the site shall be inspected by the PDSD for compliance with the plans approved for the issuance of building permits and any changes authorized by the PDSD Director to those approved plans during construction.

3.3.6. ZONING ADMINISTRATOR APPROVAL PROCEDURE

A. Types of Applications Processed by the ZA Zoning Approval Procedure

The following applications shall be processed in accordance with the Zoning Administrator Approval Procedure provided in Section 1.5.1.B (Zoning Interpretations and Zoning Certifications):

1. Compliance with certification of existing premises;
2. Interpretations of the Unified Development Code;
3. Planned Area Development Interpretation; and
4. Zone boundary conflicts.

3.3.7. HISTORIC PRESERVATION ZONE (HPZ) DESIGN REVIEW PROCEDURE

Applications for projects within an HPZ are processed in accordance with the HPZ Design Review Procedure provided in Section 5.8.

3.3.8. NEIGHBORHOOD PRESERVATION ZONE (NPZ) DESIGN REVIEW PROCEDURE

Applications for applicable projects within an NPZ are processed in accordance with the NPZ Design Review Procedure provided in Section 5.11.

3.3.9. RIO NUEVO DISTRICT (RND) DESIGN REVIEW AND MODIFICATION OF DEVELOPMENT REGULATIONS PROCEDURES

A. Major and Minor Project Design Review

Major and minor project design review of projects within the RND is processed in accordance with the procedure provided in Section 5.10.

B. Modification of Development Regulations Requests

Requests for minor modifications of development regulations within the RND are processed in accordance with Section 3.3.5, 50' Notice Procedure. Requests for major modifications of development regulations within the RND are processed in accordance with Section 3.10, Board of Adjustment Appeals and Variances.[31]

3.4. SPECIAL EXCEPTION LAND USES[32]

3.4.1. GENERAL

Special Exception Land Uses are often desirable but may have detrimental effects on adjacent properties or neighborhoods or on the surrounding community if not properly designed and controlled. Special Exception Land Uses are uses that are not allowed by right within a zone but are permitted if approved through a particular review process. A special review of these land uses is necessary to ensure that avoidable problems or hazards are not created and that such uses are consistent with the intent of this Section and the zones under which they are permitted.

Depending on the proposed use, a Special Exception Land Use application is processed in accordance with the PDSD Director, Zoning Examiner, or the Mayor and Council Special Exception Procedure.

3.4.2. PDSD DIRECTOR SPECIAL EXCEPTION PROCEDURE

A. Applicability

See the Use Table in Section 4.8 to determine whether the proposed use must be processed in accordance with the procedure provided below.

[31] One issue for further consideration following adoption of the UDC is whether the RND MDR process should be simplified so that minor and major modifications are processed through the 50' Notice Procedure.
[32] Text from LUC Sec. 5.3.9.

B. Application

Submittal of an application to the PDSD is required process the request. See the Administrative Manual for application submittal requirements. Applications shall be reviewed for completeness in compliance with Section 3.2.3.

C. Review and Decision

PDSD Director Special Exceptions are processed in accordance with the 50' Notice Procedure, Section 3.3.4. Approval shall be granted if the PDSD Director finds the proposal is in compliance with the findings provided in Section 3.4.5. The approval may be subject to conditions as provided in Section 3.4.6.

D. Appeals

A party of record may appeal the PDSD Director's decision to the Board of Adjustment (B/A). Appeals must be filed in accordance with Section 3.10. A notice of intent to appeal must be received by the PDSD within five days after the date of the notice of decision. The complete appeal materials must be filed within 30 days of the date of the decision.

E. Projects Within the Airport Environs Zone (AEZ)[33]

1. Special exception uses within the AEZ and projects within the AEZ requesting to exceed the limits of the Performance Standards as set forth in Section 5.6.8.A, B, and C are processed in accordance with the PDSD Director Special Exception Procedure; and,

2. These Special Exception applications shall be analyzed for:

   a. Land use compatibility with Tucson airport or DM base operations;
   b. Proximity to the end of the runway;
   c. Location in relationship to major flight tracks; and,
   d. Compliance with the intent of the DM Joint Land Use Study.

3.4.3. ZONING EXAMINER SPECIAL EXCEPTION PROCEDURE[34]

A. Applicability[35]

Those uses identified in Section 4.8 (Use Table) as requiring processing in accordance with the Zoning Examiner Special Exception Procedure and expansions of nonconforming uses and substitutions of nonconforming uses if the proposed use is not within the same land use class as the existing use shall be processed in accordance with the Zoning Examiner Special Exception Procedure.

[33] Text from LUC Sec. 2.8.5.10. Text moved to this section for better organization and per staff comment.
[34] The introduction to this section is deleted because it is redundant with the provisions already provided in the section.
[35] In response to staff comment, this text (Zoning Examiner Special Exception Full Notice Procedure) was relocated, and modified as necessary, from previous Sec. 3.3.4.F. Text originally from Sec. 23A-53 Zoning Examiner Special Exception Full Notice Procedure, with minor reorganization and clarifications.

B. Pre-Application Conference Required

A pre-application conference with City staff is required in accordance with Section 3.2.1.

C. Neighborhood Meeting Required

The applicant is required to conduct a neighborhood meeting in accordance with Section 3.2.2. The applicant shall provide notice of the neighborhood meeting in accordance with Section 3.2.4.

D. Application

Submittal of an application to the PDSD is required in order to process the request. See the Administrative Manual for application submittal requirements. Applications shall be reviewed for completeness in compliance with Section 3.2.3 and for compliance with the neighborhood meeting requirements of Section 3.2.2.

E. Mailed and Posted Notice of the Application Required

Mailed and posted notice of the application are required in accordance with Section 3.2.4.B and E and Table 3.2-1 .

F. Public Comment Period

For a period of 20 days following the date on which notice is mailed, the public may submit comments on the proposal to the PDSD.

G. Review

Review is conducted by the PDSD staff and other agencies, committees or advisory boards as required by the UDC, and others as may be deemed appropriate by the PDSD Director.

H. PDSD Director Recommendation

The PDSD Director shall prepare a recommendation and forward it to the applicant and the Zoning Examiner not less than 15 days prior to the scheduled public hearing.

I. Zoning Examiner's Public Hearing

A public hearing must be held before the Zoning Examiner within 70 days of acceptance of the application. Public hearings are held in accordance with the following and the Zoning Examiner's rules and procedures.

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1. The Zoning Examiner shall administer oaths and may compel the attendance of witnesses and the production of relevant information, including witnesses requested by any party.

2. The Zoning Examiner may impose any reasonable limitations on the number of speakers heard and may establish the nature and length of testimony by speakers.

3. Comments may be given by any person, either verbally or in writing.

4. A record of the hearing must be made and retained as a public record.

5. The Zoning Examiner may close the public hearing, or continue the public hearing to a specified time, date and place. A continuance may not be for more than 30 days.

J. Zoning Examiner's Decision

Within five days after the close of a hearing, the Zoning Examiner shall make a decision to approve in compliance with all the findings as listed in Section 3.4.5, approve with conditions as provided in Section 3.4.6, or deny the application.

K. Appeal

The Zoning Examiner's decision may be appealed to the Mayor and Council by any party of record in accordance with Section 3.9.2by submitting a notice of intent to appeal to the City clerk within 14 days from the date of the decision with a copy delivered to the PDSD. The complete appeal materials must be filed with the City Clerk within 30 days of the decision.

L. Change in Condition of Approval

An applicant may request a change in a condition of approval of a Zoning Examiner Special Exception land use. The request must be submitted to the PDSD and reviewed by the PDSD staff for recommendation to the Zoning Examiner. The request is then considered at a public hearing in accordance with procedures in this Section 3.4.4.l.

3.4.4. MAYOR AND COUNCIL SPECIAL EXCEPTION PROCEDURE

A. Applicability

See the Use Table in Section 4.8 to determine whether the proposed use must be processed in accordance with the Mayor and Council Special Exception Procedure.

B. Application Processing

1. Mayor and Council Special Exceptions applications are processed in accordance with the Zoning Examiner Special Exception Procedure, Sections 3.4.3.B – L, and the following:

2. The Zoning Examiner shall forward a recommendation with findings on the proposed use to the Mayor and Council for decision.

3. Any person may request that the application be heard at a public hearing before the Mayor and Council if the request is filed with the City Clerk within 14 days after the date of the Zoning Examiner's public hearing or reconsideration public hearing. Notice of the public hearing must be provided in the same manner as the notice provided for the Zoning Examiner's public hearing.

4. The Mayor and Council shall make a decision to approve, approve with conditions as provided in Section 3.4.6 below, or deny the application.

3.4.5. FINDINGS

A. Findings for all PDSD Director and Zoning Administer Special Exceptions.
To grant a Special Exception the PDSD Director and the Zoning Examiner must find that the requested Special Exception meets the following:

1. Meets the standard expressly applied by all adopted by all codes and regulations for that type of land use or for the Land Use Class applicable to the proposed use.

2. Does not adversely affect adjacent land uses or the surrounding neighborhood or that such adverse effects can be substantially mitigated through the use of additional conditions as provided in Section 3.4.7;

3. Provides for adequate and efficient vehicular and pedestrian access and circulation and vehicular parking;

4. Can be adequately and efficiently served by public facilities and services, such as water, stormwater drainage, fire and police protection, and solid and liquid waste disposal and/or collection as may be required by the various public and private agencies; and

5. Complies with the General Plan and any applicable sub-regional Area or Neighborhood Plan.

3.4.6. CONDITIONS OF APPROVAL

A. Authority to Apply Conditions.

In approving an application, the PDSD Director, the Zoning Examiner, or the Mayor and Council may impose such reasonable and appropriate conditions

and safeguards as are be necessary to ensure compliance with the criteria for approval. Conditions and safeguards may also be imposed to reduce or minimize any potentially injurious effects on adjacent properties; the character of the neighborhood; or the health, safety, or general welfare of the community. Such conditions may include, but are not limited to:

1. Structural or vegetative screening greater than that required by the landscaping and screening standards of the UDC to buffer the surrounding land uses from the proposed use.

2. Limitations on the height, size, or illumination of signs more restrictive than the applicable requirements of the Tucson Sign Code;

3. Limitations on the conduct of the proposed use, such as, but not limited to, hours of operation, or use of loudspeakers or external lighting, as necessary to protect adjacent land uses.

4. Dedication of necessary right-of-way for streets, alleys, drainageways, and utilities.

3.5. REZONING (CHANGE OF ZONING)[36]

3.5.1. GENERAL

Changes to zoning boundaries are considered in accordance with the Zoning Examiner Legislative Procedure as provided in the section. The procedure requires a public hearing conducted by the Zoning Examiner (ZE) and a final decision by the Mayor and Council.

3.5.2. TYPES OF REZONING ORDINANCES[37]

All rezoning ordinances require compliance with one or more conditions of rezoning including substantial compliance with the preliminary site plan submitted in support of the rezoning application. The three types of rezoning ordinances, all considered final actions, are as follows.

A. Building Permit

This is the standard type of rezoning ordinance. In addition to other conditions of rezoning, a building permit rezoning ordinance requires issuance of a building permit for construction of the principal structure(s) on the rezoning site to effectuate the rezoning. Permits issued for grading, electrical, sidewalks, patio walls, fences, storage buildings, and other similar types of improvements will not effectuate the rezoning. The building permit must be secured within the time period allowed for the rezoning case. If all conditions of rezoning are met prior to expiration of the rezoning approval, the new zoning becomes effective, and the zoning map is changed to reflect the new zoning.

[36] In response to staff comment, this rezoning section has been revised to include the Zoning Examiner Legislative Process from previous Sec. 3.3.5 so that all the major rezoning procedures, except uniform procedures, are in one place. Other procedures, such as the PAD or PCD, that use the ZELP have been revised to refer to the ZELP in this rezoning section. Most of this section is taken from DS 1-07.0 Rezoning Procedures, with significant deletions (for obsolete code references) and clarifications.
[37] This section was moved from the bottom of this section to the beginning because it is essentially introductory information.

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B. Subdivision Plat

1. This type of rezoning ordinance requires compliance with the conditions of rezoning, including the completion of the rezoning process through the recordation of a subdivision plat. Where the plat demonstrates compliance with the conditions [38]and the subdivision plat is approved and recorded within the time period allowed, the new zoning becomes effective, and the zoning base maps are changed to reflect the new zoning.

2. The use of this type of ordinance is generally limited to single-family residential projects, where division of lots is such that the property cannot be used for other purposes without replatting. Staff may recommend the use of this type of ordinance for other forms of development where, in staff's opinion, the same intent can be accomplished. In such instances where there is a site plan approved for the project, and the project is a large multi-use development with phased construction, the subdivision plat can be a block (or master) subdivision plat, with each block encompassing each land use area.

3. Under this option, a rezoning ordinance may be forwarded to the Mayor and Council based on an approved tentative plat, provided it can be shown that all conditions of rezoning have been met, with the exception of the recordation of the plat. The effectuation of the rezoning is subject to the recordation of the final plat prior to the expiration of the time period applicable to the rezoning. Although an ordinance may be adopted based on the approved tentative plat, no permits may be issued on the project until the plat has been recorded and the new zoning has become effective. e

C. Site Inspection

This type of rezoning ordinance applies to those rezoning applications where the eventual improvements to the property do not require the issuance of a building permit or the recordation of a subdivision plat. The rezoning ordinance requires conditions of rezoning, including the requirement that a site inspection be conducted to verify that the Mayor and Council conditions of rezoning have been met. The purpose of the site inspection is to verify that site improvements have been installed on the rezoning site within the time period allowed, in accordance with an approved site plan. Once the site is inspected and compliance is confirmed, the new zoning becomes is effective, and the zoning base maps are changed to reflect the new zoning.[39]

[38] Changes made per staff comments.

[39] The following language regarding "future development" has been moved to the enforcement section of a later draft of the LUC: "Once a rezoning case is completed and the zoning changed, the approved development plan and rezoning conditions remain as part of the public record and run continuously with the land, regardless of ownership. Change of use, removal or modification of improvements (including landscaping, screening, and parking) shown on the plan, or additions made without going through the development plan process for approval for a change in the approved development plan constitute a zoning violation."

3.5.3. ZONING EXAMINER LEGISLATIVE PROCEDURE

A. Applicability

The following applications are processed in accordance with the Zoning Examiner Legislative Procedure:

1. Original City zoning for newly annexed areas;
2. Amendments to the zoning of specific properties including changes in the zoning classifications (rezoning)[40];
3. Rezonings to the Planned Area Development (PAD) zone (see Section 3.5.6 for additional requirements);
4. Rezonings to the Planned Community District (PCD) (see Sec. 3.5.7 for additional requirements);
5. Rezoning of properties to establish an overlay zone (e.g. Neighborhood Preservation Zone and Urban Overlay District); and,
6. Certain Special Exceptions.

B. Pre-Application Conference Required

1. A pre-application conference with city staff is required in accordance with Section 3.2.1 to identify the applicable UDC requirements and other applicable policies and regulations for the proposal are required.
2. City staff will also make a preliminary determination of whether the proposal complies with the goals and policies of the General Plan and any applicable Specific Plan, including Area and Neighborhood Plans. The applicant may request that the PDSD Director provide the determination of plan compliance in writing prior to submittal of an application.
3. Review is on a conceptual basis, therefore, comments made at a pre-application conference are advisory and do not constitute approval or denial of the project.

C. Neighborhood Meeting Required

1. The applicant shall offer to meet at a specified time and place to discuss the proposed project in compliance with Section 3.2.2. For rezonings initiated by the Mayor and Council, a neighborhood meeting may be conducted as part of a broader public outreach process facilitated by the PDSD and other departments as needed.[41]

[40] Deleted two sentences are no longer necessary because the relevant provisions of Sec. 3.3.5 have been relocated to this section.

[41] This provision was added to clarify that for city-initiated rezonings a neighborhood meeting is typically only one part of a larger public outreach process.

2. Exception. For the designation or amendment to a Historic Preservation Zone, the offer to meet shall be made no more than one year before the Zoning Examiner Public hearing;

D. Application Requirements

1. General

See the Administrative Manual for application submittal requirements. Applications are reviewed for completeness in compliance with Section 3.2.3.

2. Initiation

A rezoning may be initiated by the property owner or the owner's agent upon submittal of a written application to amend the zoning on the property. A rezoning may also be initiated by a majority vote of the Mayor and Council.

3. Plan Amendment Determination[42]

Rezoning applications must be in conformance with adopted plan policies before a rezoning application may be accepted for processing. A determination of plan compliance shall be made in one of the following three ways:

a. Plan Compliance Determination

(1) Prior to submittal of a rezoning application, the PDSD Director will provide the applicant with a preliminary determination of plan compliance at the pre-application conference.

(2) Prior to submittal of a rezoning application, the applicant may request in writing that the PDSD Director provide a written determination of plan compliance.

(3) Upon submittal of a rezoning application, the PDSD Director shall provide a written determination of land use plan compliance in seven days. If the proposal is found to comply with the applicable plans, the rezoning application is formally accepted. If the Director determines a plan amendment is necessary, no further formal processing of the application may occur until the applicant requests a plan amendment in accordance with Section 3.6

b. Determination by the PDSD after Application for Rezoning

Upon submittal of an application for rezoning, the PDSD Director has seven days to determine whether or not a plan amendment is required before the rezoning application is accepted. A written notice of decision shall be provided if it is determined that a plan amendment is required.

[42] Text from DS 1-08.5.0 Plan Amendment Determination.

c. Appeal of Plan Amendment Determination

The PDSD Director's decision that a plan amendment is required may be appealed to the Mayor and Council. The appeal must be submitted in writing to the PDSD within ten days of the date of PDSD Director's written notice of decision. Appeals shall be processed in accordance with procedures set forth in Mayor and Council Appeal Procedure, Section 3.9.2. An appeal stays all processing until the appeal is heard and decided.

E. Public Notice of the Application

Public notice is required as follows:

1. Mailed Notice

a. Notice must be sent in accordance with Table 3.2-1, and Section 3.2.4.B.

b. Notice shall be provided to all parties of record on a previous hearing on the same application and to other affected property owners as required by each review procedure process.[43]

c. See Section 3.2.4.B.3 for the mailed notice's content requirements.

