PLANNING COMMISSION

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

DATE: **July 20, 2011**

TO: **Planning Commission**

FROM: **Ernie Duarte**
Executive Secretary

SUBJECT: **Proposed Unified Development Code: Articles 1 (General Provisions); 2 (Review Authorities); and, 3 (General Procedures)**

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

The Unified Development Code (UDC) is a simplification and reformat of the City's Land Use Code (LUC).

The City's consultant, Clarion Associates, has completed preliminary drafts of all eleven articles of prepared a preliminary draft of the UDC. Staff has completed their initial review of Articles 1, 2, & 3 and revised the articles to address several issues. Preliminary final drafts of each article, as well as disposition reports, are attached.

Recommendation – Staff recommends continued review of these and upcoming draft articles for the next several months.

Background

Land Use Code Simplification and Reformat Project (Project). The purpose of the Project is to, in general, simplify and reformat the City's LUC, Development Standards, and Chapter 23A Procedures so that they are more user-friendly. 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.

The Project requires the preparation