2. Posted Notice

Notice shall be posted on the subject site in accordance with Section 3.2.4.E, Posted Notice.

F. Public Comment Period

There is a period of twenty (20) days following the date on which notice is mailed for submission of comments on the proposal to the PDSD.

G. Review

Review is conducted by the PDSD staff and other agencies, committees or advisory boards as required by the UDC and as may be deemed appropriate by the PDSD Director.

H. Changes to the Rezoning Application

If the applicant proposes changes to the rezoning application, including any supporting materials, after the application has been accepted for processing, the PDSD Director shall determine whether or not the proposed changes are significant enough to require additional staff or agency review.

[43] Is this notice requirement necessary?

1. If the changes require additional review, the changes may be accepted only if the revised application is submitted prior to the legal advertisement and public notification of the public hearing and the changes are accompanied by the applicant's written consent to begin anew the process from the date of submittal of the revised application.

2. Upon submitting a significant change to the rezoning application, the applicant shall also submit a signed letter waiving the 70-day public hearing requirement to allow for proper staff evaluation of the new information.

3. Once the public hearing has been advertised, any request to delay the public hearing or to change the application must be submitted to the Zoning Examiner for determination. If the public hearing is delayed, the applicant shall remit to the City an additional rezoning public notice label fee to provide mailed notice neighbors of canceled public hearing and the rescheduled public hearing date), and an additional public hearing legal advertisement fee. If the rescheduled public hearing date cannot be determined when the notice of cancellation is mailed to neighbors, a second public hearing notice label fee must be paid by the applicant to provide the required notice to the neighboring property owners.

I. Planning and Development Services Department (PDSD) Recommendation

After City departments and public service agencies have reviewed and provided comment on the application, a staff report is prepared by the PDSD. The report is distributed to the Zoning Examiner, the applicant, and the owners of property located within 300 feet of the rezoning site. The report is also sent to the Zoning Examiner, the applicant, and made available to the public at least 15 days prior to the public hearing.

J. Public Hearing

1. Applications reviewed under this procedure are considered by the Zoning Examiner at a public hearing(s) for recommendation to the Mayor and Council.

2. Original City Zoning[44]

Upon the effective date of annexation of property into the City, the City may adopt original City zoning or may continue the existing county zoning for a period not to exceed six months. The original City zoning shall only be initiated by the Mayor and Council. Notice of initiation must be provided in conformance with A.R.S. §9-461.06.A and the notice requirements of Section 3.2.4. A case that establishes original City zoning may be initiated any time after the filing the blank petition for annexation of the subject property with the office of the Pima County Recorder in accordance with state law.

[44] This section was reorganized consistent with staff direction. The material is relocated text from the ZELP section.

3. Zoning Examiner Public Hearing

The Zoning Examiner shall hold a public hearing on behalf of the Mayor and Council on applications for a change of zoning and on applications for Mayor and Council Special Exception Land Uses. The public hearing procedure set forth in this Section is used for both types of applications. The public hearing must be held within 70 days of acceptance of the application, except for applications for original City zoning.

a. Conduct of the Public Hearing

(1) The Zoning Examiner is empowered to obtain information from all parties and interested persons, including public 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 also has the authority, after the close of the public hearing, to obtain additional information or clarification of information that has been presented. Any such request shall be in writing and the request and response shall be included as part of the record or report to the Mayor and Council. The Zoning Examiner may close the public hearing, or may continue the hearing to a specified date, time and place. However, a continuance may not be for more than 30 days.

(2) Except a permitted in subsection (1) above, the Zoning Examiner shall not communicate, directly or indirectly, with any party, any party's representative or any interested person 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. Any and all written information received by the Zoning Administer in the case must be made a part of the record. The Zoning Examiner may inspect the site provided all parties are given an opportunity to be present.

b. Zoning Examiner's Preliminary Recommendation

The Zoning Examiner shall issue a report with preliminary findings and a preliminary recommendation within five days after the close of a hearing. The preliminary recommendation is provided to the applicant, the PDSD Director and to any person who has requested a copy of the preliminary recommendation.

c. Reconsideration

Any party of record may request that the preliminary recommendation be reconsidered or that the public hearing be reopened if there are errors of fact or procedure. The request shall state the alleged errors of fact or procedure and must be submitted to the Zoning Examiner within five days after the date of

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the preliminary recommendation. The Zoning Examiner must take action on the request within five days following the receipt of a request for reconsideration. Action on the request includes revising the preliminary recommendation, reopening the public hearing, or denying the request.

d. Final Recommendation

Within 14 days following the close of the public hearing or the re-opened public hearing, the Zoning Examiner shall issue and transmit a final recommendation to the Mayor and Council for final action. If the Zoning Examiner determines that minor corrections to the preliminary recommendation are appropriate in response to a request for reconsideration, such corrections may be incorporated into the final recommendation without further proceedings. No further requests for reconsideration are permitted. If the Zoning Examiner determines that a significant change to the preliminary recommendation is appropriate, the public hearing must be reopened with notice provided to all persons who received the previous preliminary recommendation.

e. Reopening of the Public Hearing

If the public hearing is reopened, the new hearing must be held within 40 days of the close of the last public hearing. Notice of the reopened hearing is the same as the notice for the original public hearing. If the public hearing is reopened at the request of a party, or to consider new information from a party, the Zoning Examiner may require that the party pay the costs for the re-opened public hearing. At the conclusion of the reopened hearing, the issuance of a preliminary recommendation, the time period for reconsideration, the issuance of a final recommendation and the time periods for each shall be the same as for the original hearing.

f. Mayor and Council Public Hearing Request

Any person may request that the application be heard at a public hearing before the Mayor and Council if the request is filed with the City Clerk within 14 days after the date of the Zoning Examiner's public hearing or reconsideration public hearing. The Mayor and Council may also decide to conduct a public hearing without a specific request. If a public hearing is requested, notice must be provided in the same manner as the notice provided for the Zoning Examiner's public hearing.

3.5.4. MAYOR AND COUNCIL ACTION

A. Mayor and Council Public Hearing Request

Any person may request that the application be heard at a public hearing before the Mayor and Council if the request is filed with the City Clerk within 14 days after the date of the Zoning Examiner's public hearing or reconsideration public hearing. The Mayor and Council may also decide to

conduct a public hearing. If a public hearing is requested, notice must be provided in the same manner as the notice provided for the Zoning Examiner's public hearing.

B. Authorization for Change of Zoning (Rezoning)

Where a change in zoning is requested based upon a preliminary site plan, the Mayor and Council may make a preliminary determination to authorize the applicant to proceed with the case.

1. Authorization for the Application to Proceed

A vote by the Mayor and Council to authorize a change of zoning case constitutes authorization for the applicant to proceed, subject to the applicant's subsequent demonstration of compliance with any special conditions that may have been established by the Mayor and Council. Unless the Mayor and Council state a shorter time period, the applicant must complete all conditions of approval within five years from the date the request is authorized.

2. Discretion of the Mayor and Council

An authorization for a change of zoning is preliminary and does not in any way limit the legislative discretion of the Mayor and Council to determine whether or not to adopt a change of zoning ordinance or to add conditions thereto at the time an ordinance is presented for adoption. Authorization does not establish any vested right to the authorized zoning prior to ordinance adoption.

C. Direct Ordinance Adoption

Where a change of zoning application includes a site plan or a proposed plat that provides sufficient specific details to demonstrate compliance with all conditions that may be required by the Mayor and Council and is in compliance with this Section, the application may proceed from staff review to Mayor and Council ordinance adoption without a separate Mayor and Council authorization to proceed with the application.

1. Mayor and Council Actions

The Mayor and Council shall consider the change of zoning application, the Zoning Examiner's recommendation, and the City Manager's recommendation in a public meeting or a public hearing. The Mayor and Council may authorize the case to proceed; may modify, delete or add to the proposed conditions for approval; may remand the case to the Zoning Examiner for further proceedings; may adopt an ordinance changing the zoning, deny the application; or may take other appropriate action.

2. Davis Monthan AEZ Comments

If Davis Monthan Air Force Base submits comments to the City on any application concerning the compatibility of the proposed rezoning with the high noise, accident potential zone, or approach-departure corridor that may have an adverse impact on the operation of the base or upon public health and safety, a public hearing shall be held to consider these and other comments per requirements of the A.R.S.

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D. Mayor and Council Adoption of the Change of Zoning

1. If an application substantially demonstrates compliance with the conditions for a change of zoning, staff shall prepare an ordinance to be submitted to the Mayor and Council for adoption enacting the change in zoning.

2. For a project that is to be completed in phases, the Mayor and Council may adopt a separate ordinance for each phase of the project, but only if each phase submitted for approval can meet all required conditions and codes without reliance on future phases.

E. Voting Requirements

Adoption of a change of zoning must be by a vote of three-fourths of all members of the governing body written protests are filed by property owners who own twenty percent or more of the area within one of the following areas.

1. The entire area of the lot or lots within the subject site.

2. Property in any one of the following quadrants: north, south, east, west, that is located within 150 feet of the rezoning site, excluding public right of way abutting the subject site.

F. Ordinance Effective Date

Ordinances granting changes in zoning are, by state statute, subject to referendum and shall not become effective until 30 days after the date of adoption or the date the final ordinance is available from the City Clerk, whichever is later. The effective date of the ordinance is not necessarily the effective date of the change of the zoning (rezoning). The effective date of the change of zoning is when compliance with conditions of approval is completed and certified by the PDSD Director. No permits or development approvals may be granted that are in furtherance of the rezoning request until the 30 days have lapsed and the conditions of rezoning have been met.[45]

G. Reconsideration

A member of the Mayor and Council may request the reconsideration of an authorization decision or decision on a proposed ordinance provided the vote to reconsider is made within 30 days of the date of decision. A hearing for reconsideration will be scheduled upon a majority vote in favor of the reconsideration. If the reconsideration occurs after the meeting when the decision is initially made, then public notice of the reconsideration must be given in the same manner as for the initial decision.

3.5.5. CHANGE IN CONDITIONS OF APPROVAL[46] AND COMPLETION OF CONDITIONS

An applicant may request a change to conditions of approval. The Planning Director shall make a determination as to whether a proposed change to the conditions of rezoning, to the preliminary site plan, or to the approved site plan is major, minor, or administrative. A request to change conditions of approval is considered as follows.

[45] This last sentence was relocated from Sec. 3.4.1.L.3 of this draft, which was deleted from that section for redundancy reasons with the ZE legislative procedure in this section.
[46] This section has been revised consistent with staff direction.

A. Types of Changes[47]

The three types of changes are as follows:

1. Major Change

(a) Density or increase in non-residential floor area condition. This change involves, 1) if the number of residences increases by ten percent or greater; or in any case increases by fifty or more units; or 2) if the non-residential floor area increases by ten percent or greater;

(b) Design condition. This change involves a quantified physical dimension established in a condition to adapt to specific site characteristics or mitigate development impacts on the site and surrounding land uses. Examples of such dimensions include setbacks, heights, landscape buffers, natural areas, or areas to be disturbed, when these are illustrated on the preliminary site plan or stated in a condition;

(c) Use condition. This change involves an illustration on the preliminary site plan or a change stated in a condition that only a specific set of uses are permitted on the site; or

(d) A change in a preliminary site plan when the building area is substantially reconfigured such that traffic generated by the new layout will increase 10% or greater over the previous layout's proposed traffic generation.

2. Minor Change

A change in the rezoning conditions or preliminary site plan that is not a major change or an administrative change.

3. Administrative Change

A change in a feature of a preliminary site plan for an approved rezoning when the result is still in substantive compliance with the approved rezoning. The director shall make a finding that the change will not create a nuisance on adjoining land uses or cause a safety hazard.

B. Procedures for Changes

1. Minor Amendment to a Preliminary Site Plan

A request for a minor amendment to a preliminary site plan that was approved by the Mayor and Council is considered a change to conditions of approval that may be granted by the PDSD Director.

2. Major Amendment to Conditions or the Preliminary Site Plan

A request for a major amendment to the conditions of approval or the approved preliminary site plan requires Mayor and Council approval after a public hearing. Notice of such hearing must be given in the same manner as for the procedure adopting the conditions. The same voting

[47] This is a new section recommended by staff to clarify the different types of changes.

requirements as for the original adoption shall apply to the request for a substantial change of conditions.

3. Minor Changes to conditions

Minor amendments to conditions of approval must be considered by the Mayor and Council in a public meeting.

C. Time Period for Completion of Conditions

1. The Mayor and Council, when authorizing a rezoning request, shall establish a time period to meet all conditions of rezoning. The time period shall begin the day after the date of authorization.

2. The required length of the time period to complete conditions of rezoning may range from one day to five years. By Mayor and Council policy, the staff recommendation for rezoning requests that involve a zoning violation is a one-year period. For rezoning requests that do not involve a zoning violation, a five year period is recommended.

D. Extension of Time

1. When a rezoning request has been authorized or an ordinance adopted and the specified time period within which to complete all conditions of rezoning has lapsed, the case file shall be closed. A closed case may be reactivated only by the Mayor and Council after a public hearing on the reactivation of the case.

2. A time extension may be requested before the time period for completion of the ordinance conditions expires. The request must be filed prior to the expiration date so Mayor and Council can take action on the request prior to the expiration of rezoning.

3. The filing of a time extension request initiates a staff review to determine whether the request should be approved or denied, and whether conditions should be revised to reflect new conditions, or practice. New conditions may be added as part of the staff review. At the end of the staff review period, a communication to Mayor and Council is drafted and forwarded to the City Clerk for City Manager review and Mayor and Council consideration.

4. The Mayor and Council shall consider the time extension request after a public hearing, in the circumstance where the time extension request does not extend the expiration period beyond five years from the most recent public hearing on the case. However, no time extension may be granted beyond ten years from the original date of approval.

5. Where an ordinance has been adopted, the last public hearing before the ten year limitation shall provide for the repeal of the adopted ordinance if the conditions are not completed prior to the expiration of the ten year period.

E. Completion and Certification

A case is deemed complete and final when the conditions of approval are verified as complete by the PDSD Director. The conditions may include, but are not limited to the issuance of a building permit, the recording of legal

documents, such as a subdivision plat, or issuance of a zoning compliance certificate upon a site inspection. When completion of the conditions has been verified the PDSD Director shall certify completion of the conditions and the zoning on the property shall be changed in accordance with the adopted ordinance.

F. Time Limitations on Re-filing

1. Mayor and Council policy and the Rules and Procedures of the Zoning Examiner require that a new request for rezoning on property previously denied rezoning by the Mayor and Council may not be accepted for a period of one year from the date of denial, except:
   a. When the new case does not involve a request for a zone that was denied or recommended as a substitute zone and rejected by the original applicant; or
   b. When a substantial change in the use of adjacent property has occurred since the previous case was heard that could not have been anticipated; or
   c. When there has been a change in ownership and a substantially modified preliminary development plan is presented.
2. Mayor and Council policy recognizes the Pima County Board of Supervisors' one-year policy with respect to rezoning applications that have been denied, where these properties are later annexed into the City. The one-year waiting period begins on the day after the date the Board of Supervisors denied the application.

3.5.6. PLANNED AREA DEVELOPMENT (PAD) ZONE[48]

A. General

1. The purpose of the Planned Area Development (PAD) zone is to enable and encourage comprehensively planned development in accordance with adopted plans and policies.
2. The PAD zone is a zoning classification which provides for the establishment of zoning districts with distinct standards.

B. Distinct Dimensional Standards Permitted

1. A PAD zone may have dimensional standards different from those of other zoning districts.
2. When a provision in a PAD zone varies from the UDC, the provisions in the PAD zone shall govern.

[48] Most of this section is taken from the recent 2009 amendments and DS 1-06-0, starting at 1-06.3.3, except where noted otherwise, with minor clarifications. The plan compliance provisions are deleted because they are already covered in the Zoning Examiner Legislative Procedure. The Initiation provision is deleted because it is generally understood that a rezoning or any other procedure is initiated by the submittal of an application.

C. Application Processing and PAD Zone Establishment

1. A PAD zone is processed and established in accordance with the Zoning Examiner Legislative Procedure, Section 3.5.3, with the following additional requirement.
2. Within 30 days after the PDSD Department recommends approval, the PAD rezoning request is scheduled for a public hearing before the Zoning Examiner.

D. Established Districts

1. PAD zones are identified on the City Zoning Maps by the letters "PAD" followed by a number, such as "PAD-1," signifying the set of standards adopted and applicable to that Planned Area Development.
2. The PDSD is responsible for maintaining the list of established PADs.

E. PAD Zone Implementation[49]

The PAD zones are implemented in accordance with the procedures in this Section 3.5.6. PAD zones may establish additional implementation procedures, provided such methods are not in conflict with required procedures and are fully described by the PAD zone document.

F. Site Plan Review

No development may occur within a PAD zone until a site plan for the development is approved by the City in accordance with Section 3.3.3. The PDSD Director is granted the authority to approve PAD zone site plans.

G. Enforcement

Standards adopted for each PAD zone are enforced in the same manner as the enforcement of any zoning violation as provided in Section 10..2.

H. Interpretation

The Zoning Administrator shall interpret a PAD zone per Section 1.5.1.B. Interpretations of UDC zoning provisions may be applied to similar PAD zone provisions.

I. Amendment to an Adopted PAD Zone[50]

1. PAD zone amendments must be in substantial conformance with the objectives of the PAD zone. Changes to conditions and terms of a PAD that affect the overall density, intensity, and classifications of land uses must be processed as a new change of zoning. Changes to other conditions of a PAD must comply with the procedures for changes of conditions in Section 3.6.3.J.11.
2. Amendment Application

[49] Txt from LUC Sec. 2.6.3.7.
[50] Text from LUC Sec. 2.6.3.11.

a. An amendment to a PAD zone may be initiated by the property owner, the owner's agent, or the Mayor and Council upon submittal of a written application to amend one or more of the PAD zone standards.

b. The application must be accompanied by a statement documenting the need for the amendment.

c. The PDSD Director shall determine if the amendment would result in a major change in the PAD zone. A major change is one which:

(1) Allows uses not otherwise permitted in the PAD zone or a section of the PAD zone;

(2) Varies or changes a PAD zone policy;

(3) Increases the number of proposed residences per acre by more than ten percent or exceeds the maximum number of dwelling units permitted within the adopted PAD zone;

(4) Changes designated buffers or perimeter landscaping, as delineated in the PAD zone, which was established to adapt the PAD zone to specific site characteristics or mitigate development impacts on the site and surrounding area;

(5) Varies the building height, lot coverage, or building setbacks by more than ten percent of that delineated in the adopted PAD zone;

(6) As a consequence of more than one non-substantial change submitted concurrently, cumulatively results in a significant change in the objectives or goals of the PAD zone; or

(7) Results in a significant change in pedestrian or traffic circulation within the PAD zone or in the surrounding area.

d. If the request is determined to be a major change, the PDSD Director shall refer the request to the Zoning Examiner for public hearing and recommendation to the Mayor and Council. The procedure for considering the change is the Zoning Examiner Legislative Procedure, Section 3.5.3. A major change may require, as determined by the PDSD Director, submittal of amended items, such as a site analysis.

e. The PDSD Director may approve changes determined to be minor or administrative.

f. When requested in writing by the applicant, the PDSD Director may authorize a delay in the PAD amendment process.

3.5.7. PLANNED COMMUNITY DEVELOPMENT (PCD) ZONE[51]

A. Purpose[52]

[51] Text from LUC Sec. 2.6.5.3.
[52] Text from LUC Section 2.6.5.1.

1. Accommodate large-scaled, unified planned developments that conform to the best practices, policies and programs within the City's General Plan, applicable specific plans, and other sustainability and conservation programs.

2. Provide an alternative zoning district and development process to accommodate large master-planned developments that allow development flexibility not otherwise attainable under conventional zoning districts and allow for adjustments to changing community and market conditions.

3. Provide a framework to promote sustainable land use patterns and mobility options while being responsive and sensitive to the natural features and topography of the desert environment.

4. Provide within such developments a variety of housing, including affordable housing, and combination of land uses with sound site planning principles and development techniques.

5. Promote the timely planning, funding and development of public facilities designed to serve the projected population.

B. General Provisions[53]

1. Conformance with the General Plan

a. Each PCD District must be in compliance with the General Plan and applicable specific plans.

b. **Specific Plans**

A PCD District is permitted only in areas where there is an existing specific plan. In areas where there is no existing specific plan, an applicant may submit an application for a PCD District so long as an application for a Specific Plan, consistent with the application for the PCD District, has already been submitted pursuant to Sec. 3.7. The application for the PCD District will be processed concurrently with the application for the specific plan, but the PCD District may not be adopted until after the adoption of a Specific Plan.

2. Ownership of PCD District

Upon application for and approval of the PCD District, the site of the PCD District, with the exception of public rights-of-way, must be under single ownership or control of a single entity with legal authority to conduct the application process on behalf of all the landowners.

3. Minimum PCD District Area

a. A PCD District must be the minimum size as required in the applicable General Plan, specific plan, or a minimum of 500 contiguous acres, whichever is greater.

[53] Text from LUC Section 2.6.5.2.

b. Public rights-of-way located within the interior of a PCD may be included in calculating the minimum 500 acres.

c. A PCD District may include areas that contain existing development.

d. The Mayor and Council may authorize the initiation of a PCD District less than the size required by this section if the size of the proposed PCD District is consistent with the intent of the applicable General Plan or specific plan.

4. **Major Streets and Routes Plan Amendment**
The Major Streets and Routes Plan will be amended, as needed, to add, delete, or modify a roadway within a PCD District concurrently through the approval process for the PCD District.

C. **Identification of the PCD District**

1. PCD Districts are identified on the City Zoning Maps by the letters "PCD" followed by a number and the name of the District, such as "PCD-1, XYZ Planned Community Development (PCD) District," signifying the set of standards adopted and applicable to that District. PDSD shall administratively update the list upon the adoption of each new PCD District.

2. Within a PCD District, development must be divided into Development Areas (DA). DAs shall establish the permitted density and intensity of land uses within the PCD. Permitted land uses in a DA are those that are identified in the implementation plan.

3. Within a DA, one or more zoning districts may be established and contain one or more land uses listed in the Project Development Standards and Design Guidelines as provided in the Administrative Manual.

D. **Development Standards**[54]

A PCD District provides for the establishment of development areas (DAs) and zoning districts with distinct standards within the boundary of the PCD District as adopted by the Mayor and Council.

1. A PCD District may incorporate land use classifications and standards from the UDC pr other City development ordinances and standards with modifications as necessary to provide for a master planned community. The standards must be consistent with policies in the General Plan and applicable specific plan.

2. A PCD District may include standards that are different from the standards in the UDC that apply in, but are not limited to permitted, special exception, secondary and accessory land uses; building heights; lot coverage and lot size; cluster development; building and perimeter setbacks; parking and loading; landscaping and other development standards. The PCD District may not change or alter the provisions for

[54] Text from LUC Section 2.6.5.4.

impact fees in Article III, Impact Fees of the Development Compliance Code, Chapter 23A of the Tucson Code.

3. Where a provision in a PCD District varies from the UDC standard, the provisions in the PCD District shall govern. Where standards in a PCD District are silent or do not address an issue, the applicable codes and ordinances shall govern. Amendments to the UDC enacted subsequent to the adoption of the PCD District shall apply to the PCD District. If an amendment adopted subsequent to the PCD District conflicts with an express provision of the PCD District, the PCD District shall govern unless the adopting ordinance expressly states that the amendment supersedes the PCD District provision.

E. Review and Establishment Procedure

A PCD zone shall be established in accordance with the Zoning Examiner Legislative Procedure, Section 3.5.3. Notice must be sent in accordance with the requirements of Table 3.2-1, except that notice must be sent to all property owners within 2,640' (one-half mile) from the boundaries of the proposed PCD and to all neighborhood associations within 2 miles of the boundary.

F. Amendment Procedures[55]

The Director of Planning and Development Services Department (PDSD) shall determine if the proposed amendment constitutes an administrative, minor, or major amendment according to the criteria set forth in this Section. The Director shall evaluate a proposed change for its compliance with the intent of the approved PCD and any impact that may cause a public health or safety risk. These amendment procedures do not preempt an applicant's ability to apply for other modification procedures available within the UDC. The following procedures shall be followed for an amendment to the PCD.

1. Administrative Amendment

An administrative amendment is one that does not create a substantial change to the Master Site Plan (MSP), an overall District Area (DA), or the overall PCD zone. The PDSD Director shall determine if the potential impacts to the PCD zone are a substantial or insubstantial change after review of the requested changes.

a. Process

An administrative amendment requires no public hearing unless one is required as part of the PCD adoption. Administrative amendments include the following:

(1) the categories of changes listed in Subsection b;

(2) other changes specifically identified as administrative amendments in the PCD zone approved by the Mayor and Council; and

[55] In response to staff comment, this text from LUC Sec. 2.6.5.6 has been added to the PCD procedures section, with modifications for clarity and consistency.

(3) categories of changes deemed by the PDSD Director to be comparable to those identified in (1) or (2) or otherwise to have no negative potential impacts on the PCD zone.

b. Administrative Amendment Categories

The following changes and comparable changes are presumed to be administrative unless they significantly affect the PCD zone or property owners other than the master developer.

(1) Changes that enhance or refine the original vision and/or purpose and intent statements expressed in the original PCD zone application. The applicant shall present information regarding the size and extent of the development activity that supports the change.

(2) Changes that continue to support specific plans or applicable City policies affecting the diversity of housing type and mixed use. The applicant shall present information showing how the proposal strengthens the creation of a sense of place in the neighborhoods and communities. Administrative amendments may be based upon new market design requirements or technological advances in architecture and infrastructure engineering design and construction.

(3) A transfer of commercial square footage or number of dwellings from one mixed use parcel to another that stays within the maximum and minimum ranges established by the PCD zone or the DA.

(4) A transfer involving a change in total number of dwellings or gross leasable floor area among DAs or zoning districts where the transfer amount stays within the minimum and maximum ranges established by the PCD District.

(5) Changes in configurations of individual DA boundaries to include modifications of boundaries, division of larger parcels, or combinations of parcels, that do not result in any loss in open space or change the overall permitted land uses and density and intensity of land uses of DAs within the PCD District.

(6) Changes in parcels, preservation of environmentally sensitive lands, or open space that are necessitated by the need to accommodate final engineered infrastructure as approved by the City, within the minimum and maximum range of density and intensity of development and there is no reduction in open space areas as established in the MDP.

(7) Adjustments or modifications to the number and order of phasing as long as the related infrastructure development is precedent to or concurrent with the development the infrastructure is to serve.

(8) Change of number, location or sites designated for schools, parks, or other public, government, or quasi-governmental facilities which either enhance the opportunity to create a sense of neighborhood and community, to better centralize such sites based on actual development densities and with the approval of the governmental unit that owns or will own the facility.

(9) Modifications in the design and construction of proposed infrastructure based upon technological advances when such modifications are accepted by the controlling City and/or Pima County agencies (including but not limited to transportation, water and wastewater, and flood control). Infrastructure capacity shall be adequate to provide service for the planned densities and intensities of use and phasing.

(10) Minor modifications or adjustments to intrusions, encroachments, proposed easements, proposed right-of-ways or open spaces, so long as the modifications fall within the general overall range and target densities and intensities for the PCD zone or DA.

(11) Changes in infrastructure that do not increase the cost or reduce the benefit to the public.

(12) Interpretation by the PDSD Director of terms and provisions of the PCD District and MSP that may result in insubstantial changes to the PCD.

(13) Placement and/or construction of identity or character features such as community art, entry monuments, mailboxes and neighborhood signage in compliance with the PCD zone standards unless there is a safety concern.

(14) Other insubstantial changes deemed to be administrative amendments by the PDSD Director, as long as the amendments do not negatively impact the general health, safety, and welfare of the residents of the City and do not modify the overall intent of the approved PCD District, including the compliance with the General Plan and specific plan policies for this area.

2. Minor Amendment

A minor amendment is one that does not substantially change the MSP, DAs, or the overall PCD District. A minor amendment includes changes that have greater potential impacts on the intensity of land use mix of the PCD District than the categories of changes that qualify as administrative changes for the adopted PCD District.

a. Process

A minor amendment requires a public hearing review in accordance with the Zoning Examiner Special Exception Procedure in Section 3.5.3. Minor amendments include (i) the categories of changes listed in Subsection b, (ii) changes specifically identified as minor

amendments in the PCD zone approved by the Mayor and Council, and (iii) categories of changes deemed by the PDSD Director not to change substantially the overall PCD zone but that have potential impacts on the intensity of land use mix of the PCD zone than the categories of changes that qualify as administrative changes.

b. Minor Amendment Categories

The following changes and comparable changes are presumed to be minor unless they significantly affect the PCD District or property owners other than the master developer.

(1) A change of up to ten percent in the number of units or gross leasable floor area in the DA or zoning district that is an increase or decrease in the overall PCD's minimum or maximum ranges.

(2) Multiple proposed administrative amendments or any single proposed administrative amendment that is viewed by the PDSD in relation to a series of past administrative amendments may be determined by the PDSD Director to be a minor amendment pursuant to this Section if they have the cumulative effect of contradicting the policies, spirit, and intent of the underlying General Plan documents.

(3) Other changes deemed to be minor amendments by the PDSD Director that do not qualify as administrative or major amendments within this section or within the subject PCD zone.

3. Major Amendment

A major amendment is one that substantially changes the MSP, a DA, or the overall PCD District or substantially changes the application of the PCD to a limited area.

a. Process

A major amendment is processed pursuant to the Zoning Examiner Legislative Procedure, Section 3.6.3. Major amendments include (i) those categories of changes listed in Subsection b, (ii) other changes specifically identified as major amendments in the PCD zone approved by the Mayor and Council, and (iii) those categories of changes that do not qualify as administrative or minor amendments for the adopted PCD zone and that are deemed by the PDSD Director to change substantially the overall PCD zone or the application of the PCD zone to a limited area.

b. Major Amendment Categories

The following changes and relative changes are major amendments:

(1) A reduction in open space other than as defined as an administrative amendment in Section 3.5.5.B..

(2) Changes in configurations of individual DA boundaries to include modifications of boundaries, division of larger parcels, or

combinations of parcels that result in a net loss in open space or a change to the minimum and maximum number of DAs proposed within the PCD zone.

(3) Change that would allow uses not otherwise permitted in the PCD zone, zoning district, or DA.

(4) A change of greater than ten percent in the number of dwellings or gross leasable floor area in a DA or zoning district that is an increase or decrease in the overall PCD zone's minimum or maximum ranges.

(5) A change that alters a design element and substantially reduces the mitigation of the intensity of development adjacent to an existing residential development outside of the PCD zone.

(6) A change that locates a more intense land use or increases the residential density adjacent to an existing residential development outside of the PCD zone or a change adjacent to existing residential development in the PCD zone where the intensity of development exceeds ten percent in the number of units or gross leasable floor area in the DA or zoning district.

G. Annual Report[56]

At the request of the PDSD Director the PCD property owner shall submit an annual progress report. The report shall begin to be submitted to PDSD once the issuance of building permits within the subject PCD commences. The report may include the following elements as requested by PDSD: phasing and completion update report on horizontal infrastructure, public facilities, open space dedication, number of housing units and nonresidential square footage, installation of trails, parks, and any other development activity requested by the department. The report shall be submitted by February 15 of the following year.

3.6. LAND USE PLAN ADOPTION AND AMENDMENT PROCEDURES[57]

3.6.1. PURPOSE

This section establishes a public process for adopting and amending the General Plan, specific plans, the Major Streets and Routes (MS&R) Plan, and redevelopment plans.

3.6.2. APPLICABILITY

The following applications are processed in accordance with the requirements of this Section:[58]

[56] Text from LUC Section 2.6.5.7.

[57] In response to staff comment, we relocated the Planning Commission Legislative Procedure to this section and consolidated the three plan-related procedures (general plan amendments, specific plan adoptions, and redevelopment plan adoptions) that use this PC procedure into this single renamed section. This will create less page flipping.

[58] The applications have been reorganized into a list to make them easier to understand.

A. Re-adoption of or amendment to the General Plan;

B. Adoption of or amendment to specific plans, such as, but not limited to subregional, area, and neighborhood plans;

C. Adoption of or amendment to the Major Streets and Routes (MS&R) Plan; and

D. Adoption of or amendment to redevelopment plans.

3.6.3. INITIATION

A. General Plan

The re-adoption of the General Plan may only be initiated by the Mayor and Council. Amendments to the adopted General Plan may be initiated by the Mayor and Council or privately initiated by the owner of the property for which the amendment is sought.[59] Notice of initiation must be provided in conformance with A.R.S. §9-461.06.

B. Redevelopment Plans

Prior to initiating the creation of a redevelopment plan, the Mayor and Council must approve a resolution declaring that the subject area is subject to redevelopment in accordance with state law. Amendments to an adopted redevelopment plan may be initiated by the Mayor and Council or privately initiated by the owner of the property for which a plan amendment is sought.

C. Specific and MS&R Plans

The creation of a specific plan shall only be initiated by the Mayor and Council. Amendments to a specific plan or the MS&R Plan may be initiated by the Mayor and Council or privately initiated by the owner of property for which an amendment is sought.

3.6.4. PRE-APPLICATION CONFERENCE REQUIRED

For privately initiated plan amendments, a pre-application conference with city staff to review requirements for the proposal in accordance with Section 3.2.1 and other applicable policies and regulations.

3.6.5. PUBLIC OUTREACH AND NEIGHBORHOOD MEETINGS REQUIRED

A. Re-Adoption of the General Plan

Public outreach for the re-adoption of the General Plan shall be conducted in accordance with state statute and adopted City policies.

B. Plan Amendments

A neighborhood meeting in accordance with Section 3.2.2 is required for privately initiated, site specific plan amendments. Mailed notice of the neighborhood meeting in accordance with Section 3.2.4.B is required. Exception: A neighborhood meeting is not required for amendments to the General Plan.

[59] "[O]r privately initiated by the owner of the property for which the amendment is sought" is proposed new text.

3.6.6. APPLICATION

A. Applicants of privately-initiated plan amendments requests are required to submit an application to the PDSD. See the Administrative Manual for the plan amendment application submittal requirements. Applications are reviewed for completeness in accordance with Section 3.2.1.

B. Applications must be in conformance with the General Plan, applicable specific plans, the UDC, other pertinent codes and regulations.

C. Applications for an amendment to a specific plan within two years of the date of adoption of the specific plan may not be processed unless the Mayor and Council consent to the application

3.6.7. STAFF REVIEW AND RECOMMENDATION

City staff shall review each application to determine, to the extent applicable, compliance with the General Plan, specific plans, the UDC, and any other code or regulation that may pertain to the application. When appropriate, City staff may request comments from other agencies, committees or advisory boards. Staff shall prepare and submit a report and recommendation to the Planning Commission and shall make copies available to the public prior to the public hearing.

3.6.8. PLANNING COMMISSION PUBLIC HEARING REQUIRED

A. Study Session

The Planning Commission may conduct a study session to determine the merits of a proposed amendment. The Planning Commission may remand an amendment to the PDSD for further development or set it for public hearing.

B. Public Hearing[60]

At least one public hearing before the Planning Commission on the request is required. Exception: For the re-adoption of or a major amendment to the General Plan, at least two Planning Commission public hearings, each at a different location in the City are required. Additional consultation and public notice in accordance with A.R.S. §9-461.06 are required.

C. Mailed and Published Notice Required

Mailed and published notice of the public hearing(s) is required in accordance with Table 3.2-1 and Sections 3.2.4.B and D, respectively.

3.6.9. PLANNING COMMISSION RECOMMENDATION AND RECONSIDERATION

A. General

1. Except for redevelopment plans, the Planning Commission may close a public hearing or may decide to continue a public hearing to a future time and place provided the hearing is closed within 90 days of the date of the initial hearing. Within 45 days after the close of the public hearing(s), the Planning Commission shall issue a recommendation, including a statement of

[60] Text from LUC Sec. 5.4.2.1.

the reasons for the recommendation. The PDSD shall transmit to the Mayor and Council the application, Planning Commission's recommendation and findings or other action of the Planning Commission, and the City Manager's recommendation.

2. If the Planning Commission fails to issue a recommendation within the prescribed time, the application will be forwarded to the Mayor and Council for a decision together with a statement of the reasons for the positions taken by members of the Planning Commission.

B. Redevelopment Plans

For redevelopment plans, the Planning Commission reviews the plan for compliance with the General Plan and any applicable specific plan at a public meeting or a public hearing. The Planning Commission shall forward a recommendation to Mayor and Council within 30 days from the date of its receipt of the plans for review. If no recommendation is forwarded within 30 days, the Mayor and Council may proceed with the public hearing on the redevelopment plan.

C. Reconsideration[61]

The Planning Commission may, by majority vote of all members, choose to reconsider a decision made on a plan amendment, provided the vote to reconsider is made within 30 days of the date of the original decision. Reconsideration may not take place earlier than 14 days from the date of the original decision, unless reconsideration occurs at the same meeting as the original decision. If the reconsideration occurs at a different meeting, all persons noticed for the public hearing before the Planning Commission must be notified prior to the reconsideration. This notification shall include the time, date, and location of the reconsideration. If the Planning Commission's decision is not reconsidered within the specified time period and the decision was to deny, the case shall be closed administratively. If, after reconsideration, the decision is to reaffirm a denial, the case shall be closed administratively immediately after the reconsideration.

[61] Text for this provision from DS 1-08.6.6.C.

3.6.10. MAYOR AND COUNCIL'S PUBLIC HEARING AND DECISION[62]

A. Public Hearing

1. The Mayor and Council shall hold a public hearing prior to making a decision. The notice for the public hearing before the Mayor and Council shall be the same as the notice before the Planning Commission except for redevelopment plans.

2. For redevelopment plans, notice must be published once each week for two consecutive weeks, the last publication to be at least ten days before the date set for the hearing.

B. Decision

1. The Mayor and Council may adopt, deny, continue the item, or remand the item to the Planning Commission. The Mayor and Council shall consider the application, the Planning Commission's recommendation and the City Manager's recommendation, and public comments when making their decision.

2. Adoption and re-adoption of an amendment to the General Plan shall be in conformance with A.R.S. §9-461.06 (G) and (K) and other applicable provisions.

C. Reconsideration by Mayor and Council[63]

The Mayor or a member of the Council may request the reconsideration of an authorization decision or a decision on a proposed ordinance provided the vote to reconsider is made at the original hearing or within 30 days of the date of the decision. A consideration shall be scheduled upon a majority vote in favor of the reconsideration. If the reconsideration occurs after the time when the decision is initially made, then public notice of the reconsideration must be given in the same manner as for the initial decision.[64]

3.6.11. RE-APPLICATION[65]

New plan amendment applications may not be accepted for any property that had a previous application acted upon by the Mayor and Council within one year of the date of that action, except as follows:

[62] Text from LUC Sec. 5.4.2.2.
[63] Text from LUC Sec. 5.4.2.3.
[64] The last sentence of this provision requires clarification.
[65] Text from DS 1-08.6.8.

A. The application does not involve a request for a plan designation that was denied;

B. There has been substantial change in the use of the property adjacent to the plan amendment site since the previous case was heard; or

C. There has been an ownership change on the plan amendment site and a substantially modified development concept is presented.

3.7. UDC TEXT AMENDMENT PROCEDURE

3.7.1. PURPOSE

This section establishes a public process for amending the Unified Development Code (UDC).

3.7.2. APPLICABILITY

The following procedure applies to text amendments to the UDC, including amendments enabling the establishment of overlays. The establishment, amendment, and dissolution of specific applications of certain overlays to specific properties, such as the Neighborhood Preservation Zones and Historic Preservation Zones are decided by the Mayor and Council through the Zoning Examiner Legislative Procedure described in Section 3.5.3. Refer to Article 5 (Overlays) for which overlay must be processed in accordance with the Zoning Examiner Legislative Process.

3.7.3. INITIATION

Text amendments may only be initiated by the Mayor and Council. The Mayor and Council may initiate a text amendment on their own initiative or at the request of the Planning Commission, City staff, or a private individual who has submitted evidence that a public benefit would result from such an amendment. The PDSD is responsible for the development and coordination of a text amendment.

3.7.4. DEVELOPMENT OF A TEXT AMENDMENT

A. **Department Responsible**
The PDSD is responsible for the development and coordination of a text amendment. Staff shall submit a report and recommendation to the Planning Commission and make copies available to the public prior to the public hearing.

B. **Public Outreach and Neighborhood Meetings Required**

1. **Text Amendments Creating or Enabling an Overlay Zone**
A neighborhood meeting in accordance with Section 3.2.2 is required for text amendments to the UDC that propose creating or enabling an overlay zone to apply to specific properties.[66]

[66] Proposed new text recommended by staff.

2. Text Amendments with Citywide Application

The PDSD staff shall seek input on a proposed text amendment to the UDC from the public. The manner and extent to which public input is conducted shall be determined by the PDSD Director on a per text amendment basis.

C. Application

UDC Text amendments do not require submittal of an application.

D. Staff Review and Recommendation

City staff shall review each proposed amendment to determine, to the extent applicable, compliance with the General Plan, specific plans, the UDC, and any other code or regulation that my pertain to the application. When appropriate, City staff may request comments from other agencies, committees or advisory boards. Staff shall prepare and submit a report and recommendation to the Planning Commission and shall make copies available to the public prior to the public hearing.UDC Text amendments are not required to submit an application.

3.7.5. PLANNING COMMISSION PUBLIC HEARING REQUIRED[67]

A. Study Session

The Planning Commission may conduct a study session to determine the merits of a proposed amendment. The Planning Commission may remand an amendment to the PDSD for further development or set it for public hearing.

B. Public Hearing[68]

At least one public hearing with the Planning Commission on the request is required.

C. Mailed and Published Notice Required

Mailed and published notice of the public hearing(s) is required in accordance with Sections 3.2.4.B and D, respectively.

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[67] Text of this subsection (with renamed heading) was moved from the general legislative procedures to here because most (if not all) of the general procedures can be deleted or move to this consolidated and modified legislative procedure section.
[68] Text from LUC Sec. 5.4.2.1.

3.7.6. PLANNING COMMISSION RECOMMENDATION AND RECONSIDERATION

A. General

1. The Planning Commission may close a public hearing or may decide to continue a public hearing to a future time and place provided it is closed within 90 days of the date of the initial hearing. Within 45 days after the close of the public hearing, the Planning Commission shall issue a recommendation, including a statement of the reasons for the recommendation. The PDSD shall transmit to the Mayor and Council the application, Planning Commission's recommendation and findings or other action of the Planning Commission, and the City Manager's recommendation.

2. If the Planning Commission fails to issue a recommendation within the prescribed time, the application, will be forwarded to the Mayor and Council for a decision, together with a statement of the reasons for the positions taken by members of the Planning Commission.

B. Reconsideration[69]

By majority vote of all the members, the Planning Commission may choose to reconsider a decision made on a UDC text amendment application, provided the vote to reconsider is made within 30 days of the date of the original decision. Reconsideration may not take place earlier than 14 days from the date of the original decision, unless reconsideration occurs at the same meeting as the original decision. If the reconsideration occurs at a different meeting, all persons noticed for the public hearing before the Planning Commission must be notified prior to the reconsideration. This notification shall include the time, date, and location of the reconsideration. If the Planning Commission's decision is not reconsidered within the specified time period and the decision was to deny, the case shall be closed administratively. If, after reconsideration, the decision is to reaffirm a denial, the case shall be closed administratively immediately after the reconsideration.

3.7.7. MAYOR AND COUNCIL'S PUBLIC HEARING AND DECISION[70]

A. Public Hearing

The Mayor and Council shall hold a public hearing prior to making a decision. The notice for the public hearing before the Mayor and Council shall be the same as the notice before the Planning Commission..

B. Decision

The Mayor and Council may adopt, deny, continue the item, or remand the item to the Planning Commission. The Mayor and Council shall consider the application, the Planning Commission's recommendation and the City Manager's recommendation, and public comments when making their decision.

[69] Text for this provision from DS 1-08.6.6.C.
[70] Text from LUC Sec. 5.4.2.2.

C. Reconsideration by Mayor and Council[71]

The Mayor or a member of the Council may request the reconsideration of an authorization decision or decision on a proposed ordinance provided the vote to reconsider is made at the original hearing or within 30 days of the date of the decision. A consideration shall be scheduled upon a majority vote in favor of the reconsideration. If the reconsideration occurs after the time when the decision is initially made, then public notice of the reconsideration shall be given in the same manner as for the initial decision.[72]

3.8. LAND DIVISION AND SUBDIVISION

See Article 8: Land Division and Subdivision Standards.

3.9. APPEALS

The Board of Adjustment, Design Review Board, the Mayor and Council and the Zoning Examiner, as applicable, hear and decide on appeals in which it is alleged there is an error or abuse of discretion in any order, requirement, decision, interpretation, or other determination made by a City official in the enforcement of the UDC. Appeals are limited to review of substantive zoning regulations, such as development standards and use specific standards and required findings for approval.[73] This Section provides the appeals to the DRB, the Mayor and Council and the Zoning Examiner. For Board of Adjustment Appeals, see Section 3.10

3.9.1. DESIGN REVIEW BOARD (DRB) APPEAL PROCEDURE[74]

A. General

Appeals to the DRB may be made by any party of record from decisions by the PDSD Director pertaining to the applications provided in Section 3.9.2.B below.

B. Applicability

Appeals to the DRB may be made from the following decisions by the PDSD Director:

[71] Text from LUC Sec. 5.4.2.3.
[72] The last sentence of this provision requires clarification.
[73] The same applicability language from the general appeals section was carried over for clarity.
[74] This section was reorganized for clarity to combine the recent amendments to LUC Sec. 23A-32.1.F and the new 23A-64. There was significant redundancy in the current text.

1. Neighborhood Preservation Zone (NPZ) Design Review applications. An appeal under this section must be based upon an error in the Director's decision finding compliance or noncompliance with the neighborhood specific design manual and compatibility review standards; and,

2. Architectural Variation and Privacy Mitigation Plans associated with a Flexible Lot Development.

C. Appeal to the Design Review Board (DRB)

1. Filing an Appeal

Appeals must be filed with PDSD within the time provided by the procedure from which the decision is appealed. An appeal will be scheduled for consideration by the DRB at the next regular meeting that is at least 35 days following the filing of the appeal. PDSD may, for good cause, grant one extension to the second regular meeting after the filing of the appeal. The filing of an appeal stays the issuance of permits and approvals and all formal land use action on the development proposal subject to the appeal.

2. Limitation on Contact With The Design Review Board

Except for duly noticed site inspection, study and public hearing, no person shall contact or discuss the merits of any appeal with any members of the DRB between the filing of the appeal and the final determination by the DRB.

3. PDSD Director's Report

The PDSD Director shall forward the appeal to the DRB any additional materials provided by the appellant, any materials provided by any other party, and the Director's report and recommendation no later than five days prior to the scheduled meeting.

4. Public Hearing and Public Notice Required

a. The DRB shall conduct a public hearing on the appeal. The DRB may hold a prior study session but the application for appeal must be scheduled for public hearing within 30 days of acceptance. Required public notice for the appeal must be in accordance with Section 3.2.4. and must be sent not less than 15 days and not more than 30 days prior to the hearing. The public hearing on the appeal is conducted in accordance with the rules and regulations of the DRB.

b. The DRB may continue the public hearing for up to 45 days. The public hearing shall not be continued for more than 45 days without the consent of the applicant, regardless of who is the appellant.

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5. Decision

a. The DRB shall reach a decision following the close of the public hearing.
b. The DRB may affirm, reverse or modify the decision subject to appeal and may impose conditions necessary and appropriate to implement the UDC and other pertinent regulations. The decision by the DRB shall be announced and is final at the time the decision is made following the public hearing.
c. The DRB in formulating its preliminary findings and recommendations shall apply the same standards applied by the Design Professional.
d. Written confirmation of the decision shall be provided within three days of the date of decision to all parties of record.

6. Reconsideration

The appellant, the applicant, or the PDSD Director may request reconsideration of a decision on an appeal provided the request is filed with the PDSD Director within 14 days of the date the decision is announced. A request for reconsideration may be made only where there is an error in fact or law in the decision, or where a party has new evidence that was not available at the time of the public hearing. The request shall be scheduled for the next regular meeting of the DRB.

7. Issuance of Permits and Approvals

No permits or development approvals based on the decision shall be issued, no inspections performed or other formal action taken, while the appeal is pending before the DRB or before the expiration of the period for reconsideration where no request is filed. If a request for reconsideration is filed, no permits or development approvals based on the decision shall be issued, or other formal action taken until completion of action on the request for reconsideration is announced by the DRB.

3.9.2. MAYOR AND COUNCIL APPEAL PROCEDURE[75]

A. Applicability

Appeals to the following decisions are processed in accordance with the Mayor and Council Appeal Procedure:

[75] Text from Sec. 23A-62, with minor clarifications.

1. Decisions by the PDSD Director on Hillside Development Zone, Scenic Corridor Zone, Watercourse Amenities Safety and Habitat areas, Environmental Resource Zone, and Historic Preservation Zone applications;

2. Decision by the Zoning Examiner on a Special Exception Land Uses; and,

3. Other matters as designated in the UDC.

B. Filing of an Appeal

Appeals must be filed with the City Clerk's Office with a copy to the PDSD within the time provided by the procedure from which the decision is appealed. The filing of an appeal stays the issuance of any permits or development approvals based on the decision and all formal land use action on the development proposal subject to the appeal.

C. Limitation on Contact with the Mayor and Council

No person shall contact or discuss the merits of any appeal with the members of the Mayor and Council between the filing of the appeal and the final determination by the Mayor and Council.

D. Review and Recommendation by Boards and Committees

1. **Design Review Board (DRB) Review**
   Appeals from decisions on SCZ, ERZ and HPZ applications are forwarded to the DRB for review and recommendation if such review and recommendation has not occurred.

2. **Stormwater Technical Advisory Committee (STAC) Review**
   Appeals from decisions on ERZ and WASH applications shall be forwarded to the Stormwater Technical Advisory Committee (STAC) for review and recommendation if such review and recommendation has not occurred.

E. City Manager's Communication

The PDSD Director shall forward to the Mayor and Council the appeal, any additional materials provided by the appellant, the recommendations of the applicable advisory body(ies), any materials provided by any other party and the City Manager's report and recommendation.

F. Public Hearing and Public Notice Required

1. The Mayor and Council may hold a study session and shall hold a public hearing on the appeal in accordance with the rules and standards of the Mayor and Council. The Mayor and Council shall reach a decision following the close of the public hearing. The Mayor and Council may continue the public hearing for up to 45 days. The public hearing shall not be continued for more than 45 days without the consent of the property owner of the subject site.

2. Public notice of the public hearing shall be provided not less than 15 days

and not more than 30 days prior to the hearing. Public notice shall be to the applicant, the same parties notified of the initial application and those who provided oral or written comments in the course of the prior procedure. Notice shall be provided in the same manner as for the procedure from which the appeal is filed.

G. Mayor and Council Decision

1. The Mayor and Council shall decide the appeal based upon the application, testimony, evidence and other materials considered in the prior proceeding, the City manager's communication and the testimony and evidence presented in the public hearing. Mayor and Council shall consider the provisions, purpose and intent of the plans and standards that apply to the appeal.

2. The Mayor and Council may affirm, reverse or modify the decision that is appealed and may establish such conditions as are appropriate to implement the UDC and other pertinent standards.

3. The decision by the Mayor and Council shall be announced and is considered a final action for the purposes of the UDC.[76]

H. Issuance of Permits and Approvals

No permits or development approvals based on the decision shall be issued or other formal action taken, while the appeal is pending before the Mayor and Council or before the expiration of the period for reconsideration where no request is filed. If a request for reconsideration is filed, no permits or development approvals based on the decision shall be issued, or other formal action taken until completion of action on the request for reconsideration is announced by the Mayor and Council.

3.9.3. TAKINGS AND EXACTIONS APPEAL PROCEDURE[77]

Appeals to final discretionary decisions that require a dedication or an exaction as a condition for granting a development approval and appeals to the adoption or amendment of a zoning regulation on the grounds that the regulation creates an unconstitutional "taking" of private property in violation of the Fifth Amendment to the United States Constitution (a "takings appeal") shall be processed in accordance with this section.

A. Decisions Subject to Appeal

1. A takings appeal may be filed by a property owner as follows:

   a. Where the property owner has a legally recognized property interest in the property that is subject to the City decision; and
   b. Where a final discretionary administrative decision has been made by the PDSD Director, Zoning Examiner, or the Mayor and

[76] Last sentence added per staff comment.
[77] Text taken from Sec. 23A-63.

Council to require the dedication of property or the payment of a monetary exaction as a condition for the approval of the development application in a manner that is alleged to constitute a taking of property; or

c. A zoning regulation has been adopted or amended and is alleged to constitute a taking of property.

2. A takings appeal may not be filed by a property owner regarding the application of fees, assessments, taxes, or any other dedication or exaction required by a legislative act that does not give discretion to the administrative agency or official to determine the nature or extent of the requirement.

B. Filing of Appeal

An appeal must be in writing and filed with or mailed to the Zoning Examiner within 30 days after the final action is taken. Final action on a zoning regulation is the effective date of the regulation. No fee is charged for an appeal under this Section.

C. Public Hearing

1. Public notice shall be mailed to the appellant and to the parties entitled to notice of the administrative decision at least ten days before the appeal is heard.

2. The Zoning Examiner shall schedule a public hearing on the appeal to be held no later than 30 days after receipt of the appeal.

D. Statement of City Authority

In all proceedings under this Section, the City shall provide the Zoning Examiner with a statement of the City's authority to require the dedication or exaction or to adopt or amend the zoning regulation. The City has the burden to establish in its statement of authority the nexus between the dedication or exaction and a legitimate governmental interest, and that the proposed dedication, exaction or zoning regulation is roughly proportional to the impact of the proposed use, improvement or development or, in the case of a zoning regulation, that the zoning regulation does not create a taking of property in violation of the Fifth Amendment to the United States Constitution.

E. Zoning Examiner's Decision

The Zoning Examiner shall decide the appeal within five days after the appeal is heard. If the City has met its burden set forth in subsection D above, the appeal shall be denied. If the City has failed to meet its burden as set forth in subsection D above, the Zoning Examiner shall:

1. In the case of a dedication or exaction, modify or delete the requirement appealed under this section.

2. In the case of a zoning regulation, transmit a recommendation for further action to the Mayor and Council.

F. Appeal of Zoning Examiner's Decision[78]

At anytime within 30 days after the Zoning Examiner renders a decision an individual may file a complaint for trial de novo in the superior court, pursuant to ARS 9-500.12.G.

3.10. BOARD OF ADJUSTMENT APPEALS AND VARIANCES

3.10.1. GENERAL BOARD OF ADJUSTMENT PROCEDURES

A. Applicability

The procedures in this Section 3.10.1, apply to both Board of Adjustment hearing on appeals and requests for variances. Appeals and applications for variances are filed with the PDSD.

B. Director of Planning and Development Services Department (PDSD) Recommendation

The PDSD Director prepares a recommendation and forwards it, together with any additional materials provided by the applicant or any other party to the applicant and the B/A not less than five days prior to the scheduled public hearing. The recommendation shall be in the form of a written report that includes the request and present plans, policies, standards, and other information relating to the request. The recommendation shall include a recommended action by the B/A. or a statement that the PDSD has no objection to the request. The PDSD Director shall also solicit recommendation from the Design Review Board or the Stormwater Technical Advisory Committee (STAC) if a recommendation from either of these bodies is required by Section 3.10.2.A or Section 3.10.3.I below.

C. Notice

Notice of public hearings must comply with the notice requirements in Table 3.2-1.

D. Limitation on Contact with the Board of Adjustment

Except for a duly noticed site inspection, study, and public hearing, no person shall contact or discuss the merits of any case with the members of the B/A between the filing of the appeal or variance and the final determination by the B/A.

[78] This provision added per staff comment.

E. Board of Adjustment Public Hearing

The B/A may hold a study session and shall hold a public hearing on an application in accordance with the rules and standards of the Board of Adjustment and the requirements listed below.

1. Except as permitted in the public hearing and the procedures for submission of written materials, no person shall communicate with a member of the B/A regarding a matter to be decided by the board any time prior to the expiration of the time for reconsideration of a decision;

2. The chair of the B/A or person presiding may administer oaths and may compel the attendance of witnesses and the production of relevant information, including witnesses requested by any party;

3. The chair or person presiding may impose any reasonable limitations on the number of speakers heard and may establish the nature and length of testimony by speakers;

4. Comments may be given by any person, either verbally or in writing;

5. Following the close of the hearing and prior to making a decision or recommendation, the B/A may discuss the matter and further question staff or any party submitting comment; and,

6. A record of the hearing must be made and retained as a public record.

F. Decision

Following the public hearing the decision by the B/A is announced and is final at the time the decision is made.

G. Reconsideration

The B/A may consider one request for reconsideration by the applicant or a party of record, if :

1. A written request is filed with the Zoning Administrator within 14 calendar days after the board has rendered its decision, and

2. A request for reconsideration may be made only where there is an error in fact or law in the decision or where a party has new evidence or material that was not available at the time of the public hearing. The request shall be scheduled for the next regular meeting of the Board of Adjustment.

H. Issuance of Permits and Approvals

No permits or development approvals based on the decision shall be issued, no inspections shall be performed, nor other formal action shall be taken while the case is pending before the B/A or before the expiration of the period for reconsideration if no request is filed. If a request for reconsideration is filed, no permits or development approvals based on the decision shall be issued, or

other formal action taken until completion of action on the request for reconsideration is announced by the Board of Adjustment.

3.10.2. APPEALS

A. Decisions Subject to B/A Appeal

Appeals to the following decisions are processed in accordance with the B/A appeal procedure:

1. Decisions by the Zoning Administrator, including interpretations of the UDC, notices of violations of the UDC, and determinations of violations of conditional uses consistent with Section 10.3.3;

2. Decisions by the PDSD Director on applications processed in accordance with the 50' Notice Procedure, Section 3.3.4.

3. Decisions by the PDSD Director on a Special Exception Land Use;

4. Review decisions where the PDSD Director has challenged the historic designation of a structure proposed for demolition;

5. Decisions of the Design Review Board (DRB) pertaining to applications in Neighborhood Preservation Zones in accordance with Section 5.11.7.F;[79]

6. Decisions by the PDSD Director on Design Development Option applications[80]; and,

7. Other determinations in accordance with the UDC.

B. Filing of an Appeal

Appeals must be filed with the Zoning Administrator within the time provided by the procedure from which the decision is appealed. An appeal shall be scheduled for consideration by the B/A at the next regular meeting that is at least 35 days following the filing of the appeal. The Zoning Administrator may, for good cause, grant one extension to the second regular meeting after the filing of the appeal. The filing of an appeal stays the issuance of permits and approvals and all formal land use action on the development proposal subject to the appeal.

C. Public Hearing

The B/A may continue the public hearing for up to 45 days. The public hearing shall not be continued for more than 45 days without the consent of the applicant, regardless of who is the appellant. Public notice of the public hearing is required in the same manner as for the procedure from which the appeal is filed.

[79] This provision added (language modified for clarity) from new NPZ appeals amendment.

[80] Appeals to the PDSD Director's decision on DDO applications are currently processed per the B/A Variance Procedure. Staff recommends allowing these type of appeals to be considered through the B/A Appeal Procedure because the notification requirements are similar to those of the original DDO application.

D. Decision

The B/A may affirm, reverse, or modify the decision being appealed, and may impose conditions necessary and appropriate to implement the UDC and other pertinent standards.

E. Reconsideration

The appellant, the applicant, the Zoning Administrator, or in the case of a decision relating to NPZ design review, the PDSD Director,[81] may request reconsideration of a decision on an appeal as provided in Section 3.10.1.G.

3.10.3. VARIANCES

A. Applicability

The following applications are processed in accordance with the B/A Variance procedure:

1. Variances from the requirements of the UDC; and

2. Requests for Major Modifications of Development Regulations (MDR) in the Rio Nuevo District (see Section 5.11.9 for the minor and major MDR criteria).

B. Pre-Application Conference Required

A pre-application conference with city staff is required in accordance with Section 3.2.1.

C. Application

Submittal of an application to the PDSD is required in order to process the request. See the Administrative Manual for the application submittal requirements. Applications shall be reviewed for completeness in compliance with Section 3.2.3.

D. Notice of Application

The PDSD Director shall mail and post notice of the application in accordance with Section 3.2.4.B & .E.

E. Neighborhood Meeting Required

The applicant is required to conduct a neighborhood meeting in accordance with Section 3.2.2. Notice of the neighborhood meeting is required in compliance with Table 3.2-1 and Section 3.2.

F. Public Comment Period

For twenty (20) days following the date on which notice is mailed, the public may submit comments on the proposal to the PDSD.

[81] This provision added from new NPZ appeals amendment.

G. Review

1. Review is conducted by the PDSD staff and other agencies, committees or advisory boards as required by the UDC, and others as may be deemed appropriate by the PDSD Director.

2. Variance requests from the Environmental Resource Zone standards require review by the Design Review Board and the Stormwater Technical Advisory Committee as provided in Section 5.7.7. Variance requests from Scenic Corridor Zone (SCZ), the Gateway Corridor Zone, the landscaping and screening regulations, and the native plant protection standards require DRB review as provided in Sections 5.3.14, 5.5.5, 7.6.9.D, and 7.7.6.B respectively.

H. Public Hearing and Public Notice Required

1. Public Hearing
A public hearing with the B/A on the request is required.

2. Mailed Notice of the Public Hearing
Mailed notice of the public hearing is required in accordance with Table 3.2-1 and Section 3.2.4. The notice of the public hearing may be consolidated with the notice of the application submittal.

I. Advisory Board Review

Variance requests from the Environmental Resource Zone standards require review by the Design Review Board (DRB) and the stormwater technical advisory committee (STAC) as provided in Section 5.7.7. Variance requests from Scenic Corridor Zone (SCZ), the Gateway Corridor Zone, the landscaping and screening regulations, and the native plant protection standards require DRB review as provided in Sections 5.3.14, 5.5.5, 7.6.9.D, and 7.7.6.B respectively.

J. Board of Adjustment Decision

The B/A may close the public hearing or continue it to a specific date, time, and place provided the continuance is not for more than 120 days. The B/A shall issue a decision in accordance with the findings required for approval of the application at the conclusion of the public hearing.

K. Findings for Approval[82]

The B/A may approve a variance only if it finds:

1. That, because there are special circumstances applicable to the property, strict enforcement of the UDC will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

[82] Text from LUC Sec. 5. 1.7.3.B.1.

2. That such special circumstances were not self-imposed or created by the owner or one in possession of the property;

3. That the variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

4. That, because of special circumstances applicable to the property, including its size, shape, topography, location, and surroundings, the property cannot reasonably be developed in conformity with the provisions of the UDC;

5. That the granting of the variance shall not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;

6. That the proposed variance shall not impair an adequate supply of light and air to adjacent property, substantially increase congestion, or substantially diminish or impair property values within the neighborhood; and,

7. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the UDC provisions that are in question.

L. Variance Powers Not Granted the Board of Adjustment[83]

The B/A may not:

[83] Text from 5.1.7.3.B.2

1. Make any changes in the uses permitted in any zoning classification.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

3. 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.

4. Grant a variance to the use-specific standards required of Educational Uses as provided in Section 4.9.3.D.

5. Delete or vary any use-specific standards 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.

M. Notice of Decision Required

Notice of the decision shall be mailed within three (3) days of the decision to the applicant and persons who received notice of acceptance of application. See Section 3.2.4.

N. Reconsideration

The B/A may consider one request for reconsideration by the applicant or a party of record, in accordance with Section 3.10.1.F.

O. Change of Condition

After a variance has been granted by the B/A, the property owner/applicant may request a change to a condition for approval imposed by the B/A based upon changed circumstances that affect the condition. The request shall be heard by the B/A. The B/A shall initially determine whether the request is for a minor change of condition that does not materially alter the variance and does not materially affect any other properties. If the B/A determines that the request is for a minor change of condition, it may decide whether to approve or deny the change. If the B/A determines that the request is not a minor change of condition and there are reasonable grounds for the request, the case shall be scheduled for a public hearing and notice provided in accordance with Section 3.2.4.

P. Expiration of Approval

Any variance granted through this process or on appeal is null and void if building permits are not issued or compliance with conditions of approval does not occur within 180 days from the date of approval. A shorter time period for compliance may be required as a condition of approval. Two extensions of up to 180 days each may be granted by the PDSD Director for good cause. An exception to the length of the approval period is a variance granted for lot size reduction for which a plat has been recorded in compliance with the variance.

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3.11. ADMINISTRATIVE MODIFICATIONS

3.11.1. DESIGN DEVELOPMENT OPTION (DDO)[84]

A. Purpose

This section is established to provide an administrative process by which specific development and dimensional standards of the UDC may be modified under certain criteria applicable to a land use within a zone. A Design Development Option (DDO) is intended to encourage the following:

1. Flexible design solutions that are within the intent of the regulation, encourage efficient use of land, do not create a nuisance on adjacent property, and address situations where strict application of a requirement may not be practical;
2. Energy conservation through site and building design;
3. Innovation in site planning and architectural design; and
4. Enhancement of community aesthetics.

B. Applicability

The following dimensional, screening, and landscaping standards may be considered for modification under this Section:

1. Setbacks;
2. Height of accessory walls and fences when the wall and fence heights do not exceed two feet above the maximum height permitted;
3. Landscaping and screening standards when the modification does not decrease the required area in square footage of landscaping or height of a screening feature;

C. PDSD Review and Decision

1. The PDSD Director shall review and make a final decision on a DDO in accordance with the 50' Notice Procedures in Section 3.3.5. Approval of a DDO request may only occur based on the findings in Section 3.11.1.D below.
2. For landscaping and screening modification requests as provided in Section 3.11.1.B.3 above, the Design Review Board shall review the request and make a recommendation prior to a decision by the PDSD Director.
3. Only one application is required when more than one DDO is being requested and may be processed concurrently in accordance with the most restrictive applicable procedure. For example, applications requesting a modification to the setback and landscaping standards shall go to the

[84] The DDO text has been rewritten to incorporate the recommended text provided by staff. Some organizational modifications were made to the text to improve clarity.

Design Review Board for a recommendation prior to a decision by the PDSD Director.[85]

D. Findings for Approval

1. General Findings for All Modifications

For all modification requests, the PDSD Director may approve a DDO request only if the request meets the following findings:

a. Is not a request previously denied as a variance;

b. Does not modify a conditional requirement or finding to determine whether the use should be allowed in the zone;

c. Is not to a condition of approval for a rezoning or Special Exception Land Use application;

d. Does not modify a requirement of an overlay zone, such as, but not limited to, Scenic Corridor, Environmental Resource, Major Streets and Routes Setback, or Airport Environs;

e. Does not result in deletion or waiver of a UDC requirement;

f. Does not create a situation where proposed development substantially reduces the amount of privacy that would be enjoyed by nearby residents any more than would be available if the development was built without the modification;

g. Does not create a situation where proposed development will block visibility within the required visibility triangle on adjoining streets for either vehicular or pedestrian traffic;

h. Does not create a situation where the proposed development will cause objectionable noise, odors, trespass lighting, or similar adverse impacts adjacent properties or development; and

i. Does not create a situation where the development will result in an increase in the number of residential dwelling units or the square footage of nonresidential buildings greater than would occur if the development was built without the modification.

2. Specific Findings for Setback and Wall Height[86] [87]

In addition to the findings in Section 3.11.1.D, the PDSD Director shall find, in the case of setback and wall height only, that the modification:

a. Does not create a situation where proposed development will obstruct significant views of dramatic land forms, unusual stands of

[85] The provision allowing submittal of a single application and concurrent processing when multiple DDOs are being requested was added at the request of Planning Commission.

[86] The term "dimensional standards" was removed from this section. Thus, this section now applies only to setbacks and wall heights.

[87] The following finding is proposed for deletion on the grounds that this is a variance finding and is overly restrictive when considering minor administrative modifications: "[a]pplies to property that cannot be developed in conformity with the standards of the UDC due to physical circumstances or conditions of the property, such as irregular shape, narrowness of lot, or exceptional topographic conditions;

vegetation, or parks from nearby properties substantially more than would occur if the development were built without the modification;

b. Provides design alternatives to better integrate the development into the design character of the immediate neighborhood;

c. Does not apply to a setback requirement of a Flexible Lot Development (FLD);

d. Does not create a situation where the proposed development will interfere with the optimum air temperature or solar radiation orientation of buildings on adjoining properties substantially more than would occur if the building or structures were built without the modification; and

e. Does not create a situation where the proposed use of the property will impose objectionable noise levels on adjoining properties greater than would occur if the buildings or structures were built without the modifications.

3. Specific Findings for Screening

For screening modifications, in addition to the findings in Section 3.111.D, the PDSD Director shall make a finding that the modification[88] does not lower the height of a required screening device to a point where it does not accomplish its purpose.

3.12. MISCELLANEOUS PERMITS AND APPROVALS

3.12.1. ARCHITECTURAL DOCUMENTATION PRIOR TO DEMOLITION OF HISTORIC BUILDINGS[89]

A. Applicability

These regulations apply when an application for a demolition permit involves the complete or partial demolition of a building that is partially or in its entirety 50 or more years old.

B. Required Documentation

Applications for permits for the demolition of buildings that are partially or in their entirety 50 or more years old must include architectural documentation to provide a permanent record of buildings of historical significance before their loss. Demolition applications are available from PDSD.

1. Minor Documentation

Minor Documentation is required for demolition permit requests for all buildings that are partially or in their entirety 50 or more years old, but are not contributing properties within designated or pending National Register Historic Districts; are not individually listed on the National

[88] This section was modified consistent with staff comment. The original text to this section is very awkwardly organized, as only some of the findings might apply to certain modifications. We noted that the findings are "as applicable" and placed an "and/or" to cover all permutations of findings.
[89] Text from LUC Sec. 5.3.1.

Register of Historic Places; and do not meet the eligibility criteria for the National Register of Historic Places. For buildings that otherwise meet the criteria for Full Documentation, only Minor Documentation is required if the demolition will be limited to an addition that is less than 50 years old.

2. **Full Documentation**
   Full Documentation is required for demolition permit requests for all buildings that are partially or in their entirety 50 or more years old and are

   a. Contributing properties within designated or pending National Register Historic Districts;

   b. Individually listed on the National Register of Historic Places; or

   c. Meet the criteria for eligibility for the National Register of Historic Places.

3. **Additional Documentation**
   If the building to be completely or partially demolished is located in a Historic Preservation Zone (HPZ) or the Rio Nuevo and Downtown Zone (RND) overlay zone, compliance with the applicable demolition review and approval requirements contained in Section 5.8.7 through Section 5.8.9 and Section 5.11.7 is required in addition to the provisions contained in this section.

C. Review Required

The applicant shall submit Minor or Full Architectural Documentation to PDSD for review before issuance of a demolition permit.

D. Application and Review Process

1. Prior to the submittal of a demolition permit application, the applicant may meet with the PDSD. At that time, the PDSD shall determine whether the application requires Minor or Full Documentation.

2. At the time of submittal, the applicant shall submit two copies of the demolition permit application and all required architectural documentation to the PDSD. All new photos must be printed on photographic paper.

3. If Minor Documentation is required, the PDSD reviews and approves the applications for completeness. The PDSD determines and informs the applicant that the Minor Documentation is complete, or of any additional documentation which is required within five working days of the submittal date.

4. If Full Documentation is required, the Historic Preservation Officer (HPO) reviews and approves the applications for completeness, and informs the applicant that Full Documentation is complete or informs the applicant of any additional documentation which is required within five working days of the submittal date.

5. If the PDSD or the HPO determine that the required architectural documentation is complete, then a demolition permit application may be processed. The applicant must demonstrate compliance with all provisions of the Tucson Code before a demolition permit will be issued.

E. Minor Documentation Required

Minor Documentation shall include:

1. Current photographs of the front, rear and sides of the building to be completely or partially demolished (printed on photographic paper); and
2. Documentation from the County Assessor's records, the State Historic Preservation Office, or other official government records confirming the year of construction and dates of additions to the building to be demolished. Some of this documentation of construction dates may be available at the PDSD.

F. Full Documentation Required

Full Documentation shall include:

1. Floor plans with measured dimensions;
2. Photographs of the front, rear and sides of the building to be completely or partially demolished, and all interior rooms;
3. A 'context photograph' illustrating the relationship between the building to be completely or partially demolished and the nearest adjacent buildings in the Development Zone. The Development Zone is defined in Section 11.4;
4. Copies of old photographs of the building to be completely or partially demolished (taken at least 20 years prior to the demolition application), if in the possession of the applicant;
5. Documentation from the County Assessor's records, the State Historic Preservation Office, or other official government records confirming the year of construction and dates of additions to the building to be demolished. Some of this documentation of construction dates may be available at PDSD;
6. A general description of construction materials, such as exterior walls, roofing, windows, porches, and carports of the building to be demolished; and
7. A list of any important historical events or historically significant persons related to the building to be demolished, if known to the applicant.

G. Documentation Retention

Upon approval of the demolition permit, the HPO shall retain one copy as a record of a lost historic resource and forward one copy to the Tucson-Pima County Historical Commission for their records.

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3.12.2. PROTECTED DEVELOPMENT RIGHT[90]

A. General

After a site plan or tentative or final plat has been approved, an applicant may apply for a protected development right (PDR). A PDR is a right granted to undertake and complete the development and use of property as shown on the PDR Plan without needing to comply with subsequent changes in zoning standards and technical standards adopted during the period of the PDR, except as provided by A.R.S., Sec. 9-1204. In the event of a conflict between the provisions of this (UDC and A.R.S., Sec. 9-1201 through 9-1205 inclusive, as they may be amended, the statutory provisions shall govern.

B. Application

The PDR application requirements are provided in the Administrative Manual.

C. Granting of a PDR

A PDR shall be granted upon approval by the Mayor and Council.

D. Effective Date

A PDR shall be deemed established with respect to a property on the effective date of Mayor and Council approval of the PDR Plan.

E. Duration

The duration of the PDR shall be three years for a non-phased development and five years for a phased development, with a single two year extension permitted at the discretion of the Mayor and Council in either event, as provided in A.R.S., Sec. 9-1203.

F. Modification of Site Plan Expiration Dates

Notwithstanding Section 3.3.4.F.6, a site plan that has been designated a PDR Plan shall expire upon termination of the PDR.

[90] Text from LUC Sec. 5.3.10.

ATTACHMENT D

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – MARCH 2012

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ARTICLE 8: LAND DIVISION AND SUBDIVISION STANDARDS[1]

8.1. PURPOSE

The purpose of this Article is to:

8.1.1. Assure that all land divisions and subdivisions are in conformance with the City's regulations regarding land development;

8.1.2. Assure a coordinated vehicular and pedestrian circulation system;

8.1.3. Establish minimum design standards for land divisions and subdivisions;

8.1.4. Assure that all lots are provided with infrastructure improvements;

8.1.5. Provide an expedient and consistent review process;

8.1.6. Obtain accurate survey and permanent public record of the boundaries of lots created by the division of lands and subdivision plats;

8.1.7. Facilitate the conveyance of land by reference to an accurate legal description by means of a recorded plat; and

8.1.8. Provide a convenient method of describing property being conveyed.

8.2. APPLICABILITY

This Article applies to all proposed land divisions and subdivisions of land as defined in this Code, with the following exceptions:

8.2.1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots;

8.2.2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership;

8.2.3. The leasing of apartments, offices, stores, or similar space within a building or mobile home/RV park, or mineral, oil, or gas leases;

8.2.4. Land divisions for defining cemetery plots or columbarium units; and,

8.2.5. These types of land divisions still require review and approval by the PDSD staff and outside review agencies.

8.3. LAND DIVISION

8.3.1. LAND SPLIT[2]

A. Purpose

According to A.R.S. §9-463.01(T) the City may regulate a land split within its jurisdictional limits. The state law gives the City authority to determine the division lines, area, and shapes of the parcels. A land split involves the division of land whose area is 2 ½ acres or less into 2 or 3 lots. Neither a tentative plat nor a final plat are

[1] The entire text for this article was taken from staff's most recent redraft of the article. The 20-year history is being removed from the code because it is not supported by State statute.

[2] Land split appeal process has been eliminated because it is a review process. Once the review is complete, the applicant may appeal the decision in accordance with the same process as any review process.

required but the resulting lots shall conform to applicable zoning requirements and other government codes and ordinances. The purpose of this Section is to establish a review process for land splits. This review:

1. Assures that newly created lots are of sufficient size to be developed and meet the requirements of applicable zoning classification;
2. Assures that the newly created lots have locations for building pads that are protected from flood and erosion hazards as defined in the Floodplain Ordinance (Tucson Code Chapter 26) and Standards Manual for Drainage Design and Floodplain Management in Tucson, Arizona;
3. Assures that all lots resulting from a land split shall have adequate access as specified by Section X of the Technical Manual.

B. Applicability

Any proposed land split, as defined by this Article, shall be submitted to PDSD for review and approval as provided in Section 8.3.1.C.

C. Review Procedures

1. Pre-application Conference

A pre-application conference is encouraged but not required.

2. Submittal

Submittal of an application to PDSD for review and approval.

3. Complete Application

The application shall conform to the requirements in Section X of the Administrative Manual. Only complete applications will be accepted for processing.

4. Review

Review shall be conducted by PDSD staff for compliance with the UDC requirements on land splits. The land split shall:

a. Not constitute a subdivision as defined in Section 8.3.11 which would require compliance with platting requirements of Section 8.5 of this Article;

b. Result in lots which conform to the minimum lot size requirements of the zoning applicable to the property;

c. Provide access to the proposed lots in compliance with Section X of the Technical Manual.

d. Result in all existing buildings complying with building setbacks of the zoning applicable to the property;

e. Result in lots of at least the minimum size required to build in conformance with the applicable zoning including any natural, environmental and floodplain requirements.

D. Approval and Recordation

PDSD will notify the applicant if the land split has been approved. After approval, the deeds for the land split shall be recorded at the Pima County Recorder's Office by the applicant/owner.

8.4. SUBDIVISIONS

8.4.1. BLOCK PLAT

A. Purpose

The block plat process allows a subdivider to divide a parcel of land into ten or fewer lots without the necessity of a tentative plat, subject to the requirements of this section.

B. Applicability

Any proposed block plat, as defined by this Article, shall be submitted to PDSD for review and decision as provided in 8.4.1.C.

C. Review Procedures

1. Pre-application Conference

A pre-application conference, per Section 3.3.1.A is required.

2. Submittal

Applications are submitted to PDSD for review and approval.

3. Complete Application

The application shall conform to the requirements in the Administrative Manual. Only complete applications will be accepted for processing.

4. Review

PDSD shall coordinate the formal technical review of all block plats to ensure the plats are prepared in accordance with the applicable codes, ordinances and standards. The block plat shall:

a. Result in lots/blocks which conform to the minimum lot size requirements of the zoning applicable to the property;

b. Provide access to the proposed lots in compliance with Section X of the Technical Manual;

c. Result in all existing buildings complying with building setbacks of the zoning applicable to the property;

d. Conform to all City, State, and Federal drainage requirements;

e. Result in lots of at least the minimum size required to build in conformance with the applicable zoning including any natural, environmental and floodplain requirements; and,

f. Not be for a Flexible Lot Development.

D. Approval and Recordation

A block plat shall be prepared, processed, and approved in compliance with Section 8.4.5 (Final Plat) and Section X of the Administrative Manual.

8.4.2. RESIDENTIAL AND NON-RESIDENTIAL CONDOMINIUM AND CONDOMINIUM CONVERSION PLAT[3]

A. Purpose

The purpose of this section is to establish procedures and requirements for proposed condominium projects and the conversion of existing structure(s) into condominiums.

B. Applicability

Any proposed condominium projects or condominium conversion, as defined by this Article, shall be submitted to PDSD for review and decision as provided in 8.4.2.C.

C. Review Procedures

Under the Arizona Condominium Act, A.R.S. § 33-1201 et. seq., a subdivision plat is a required part of the condominium declaration. In conjunction with the creation of a condominium, a subdivision plat shall be prepared in accordance with this Article and processed according to these regulations, prior to the recordation of a condominium declaration as specified in A.R.S. § 33-1211.

1. Pre-application Conference

A pre-application conference, per section 3.3.1.A is encouraged but not required.

2. Submittal

Applications are submitted to PDSD for review and approval.

3. Complete Application

The Application shall conform to the requirements in Section X of the Administrative Manual. Only complete applications will be accepted for processing.

4. Tentative and Final Plat

A tentative and final plat is required; however, the approved site plan for the existing structure/development may serve as the tentative plat if approved by the Director. A final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.3.4 (verify reference).

D. Approval and Recordation

A Condominium Plat shall be prepared, processed, and approved in compliance with Section 8.4.5 (Final Plat) and Section X of the Administrative Manual.

8.4.3. MINOR SUBDIVISION

A. Purpose

A minor subdivision may be accomplished with less documentation and it provides a more streamlined process than required for subdivisions. Although a tentative plat is not required, additional information shall be submitted, as needed, to review the project for compliance with all governmental regulations and good engineering

[3] The Residential and Non-Residential Condominium provisions have been clarified and revised to be consistent with State statutes.

practices. The purpose of this section is to establish procedures and requirements for minor subdivision plats.

B. Applicability

Any proposed minor subdivision, as defined by this Article, shall be submitted to PDSD for review and decision as provided in this Section and Section X of the Administrative Manual.

C. Criteria

1. The number of proposed lots is ten or less;
2. All utility services are available at the subdivision site boundary;
3. All proposed lots have street frontage or perpetual access easements of a minimum width and maximum length complying with requirements established by Section 7.8 and Section X of the Technical Manual;
4. All streets forming the boundary of the subdivision are fully improved, except for sidewalks that may be improved as part of the project;
5. The subdivision has no special topographic conditions, such as slopes greater than ten percent;
6. The property is not within a 100-year floodplain area or 100-year erosion hazard setback;
7. The property has at least one all weather access;
8. The proposed subdivision site does not have special development requirements, or special requirements have been reviewed and special development requirements have been determined. These special development requirements may include, but are not limited to, the Hillside Development Zone (HDZ); the Environmental Resource Zone (ERZ); the Scenic Corridor Zone (SCZ); and the Watercourse Amenities, Safety, and Habitat (WASH) ordinance; and
9. The minor subdivision cannot be used for for the creation of Flexible Lot Development (FLD).

D. General Provisions

1. Minor subdivisions shall conform to the design standards provided in Section 8.7 and 8.8 (General Requirements for Subdivisions and Minor Subdivisions and Subdivision Design Regulations and).
2. Up to two single-family model homes may be authorized for construction prior to recordation of the final plat, provided:
   a. Sale or occupancy of an individual unit as a residence does not occur until after recordation of the final plat and the City's release of assurances for improvements, and
   b. The location of each unit is based on the lot configuration approved for the tentative plat at one unit per proposed lot.

E. Review Procedures

1. A pre-application conference, per Section 3.3.1.A, is required.

2. Applications are submitted to PDSD for review and approval. Only complete applications will be accepted for processing.

F. Review

1. A minor subdivision application shall be reviewed in conformance with the review, approval, and recordation procedures for final plats as provided in Section 8.4.5 and Section X the Administrative Manual except as provided by this section.

2. Any reviews that are normally conducted during the tentative plat process, such as those involving drainage statements or reports, shall instead be conducted as part of the final plat process

G. Approval and Recordation

A final subdivision plat for a minor subdivision shall be prepared, processed, and approved in compliance with Section 8.5.5 (Final Plat) and Section X of the Administrative Manual.

8.4.4. TENTATIVE PLAT

A. Purpose

The tentative plat sets forth the technical mapping of the project including its density, intensity, land uses, pedestrian and bicycle ways, trails, parks, open space, and future lots, streets, and drainage patterns established for the site. The purpose of this section is to establish procedures and requirements for tentative plats. If the subdivision proposed is a Flexible Lot Development alternative, the subdivision shall additionally comply with Section 8.8.9.

B. Applicability

Any proposed subdivision, as defined by this Article, shall be submitted to PDSD for review and decision as provided in this Section.

C. Procedure

The tentative plat shall be prepared as follows:

1. **Pre-application Conference**
   A pre-application conference, per Section 3.3.1A, is encouraged but not required.

2. **Submittal**
   Applications are submitted to PDSD for review and approval.

3. **Complete Application**
   The application shall conform to the requirements in Section X of the Administrative Manual. Only complete applications will be accepted for processing.

4. **Concurrent Review**
   The final plat may be submitted concurrent with the tentative plat in accordance with the criteria set forth in Section 3.3.4 (verify reference).

D. Review

1. PDSD shall coordinate the formal technical review of all tentative plats to ensure the plats are prepared in accordance with the applicable codes, ordinances, and standards.

2. On receipt of the application, PDSD shall distribute copies of the tentative plat to CDRC members for review and comment.

3. CDRC shall review the tentative plat for compliance with all pertinent codes and legal requirements, including, but not limited to, codes regulating streets, sidewalks and public transportation access, zoning, floodplain and drainage, fire, water, environmental services, Pima County wastewater, and utility company regulations.

4. If CDRC finds that the tentative plat requires revisions then:

   a. The plat will be returned to the subdivider with a letter listing specific deficiencies and required revisions;

   b. The subdivider shall resubmit a revised tentative plat and a letter which responds to each deficiency in detail and explains any revisions made by the subdivider to the plat;

   c. The subdivider continues to resubmit the tentative plat until such time as the CDRC recommends approval of the tentative plat and it is forwarded to the PDSD Director; and,

   d. Any necessary resubmittals will not change or extend the expiration times commencing at acceptance of a tentative plat, as provided in this article.

5. The zoning of the property shall permit the proposed use, and any changes to zoning shall have been adopted prior to the approval of the tentative plat.

E. Approval

1. Notice of Decision

   a. If the requirements for tentative plats have been met, then the CDRC, by its designated representative, shall send a letter to the applicant notifying the applicant that the plat has been forwarded to the PDSD Director with a recommendation for approval.

   b. The PDSD Director, or designee, shall approve the tentative plat once all the final documents, as detailed in the CDRC decision letter, are submitted for his or her signature. See Section X of the Administrative Manual for more details.

2. Significance of Tentative Plat Approval

Approval of the tentative plat shall constitute authorization for the subdivider to proceed with the preparation of the final plat.

   a. Once a tentative plat is approved, the layout and design under which approval of the tentative plat is granted shall not be changed without concurrence of both the reviewing departments and agencies and subdivider prior to the expiration date of the tentative plat.

   b. Approval of a tentative plat does not guarantee final acceptance of streets for dedication.

3. An application for which a tentative plat was approved prior to the effective date of this UDC may be processed in accordance with the tentative plat approval and applicable terms of the ordinance in place at the time of tentative plat approval, even if the application does not comply with one or more standards set forth in this UDC. Tentative plat approvals granted prior to the effective date of this UDC may be extended no more than once, and for no longer than six months.

8.4.5. FINAL PLAT

A. Applicability

1. All proposed subdivisions, including minor subdivisions, block plats, and condominium plats, require the review and approval of a final plat except as provided in Section 8.2.

2. The final plat shall substantially conform to the approved tentative plat and be prepared in accordance with final plat requirements set forth in the Administrative Manual Section XXX

3. The subdivider shall construct all required subdivision improvements, at no expense to the City, prior to recordation of the final plat, or the subdivider may post financial assurances as detailed in Section 8.7.2.

B. Procedure

The final plat shall be prepared as follows:

1. **Submittal**
   Applications are submitted to the PDSD for review and approval.

2. **Complete Application**
   The Application shall conform to the requirements in Section X of the Administrative Manual. Only complete applications will be accepted for processing.

3. **Concurrent Review**
   The final plat may be submitted concurrently with the tentative plat in accordance with the criteria set forth in Section 3.3.4 (verify reference).

C. Review

1. PDSD shall coordinate the formal technical review of all final plats to ensure the plats are prepared in accordance with the applicable codes, ordinances, and standards.

2. On receipt of the application, PDSD shall distribute copies of the final plat to CDRC members for review and comment.

3. CDRC shall review the final plat for compliance with all pertinent codes and legal requirements, including, but not limited to, codes regulating streets, sidewalks and public transportation access, zoning, floodplain and drainage, fire, water, environmental services, Pima County wastewater, and utility company regulations.

4. If CDRC finds that the final plat requires revisions then:

a. The plat will be returned to the subdivider with a letter listing specific deficiencies and required revisions.

b. The subdivider shall resubmit a revised final plat and a letter which responds to each deficiency in detail and explains any revisions made by the subdivider to the plat.

c. The subdivider continues to resubmit the final plat until such time as the CDRC recommends approval of the final plat and it is forwarded to the PDSD Director.

d. Any necessary resubmittals will not change or extend the expiration times commencing at acceptance of a final plat, as provided in this article.

D. PDSD Engineering Administrator and PDSD Final Plat Approval

1. Director's Recommendation

Upon recommendation of approval by the CDRC and submission of all required items as detailed in the CDRC approval letter, the PDSD Director shall forward the final plat to Mayor and Council for consideration. If the plat is dependent on the adoption of a rezoning ordinance, Mayor and Council consideration of the plat shall be scheduled for the same agenda as, or on an agenda following, the Mayor and Council consideration of the rezoning ordinance.

2. Mayor and Council Consideration

The Mayor and Council shall consider the application for final approval in a public meeting.

3. Notice of Decision

The City Clerk shall provide a notice of the Mayor and Council's decision to the applicant and any party requesting such notice.

4. Final Plat Recordation

The City Clerk's Office shall forward the final plat documents to the Office of the Pima County Recorder for recordation after approval of the final plat by Mayor and Council. If the use of the property proposed through the plat is dependent on the adoption of a rezoning ordinance, the recordation shall occur after the effective date of any change in zoning.

8.5. REVIEW PERIODS AND EXPIRATION DATES

8.5.1. TENTATIVE PLAT

A. Tentative Plat Maximum Review Period

1. The subdivider has one year from the date PDSD accepts the tentative plat application to obtain approval of a tentative plat that complies with requirements in effect at the time of application, except where an ordinance specifically states that the regulation applies to pending applications.

2. If the tentative plat has not been approved within one year of the date of acceptance of the application, the review period expires. A one year

extension to the review period is possible as long as the plat is revised to meet all codes and regulations in effect at the time of resubmittal and appropriate fees are paid.

3. The maximum review period is two years from the date of application submittal.

B. Tentative Plat Expiration

1. The tentative plat approval expires three years from the date of approval.
2. When a tentative plat that is platted and recorded in phases all phases except phase I expire four years from the date of approval.
3. For subdivision processes that do not require a tentative plat, these review period apply to the final plat review.

8.5.2. FINAL PLAT

A. Final Plat Approval Period

A final plat shall be approved and recorded within three years of the tentative plat approval date. A final plat is subject only to the ordinances in effect at the time of the tentative plat application except where an ordinance specifically states that it applies to pending applications.

B. Tentative Plat Approval Extension

A subdivider may request an extension of the tentative plat approval period. The extension may be granted based on the following:

1. Up to a one (1) year time extension to the three (3) year tentative plat approval period, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat; or
2. Up to one (1) year periods of extension for each phase of a tentative plat being platted and recorded in phases, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat phase under consideration.

8.6. GENERAL REQUIREMENTS FOR SUBDIVISIONS AND MINOR SUBDIVISIONS

8.6.1. GENERAL PROVISIONS

The following requirements apply to all subdivisions.

8.6.2. SUBDIVISION IMPROVEMENTS AND FINANCIAL ASSURANCES

Assurances are required where necessary improvements are not completed at the time a final plat is recorded. The assurances provide security that the subdivider will complete necessary improvements.

A. Requirement

1. A subdivider shall construct all required subdivision improvements at no expense to the City prior to the recordation of the final plat; or

2. A subdivider shall post financial assurances to guarantee the completion of the required subdivision improvements provided that the form and the amount of the financial assurance conforms to the requirements of this section and Section X of the Administrative Manual and is satisfactory to the City Attorney's Office as to form, sufficiency, and manner of execution.

3. Assurances that all required improvements will be completed and approved by the City shall be provided by the subdivider in conformance with Section X of the Technical Manual before a final play may be forwarded to the Mayor and Council for approval. The City Manager is authorized to execute on behalf of the Mayor and Council agreements to provide subdivision assurances as provided in Section X of the Technical Manual. The PDSD Director is authorized to release assurances when appropriate.

B. Acceptable Form of Assurances[4]

The following are acceptable forms of assurances.

1. **Performance Bond**
   A subdivider may post a performance bond executed by a surety company licensed to do business in the State of Arizona in an amount approved by the PDSD City Engineer. The PDSD City Engineer may sign the bond instrument on behalf of the City, and the City Attorney shall approve same as to form.

2. **Cash Escrow Account**
   A subdivider may establish a cash escrow account with the City or a bank or similar financial institution acceptable to the City.

3. **Letter of Credit**
   A subdivider may provide an irrevocable letter of credit in a sum approved by the PDSD City Engineer from a bank or other financial institution or person acceptable to the City. The PDSD City Engineer is authorized to sign the agreement on behalf of the City, and the City Attorney's Office shall approve same as to form.

4. **Third Party Land Trust**
   A subdivider may vest ownership of the subdivision developments in a Third Party Trustee, with direction that the property in trust will not be released for sale by the Trustee unless and until the City agrees to the release. The City will thereafter agree to a full or partial release of trust property as provided in this section. The PDSD City Engineer is authorized to sign the agreement on behalf of the City and the City Attorney shall approve same as to form. The Mayor and Council approval of the third party land trust is required if the subdivider deviates from the City-approved third party land trust documents.

5. **Alternative Forms of Assurances**
   The PDSD Director or designee may accept alternate methods to assure the completion of subdivision improvements where acceptable to the PDSD Director and the City Attorney's Office in form and substance. Mayor and

[4] Assurances (third-party land trusts) will no longer go to the Mayor and Council as long as the applicant uses the forms in the Technical Manual.

Council approval of the alternate assurance method, agreement, or form(s) is required prior to the approval of the final plat.

C. Amount of Assurances

Except for third party land trust agreements, the PDSD Director or designee may require a monetary amount for assurance of subdivision improvements not to exceed one and one half (1.5) times the estimated cost of construction of the required improvements. For phased subdivisions, assurances may be provided separately for the improvements necessary for each phase.

D. Inspection and Acceptance of Improvements for Partial and Final Releases

1. The PDSD Director, or designee, shall provide for inspection of required improvements.

2. If the PDSD Director or designee finds upon inspection that any of the required improvements have not been constructed per City approved documents, or have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for completing or replacing such improvements in accordance with the list of deficiencies, the City accepted specifications, and approved plans, as outlined in this article and the Administrative Manual.

3. Project completion documentation is required to be submitted for final release as outlined in the PDSD Engineering established procedures in Section X of the Technical Manual.

4. The City will not accept dedication of the required improvements or release or reduce any assurance for a subdivided project requiring sewer or water improvements, until the PDSD Director or designee has received statements from the Director of Tucson Water and the Director of the Pima County Wastewater Management Department that such improvements have been satisfactorily completed. Upon such approval and recommendation by the City Manager, the Mayor and Council shall accept the improvements for dedication in accordance with established procedure.

E. Partial Release of Assurance

1. **Partial Release of Subdivision Improvements for Third Party Land Trust**

   Where a Third Party Land Trust is provided as assurance for completion of improvements, a partial release of a portion of the subdivision may occur, prior to the completion of all improvements, provided the partial release is proportional to the level of completion of improvements. Requests for release, Inspections, and approvals shall be in conformance with PDSD Engineering procedures in Section X of the Technical Manual.

   a. **Partial Release of Residential Subdivision Assurances for Third Party Land Trust**

      Up to 75 percent of the lots held in a third party trust in any particular phase may be released prior to completion and acceptance of the common-element improvements (e.g., basins, sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the completed common-element improvements that serve the subject lot(s). Once the common-element improvements have been accepted, partial

releases greater than 75 percent or a final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDSD Engineering.

b. Commercial Subdivisions for Third Party Land Trust Release

Up to 60 percent of the lots in any particular phase may be released prior to the completion and acceptance of the common-element improvements (e.g., sewer lines, water lines, street improvements, etc.). Any lot(s) released shall be served by the common-element improvements. Once the common-element improvements have been accepted, partial releases greater than 60 percent or a final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDSD Engineering.

2. Reduction or Partial Release of Monetary Assurances

Where a bond, letter of credit, or other monetary assurance is provided the amount of an assurance may be reduced upon partial completion of construction or actual dedication of one or more improvements, but, only in a ratio that the dedicated improvement(s) bears to the total improvements indicated on the plat. Where a subdivider completes and offers to dedicate the required improvements for a portion of the final plat, monetary assurances for such improvements may be reduced only where the improvements can be used and maintained independently of remaining improvements required for the entire plat. For example, temporary cul-de-sacs should be provided for incomplete streets; water, sewer, and electric facilities should be capable of independent operation; and adequate access for public safety vehicles shall be provided. In no case may more than 75 percent of the total monetary value of assurances be released prior to completion of all improvements.

F. Substitution of Third Party Trust Assurances

Where a Third Party Land Trust is provided as assurance for completion of improvements, a substitute assurance may be submitted for review. The substitute trust shall include those portions of the subdivision to be covered. Additional substitute assurances may be needed to be in place so that all the assurable items that need completion are covered. The Third Party Trust may be entirely substituted by another form of assurance using cost estimate procedures based on the remaining improvements with contingency and mobility costs. Acceptance of substitute assurances is solely at the discretion of the PDSD Director. The number of substitutes for any given subdivision may be limited as determined by the PDSD Director.

G. Full Release of Assurables Items

A final release may be granted only when all the subdivision improvements have been completed, inspected, accepted by the appropriate agency, and the project closure documents have been submitted and accepted by PDSD Engineering.

H. Expiration or Lapse of Assurances

1. Additional Assurances

Notwithstanding assurances provided, if the PDSD Director, in his sole discretion reasonably determines that grounds exists resulting in commercial insecurity that the required improvements will be completed he may demand additional assurances. The neglect or refusal of the Subdivider to provide such additional assurances within 30 days shall result in the immediate suspension of the issuance of any permits or further permits unless and until further assurance is provided.

2. Expiration or Lapse

If the PDSD Director determines that any applicable assurances expire, lapse, become subject to a bankruptcy or otherwise become ineffective, the PDSD Director shall suspend the issuance of any permit(s) until such time as appropriate current assurances have been provided.

8.6.3. SURVEY MONUMENTS REQUIRED

The subdivider shall place survey monuments of appropriate type and design delineating the external boundary of the parcel being subdivided, public streets, and all public street intersections within or adjacent to the subdivision, installed in accordance with established practices of the City.

A. External boundary survey monuments for the parcel being subdivided shall be installed prior to recordation of the final plat.

B. All other monuments are to be installed prior to the recordation of the final plat, unless the subdivider has posted financial assurances with the City to assure the installation of the monuments after recordation.

8.6.4. PERMITS FOR MODEL HOMES

Upon approval of the tentative plat, up to five single-family model homes may be authorized for construction prior to recordation of the final plat, provided:

A. Sale or occupancy of an individual unit as a residence does not occur until after recordation of the final plat and the City's release of assurances for improvements, and

B. The location of each unit is based on the lot configuration approved for the tentative plat at one unit per proposed lot.

8.6.5. LAND CLEARING AND GRADING

A. Land clearing or grading may begin after grading plans are approved, provided the plans are prepared in compliance with an approved tentative plat and such tentative plat is in conformance with the underlying zoning. Mass graded subdivisions include grading of all the platted lots and other subdivision improvements by the developer. Custom graded lot subdivisions include the road improvements that guaranty access to each lot, and other subdivision improvements where access to a future building pad is feasible for each lot. (mass grading and custom grading definitions may need to be moved to revised development standards? To be discussed)

B. Grading plans may be submitted for review prior to approval of the tentative plat in accordance with criteria listed in Section X of the Administrative Manual, but cannot be approved until after the tentative plat has been approved.

8.6.6. PLAT ABANDONMENT

A recorded plat that is filed for the purpose of abandoning the plat, meaning reverting to the configuration of land previously subdivided, or vacating streets or easements previously dedicated to the public; or vacating or redescribing lot or parcel boundaries previously recorded shall be replatted following the procedures set forth in this Article.

8.7. SUBDIVISION DESIGN STANDARDS[5]

8.7.1. PARKS, RECREATIONAL FACILTIES, FIRE STATIONS, AND SCHOOL SITES

Where, in accordance with an adopted plan, it is determined that there are inadequate parks and recreational facilities, fire stations, or school sites, the Mayor and Council may require that land area within the subdivision be reserved for one or more of those uses. Such requirement shall be in accordance with state subdivision statutes regulating reservation of parks, recreational facilities, fire stations, and school sites.

8.7.2. PHASED SUBDIVISIONS

All plats for subdivisions platted in phases shall comply with this Article and all other relevant City regulations and standards.

8.7.3. FLEXIBLE LOT DEVELOPMENT (FLD)

A. Purpose

The purpose of the Flexible Lot Development (FLD) is to provide greater flexibility and creativity in the design of residential development by:

1. Providing incentives to achieve community goals, such as historic and archaeological preservation, preservation of native vegetation, development within low-income areas, and in-fill housing projects;
2. Implementing the goals and objectives of the General Plan, Area Plans, and Neighborhood Plans;
3. Providing open space that is usable and includes suitably located active and passive recreational amenities, such as trails, walking paths, picnic areas, and playgrounds;
4. Providing for visual, and where achievable, physical connections to open space areas on adjacent properties;
5. Efficiently using land and public facilities by means of a more economical arrangement of buildings, circulation systems, land uses, and utilities;

[5] The Street, Access, Alley, Easements Required, and Hydrology design standards are being relocated to either Article 7 (Development Standards) or the Technical Manual. These standards apply to more types of development applications than just land divisions and subdivisions, and therefore, should be located where they will have more general applicability.

6. Preserving to the greatest extent possible existing Natural Undisturbed Open Space, environmentally sensitive areas, and landscape features and amenities, such as significant topography, protected peaks and ridges, natural vegetation, washes, riparian areas, and floodplains, and integrating such features with structures and other improvements;

7. Coordinating architectural styles, building forms, and building relationships within the development and with surrounding land development;

8. Providing high-quality sustainable development within the city that incorporates "green building" techniques such as water harvesting, solar access, and passive solar orientation;

9. Mitigating the urban heat island effect by requiring such measures as canopy trees throughout the FLD project and other acceptable mitigation efforts; and,

10. Creating incentives for appropriate urban infill development on lots with site constraints.

B. Applicability

FLDs may be developed in the following zones:

1. Single-family detached residential development in the SR, SH, RX-1, and RX-2 zones;

2. Single-family residential development, attached or detached, in the R-1, MH-1, and MH-2 zones; and

3. Single-family attached or detached, and multifamily residential development in the R-2, R-3, O-1, O-2, O-3, C-1, C-2, and C-3 zones.

C. General Development Criteria[6]

1. **Conformance with the General Plan and other Applicable Plans**
   An FLD shall be in conformance with the General Plan and any of its components, including any applicable adopted area and neighborhood plans.

2. **Applicability of General UDC and Technical Manual Requirements**
   Except as provided in this section, all applicable standards of the UDC and the Technical Manual apply to FLDs.

3. **Development Alternatives**
   FLDs shall be developed using one of the following alternatives:

   a. **Standard FLD**
   Standard FLD projects shall not exceed the dimensional standards for Development Alternative A in Section 8.7.8.D.

   b. **Maximum Density Option**

[6] The Project Amenities and Site Improvements section (LUC Section 3.6.1.4.C) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.

FLD projects that meet at least one of the following development options may develop to the dimensional standards for the Development Alternative B in Section 8.7.8.D.

(1) Low Income Housing
A minimum of ten percent of the project's total number of units or minimum of two units, whichever is greater, are constructed and used for low-income housing.

(2) Housing for the Elderly
The entire project is designed and constructed only for the elderly. A covenant shall be recorded for the project site stating that the housing is restricted for use by the elderly. Residents of an FLD for elderly shall be at minimum 62 years old.

(3) Historic Preservation
The project includes preservation of a historic site, structure, or landmark or leads to the preservation or scientific study and archaeological documentation of prehistoric or historic buildings or sites, in accordance with the criteria listed in Section X of Technical Manual. Features eligible for use of this option are those identified in the required archaeological study as meeting the criteria in Section X of the Technical Manual. A recorded covenant preserving the historical site is required.

(4) Additional Functional Open Space
The project preserves at least 20 percent more Functional Open Space than is required by Section 8.7.8.F.1 (Functional Open Space Requirements). The additional open space shall be usable for passive or active recreational uses, such as trails, walking paths, picnic areas, and playgrounds.

(5) Additional Open Space within an FLD Greater than 5 Acres
The project preserves in a natural state at least 15 percent more area than is required by other sections of the Tucson Code. These natural features include, but are not limited to, vegetation, washes, and hillsides.

(6) Proximity to an Arterial Street
The project is located in the City's Central Core (as defined in the City of Tucson's General Plan) and is on a designated arterial street near transit facilities to promote the use of transit and reduce vehicle trips. The project density does not conflict with any applicable area or neighborhood plan.

(7) Trail or Wildlife Corridor Dedication
The FLD provides for dedication of trails or wildlife corridors, or both, that connect to offsite trails and wildlife corridors as approved by the Parks and Recreation Department.

(8) Green Building

The project is designed and located to comply with the energy efficiency requirements listed in the Technical Manual Sec. XXX.

D. Regulations for FLD Projects[7]

The following regulations are required of all FLD projects:

1. Development Alternative A is for standard FLDs.
2. Development Alternative B is for Maximum Development Option FLDs per Section 8.7.8.C.3.b.

TABLE 8.7.3-1: Dimensional Standards for FLDs

Zone	Development Alternative	Site Coverage (max. %)	Allowable Density (max.)	Building Height (ft)
SR	A	8	0.25	30
RX-1	A	33	1.00	30
RX-2 & SH	A	33	2.25	25
R-1 & MH-1	A	50	5.14	25
	B	70	6.25	25
MH-2	A	62	8.00	25
	B	75	15.00	25
R-2	A	62	8.71	25
	B	75	22.00	25
R-3	A	70	36.00	40
	B	75	44.00	40
O-1, O-2 & O-3	A	75	22.00	25
C-1	A	75	36.00	25
C-2 & C-3	A	75	44.00	40

E. Minimum Lot Size

There is no minimum lot size within an FLD, except as follows:

1. Lots in the SR and RX-1 zones shall be at least 18,000 square feet.
2. Lots in the RX-2 zone shall be at least 12,000 square feet.
3. All lots developed with a septic system shall be at least one acre.

F. Open Space Requirements

1. Functional Open Space Area Requirements

a. Functional Open Space shall be provided as shown in the following Table:

TABLE 8.8.9-2: Functional Open Space Standards

Project Size	Functional Open Space Requirement
5 acres or less	Less than 13 DU/AC* = 109 SF**/unit 13 DU/AC or more = 161 SF/unit
More than 5 acres	269 SF/unit
*DU/AC = Dwelling units per acre	

[7] The unresolved issues with density currently in the LUC have been carried over into the UDC. Should these issues be resolved now?

**SF = square feet

b. Functional Open Space shall be for an active recreational, passive recreational or scenic purpose.

c. An FLD shall provide Functional Open Space amenities appropriate for the mix of residents for which the FLD project is designed.

d. A homeowners' association or management organization shall be established by the developer to be responsible for the ownership, permanent care, and maintenance of Functional Open Space areas.

e. Any portion of the FLD project site that has been dedicated to and accepted by a public entity for public use as a Functional Open Space amenity may be included in meeting the Functional Open Space area requirements. Dedications that meet this requirement include, but are not limited to, parks, trail, and detention and retention basins that incorporate Multiple-Use Concepts and Aesthetic Design Guidelines described in Chapter IV of the Stormwater Detention/Retention Manual.

f. Exemptions
The following FLD projects are exempt from functional open space requirements:

(1) An FLD project with 60 lots or fewer located within one-quarter (1/4) of a mile of a City community park of at least 15 acres which does not require crossing an arterial roadway to reach the park; or

(2) An FLD project zoned SR, SH, RX-1 or RX-2.

2. Configuration and Location of Functional Open Space within an FLD Project

a. FLD projects 5 acres and less. Functional Open Space amenities should be configured as contiguous areas, but may also be incorporated into the design of other elements on the site, such as detention/retention basins and buffers, in order to make those areas functional.

b. FLD projects more than 5 acres. Functional Open Space may be divided into smaller areas if they are distributed throughout the project site and conveniently located for residents of the FLD project.

c. Functional Open Space shall be conveniently located to and usable by the maximum number of the residential units on the site.

d. To the greatest extent possible, Functional Open Space should not be comprised of remnant areas that are not usable by residents of the FLD project.

e. Where the project is located near a public preserve, or can provide connections to open space areas or areas of environmentally or culturally significant features, the open space shall be configured in a manner to preserve this connectivity.

3. **Natural Undisturbed Open Space (NUOS)**[8]
   a. NUOS areas include environmentally significant features (as identified in the Environmental Resource Zone; Hillside Development Zone; and, Watercourse Amenities, Safety and Habitat zone); culturally significant features (features eligible for National Register status as identified during the cultural resource assessment process); designated floodplains (except where channelized); and, other features identified during the FLD site design plan process.
   b. NUOS areas shall remain unimproved and permanently conserved with the following exceptions:
      (1) Trails are permitted in NUOS areas and may count toward meeting Functional Open Space requirements.
      (2) Infrastructure is permitted in NUOS areas when connectivity of services is required or cannot be achieved elsewhere on the site outside the NUOS area using design techniques that minimize the impact on the NUOS, such as limiting crossings and borings.

G. **Detention and Retention Basins**[9]
1. To the greatest degree practicable, detention and retention basins within an FLD shall be designed as Functional Open Space by incorporating the Multiple-Use Concepts and Aesthetic Design Guidelines described in Chapter IV of the Stormwater Detention/Retention Manual, and in accordance with Section 7.6.6.C. Functional Open Space amenities within detention and retention basins may count toward meeting Functional Open Space requirements.
2. Detention and retention basins shall be:
   a. Located in a common area, outside the boundaries of a residential lot;
   b. Owned and maintained by the homeowners organization or management organization established by the developer;
   c. Located within the perimeter wall, fence, or screening surrounding the FLD project site boundaries, if provided; and,
   d. Designed and constructed in compliance with the Stormwater Detention/Retention Manual.
3. Slopes should be no steeper than 4:1 where water depths exceed two feet within a detention or retention basin so that a safety barrier is not required.

H. **Landscaping, Screening and Wall Requirements**
1. FLD projects shall comply with Landscaping and Screening Standards, Section 7.6, except as otherwise provided by this section.

[8] The NUOS and Detention/Retention Basin provisions apply to all development that have NUOS and detention/retention basins and can be relocated to Article 7 (Development Standards) or the Technical Manual where it will have more general applicability.
[9] The NUOS and Detention/Retention Basin provisions apply to all development that have NUOS and detention/retention basins and can be relocated to Article 7 (Development Standards) or the Technical Manual where it will have more general applicability.

2. One canopy tree shall be provided every 40 feet of pedestrian circulation systems, excluding crossings with streets, alleys, and driveways. If providing canopy trees every 40 feet is not achievable, the applicant shall:

   a. Provide the equivalent number of trees that would be obtained using the 40-foot increment measure; and,

   b. Distribute the trees within the FLD project site along pedestrian circulation systems and within Functional Open Space areas.

3. Landscape plans shall incorporate water-conserving design as defined in Section 7.6.6 and as described in the Technical Manual Sec. XXX.

4. Water harvesting techniques shall be incorporated as part of the landscape design based on the Water Harvesting Guidance Manual prepared for the City of Tucson Transportation Department Stormwater Section.

5. Mechanical equipment, utility boxes, irrigation equipment and similar elements shall be screened from adjacent streets exterior to the project and from adjacent existing residential development. Screening shall be architecturally integrated with the overall design of the FLD.

6. If a perimeter wall is proposed along an existing public right-of-way, it shall be constructed of, or painted with, graffiti-resistant materials. The wall shall incorporate one or more of the following decorative materials:

   a. Tile;

   b. Stone;

   c. Brick;

   d. Adobe;

   e. A textured material such as stucco or plaster; or

   f. Metal

I. Parking

Parking shall comply with Section 7.4 (Motor Vehicle and Bicycle Parking), applicable sections of Section 7.6 (Landscaping), and Section X of the Technical Manual, applicable regulations related to accessibility, and the following criteria:

1. Streets within the FLD site for which on-street parking is proposed shall be designed with parking lanes that comply with Section X of the Technical Manual.

2. An alley abutting an existing development shall not be used for parking access.

3. Common parking areas shall meet the following requirements:

   a. No more than 60 parking spaces may be located in any single outdoor parking area;

   b. There shall be a minimum of 30 ft. separation between common parking areas. Common parking areas shall be separated by a building or landscaping;

c. The same parking area access lane (PAAL) may provide access to two or more parking areas; and,

d. Curbed areas shall provide openings to allow water to flow into landscaped areas and water harvesting basins.

J. Circulation and Connectivity

1. The right-of-way and pavement widths for internal ways, common parking areas, streets, roads, or other means of vehicular circulation and for surface drainage serving the FLD shall be in conformance with Section 7.4.6, and Section XXX in the Technical Manual.

2. All elements of an FLD, including residential units and recreational amenities, shall be connected by a pedestrian circulation system.

3. Interior pedestrian sidewalks shall connect to sidewalks on abutting streets and to abutting commercial and recreational facilities with adjacent property owner's consent.

4. Bus turn-out lanes and bus waiting shelters shall be provided if requested by the City.

5. Barrier Free Access to Functional Open Space Amenities

   a. For purposes of this section, barrier free access is defined as functional access for semiambulatory and nonambulatory persons.

   b. Barrier free access to Functional Open Space amenities shall be provided pursuant to the City's adopted Building Code Section 1109.14 (Recreational and sports facilities). Exception: FLDs using the Housing for the Elderly maximum development option (Section 8.7.8.C.3.b) shall provide barrier free access pursuant to the City's adopted Building Code Section 1109.14 (Recreational and sports facilities) or 50 percent, but not less than one, of each type of Functional Open Space amenity, whichever is greater.

6. Trails that have current or future linkages to other trails, open space areas or recreation areas shall be provided as determined by the City Parks and Recreation Department.

   a. Trails shall be constructed in compliance with the design criteria established for trails by the City of Tucson Parks Department and Pima County Parks Department.

   b. Hard and soft surface paths, when required, shall have an average separation of at least five feet to allow for landscaping that does not interfere with the paths, except where a reduced width is allowed by the City's Parks and Recreation Department.

K. Setback Along FLD Project Site Boundaries[10]

1. Setbacks along FLD project site boundaries are required in accordance with Section 6.X and are based on the site's underlying zoning.

[10] The development designator system is being replaced with a development standards based on zone.

2. Street setbacks along FLD project site boundaries are required in accordance with Section 6.X, unless special zoning requirements dictate a greater distance or different point of measurement.

L. Setbacks on Interior Lots

1. The setback requirements of Section 6.X may be reduced for setbacks along interior lot lines to the extent permitted by the City's adopted Building Codes.

2. Along interior street lot lines, street setbacks are required, in accordance with Section 3.2.6.5. The street setback may be administratively reduced by the PDSD Director based on a finding that the reduced setback enhances the architectural design or the vehicular circulation in the FLD and a transportation statement is approved by the City's Traffic Engineering division.

3. Along parking area access lanes (PAALs), setbacks are required in accordance with Section X of the Technical Manual.

M. Design Criteria

1. Architectural Variation

a. Purpose

To provide architectural diversity, visual interest, and to avoid monotony in architectural design by requiring variations in such architectural treatments as color, finished materials, massing and rooflines, orientation of units, garages and porches.

b. Applicability

The requirements of this section apply to projects meeting the following criteria:

(1) Projects with 20 or more single-family detached residential units except when residential units are on lots larger than 10,000 square feet or, where dwelling units are separated by 30 feet or more; or

(2) Elevations of single family detached units abutting a public street designated as a collector or arterial street in the Major Streets and Routes Plan; or, a private or public street designed and/or designated as a residential collector street.

c. Requirements

(1) The same architectural elevation shall not be repeated more often than every fourth lot.

(2) Architectural variation may be accomplished by incorporating a minimum of two of the following design features into the affected elevations: different building footprint orientation, building elevation, garage placement, roof type, ornamentation, or architectural style. The applicant shall work with the City's Design Professional to ensure that adequate variation is achieved.

(3) Garage Placement. For FLD projects with over 20 or more single-family detached residential units, no more than 50 percent of detached residential units throughout the FLD shall be designed with garages that protrude from or are flush with the front wall of the living area or front porch of the house.

d. Architectural Variation Plan Required

(1) An Architectural Variation Plan (AVP) demonstrating compliance with the requirements of this section shall be prepared in accordance with the Section of the Administrative Manual.

(2) The AVP shall be included with the subdivision plat, site plan, or building permit submittal.

(3) The Design Professional will review AVPs for compliance with this Section and forward his or her findings and recommendation in writing to the PDSD Director for consideration of approval.

(4) The PDSD Director's decision may be appealed to the Design Review Board in accordance with Section 3.X.

(5) Conditions of the approved AVP shall be included as notes on the approved plat or site plan, whichever applies, and the building plan.

(6) An AVP shall be approved prior to issuance of a building permit.

2. Transition Edge Treatment and Mitigation for Adjacent Properties

a. Transition Edge Treatment

Where a single-family attached or multi-family FLD project is adjacent to existing single-family residential development, the FLD shall provide buffering in order to preserve the privacy of the existing residential development. Examples of buffering include, but are not limited to, landscaping, a fence, or a wall. The proposed buffering shall be included as conditions on the approved subdivision plat or site plan.

b. Privacy Mitigation

(1) Applicability

Privacy mitigation as required by this section is required when multistory residences are proposed adjacent to existing single story residences and the existing residences are zoned R-2 or more restrictive.

(2) Prohibited

Balconies, windows (except for clerestory and translucent windows), or any other feature on an upper floor that overlook the rear and side yards of an adjacent residence are prohibited.

(3) Privacy Mitigation Plan

A Privacy Mitigation Plan (PMP) is required demonstrating compliance with this section.

(a) PMPs shall be prepared in accordance with Section X of the Administrative Manual.

(b) PMPs shall demonstrate that adequate measures, such as screening, setbacks, building mass, solar access, air circulation, and light access are incorporated into the design of the project to preserve the existing residents' privacy.

(c) PMPs shall be included with submittal of the tentative plat or site plan, whichever is applicable.

(d) The Design Professional will review the PMP for compliance with Sec. 8.8.9M.2.b and forward his or her findings and recommendation in writing to the PDSD Director for consideration of approval.

(e) The PDSD Director's decision may be appealed to the Design Review Board in accordance with Section 3.X.

(f) Conditions of the approved PMP, including a description of the required mitigation and for which units the mitigation applies, shall be included as notes on the plat or site plan, whichever applies, and the building plan.

(g) A PMP shall be approved prior to issuance of a building permit.

3. **Solar Access and Passive Solar**

a. **Solar Access**
Dwelling units should be configured to allow solar access to adjacent structures in accordance with Section 7.3.

b. **Passive Solar**
FLD projects should incorporate passive solar design when practicable.

N. **Management of Common Properties**
The subdivision plat will provide for the ownership, control, maintenance, and liability of all common areas through the homeowner's association or joint and several liability of all property owners in accordance with Section X of the Technical Manual.

O. **FLD Phasing Requirements**[11]
An FLD may be phased for construction and development; however, the FLD shall be considered a single project for purposes of allowable densities, open space, common areas, hydrology, and grading, provided that all of the following conditions are met.

1. The entire FLD shall be platted as one project, as setbacks and other FLD requirements are based on the entire FLD site. If the FLD is platted by phase, then each phase shall comply with requirements as a separate project, including the following:

a. Homeowners' association documentation shall allow for the annexation of future phases if designed to work as one project; and,

b. If access to future phases is designed to be through the phase being platted, right-of-way easements or other acceptable legal instruments shall be provided on/with the plats and homeowners' association documents.

[11] The Project Amenities and Site Improvements section (LUC Section 3.6.X) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.

2. If the FLD contains common areas, the entire FLD shall be subject to an overall set of comprehensive conditions, covenants, and restrictions which establish the character of the development and create an overall homeowners' association. If the documentation for the overall homeowners' association does not indicate responsibility for each phase within the FLD, then the excluded phase shall have its own homeowners' association which will be responsible for owning and maintaining any common area, open space, natural area, or recreation area within the phase.

3. The developer shall submit a document to show how the project amenities and site improvements will be developed in proportion to the number of residential units developed. The site improvements shall be designed to function independently for each phase and as each new phase is added. Such project amenities and site improvements shall be located adjacent to or within developed or developing phases and on property that is abutting or physically connected to the residential development in order to provide access between the amenity and the development it serves.

4. At no time during the construction of the FLD shall the number of constructed residential units per acre of developed land exceed the overall density for the land area in each phase and as approved by the recorded plat

P. FLD Submittal, Review, and Decision

An FLD shall be prepared, processed, and have a tentative and final plat or site plan, whichever is applicable, approved prior to issuance of a building permit.

1. **Tentative Plat**[12]

   A tentative plat for an FLD shall prepared, processed, and considered for approval in compliance with Section 8.4.4, with the following exception.

   a. Notice of the PDSD Director's decision shall be sent to the applicant, property owners within 300 feet of the project site, and neighborhood associations within one mile of the project site.

   b. Appeals to the PDSD Director's decision of the PDSD Director are considered by the Mayor and Council in accordance with Section 3.X. Appeals must be based on the grounds that the PDSD Director's decision is not in conformance with the criteria established by this section. The notice of intent to shall be filed with the City Clerk's Office no later than 14 days after the date of the decision. The complete appeal materials shall be filed within 30 days of the decision.

2. **Final Plat**

   A final subdivision plat for an FLD shall be prepared, processed, and approved in compliance with Sec. 8.5.5 (Final Plat).

[12] Staff is proposing to revise the FLD tentative plat review process to no longer require a neighborhood meeting and notice of application for the following reasons: 1) the FLD is much more prescriptive than the RCP, and, therefore, review and consideration for of proposed FLDs is much more objective and much less subject to staff interpretation; 2) the FLD standards provide greater protections to adjacent property owners; and, 3) the additional notice requirements create a mistaken perception among interested parties that they can influence the PDSD Director's decision when, in fact, the decision is based on a project's compliance with all applicable criteria.

3. Site Plan

A site plan is required only if a subdivision plat is not required. The submittal, review and approval of a site plan shall comply with Sec. 3.3.2.

ATTACHMENT D

ARTICLE 8: LAND DIVISION AND SUBDIVISION STANDARDS – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/Comments**
Purpose	**8.1**	**4.1.1**	
Definitions	**Article 11**	**4.1.2**	
Applicability	**8.2**	**4.1.3**	
Land Division	**8.3**	**4.3**	
Subdivisions	**8.4**	**4.1**	
Block Plats	**8.4.1**		Staff proposes clarifying the Block Plat procedure and to be consistent with Arizona Revised Statutes.
Residential and Non-Residential Condominium and Condominium Conversion Plat	**8.4.2**	**4.1.9**	Staff proposes clarifying the Block Plat procedure and to be consistent with Arizona Revised Statutes.
Minor Subdivision	**8.4.3**	**4.2**	
Tentative Plat	**8.4.4**	**4.1.6.1, 23A-33**	
Final Plat	**8.4.5**	**4.1.6.1, 23A-33**	
Review Periods and Expiration Dates	**8.5**	**4.1.7, 4.2.5**	
General Requirements for Subdivisions and Minor Subdivisions	**8.6**	**4.1.4**	
Acceptable Forms of Assurances	8.6.2.B	4.1.4.1	Assurances (third-party land trusts) will no longer go to the Mayor and Council as long as the applicant uses the forms in the Technical Manual.
Subdivision Design Standards	**8.7**	**4.1.8**	
Streets, Access, Alleys, Easements Required, and Hydrology	**N/A**	**4.1.8.1, 2, 3, 4 and 7**	These design standards are being relocated to either Article 7 (Development Standards) or the Technical Manual. These standards apply to more types of development applications than just land divisions and subdivisions, and therefore, should be located where they will have more general applicability.
Flexible Lot Developments	**8.7.3**	**3.6.1**	
Regulations for FLD Projects	8.7.3.D, 8.7.3-I		The unresolved issues with density currently in the LUC have been carried over into the UDC. Should these issues

ARTICLE 8: LAND DIVISION AND SUBDIVISION STANDARDS – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/Comments**
			be resolved now?
Natural Undisturbed Open Space and Detention and Retention Basins	8.7.3.F.3 & 8.7.3.G	3.6.1.4.D.3.a & b	These provisions apply to all development that have NUOS and detention/retention basins and can be relocated to Article 7 (Development Standards) or the Technical Manual where it will have more general applicability.
Project Amenities and Site Improvements	N/A	3.6.1.4.C.1	The Project Amenities and Site Improvements section (LUC Section 3.6.X) is proposed for deletion because the section is redundant, and in some ways, conflicts with the Assurance requirements. Deletion of this section does not reduce or negate a developer's responsibility to construct or provide a certain amount of a project's amenities prior to the sale or release of any residences.
FLD Submittal, Review, and Decision – Tentative Plat	8.7.3.P.1	3.6.1.3.B	Staff is proposing to revise the FLD tentative plat review process to no longer require a neighborhood meeting and notice of application for the following reasons: 1) the FLD is much more prescriptive than the RCP, and, therefore, review and consideration for approval of proposed FLD projects is much more objective and much less subject to staff interpretation; 2) the FLD standards provide greater protections to adjacent property owners; and, 3) the additional notice requirements create a mistaken perception among interested parties that they can influence the PDSD Director's decision when, in fact, the decision is based on a project's compliance with all applicable criteria.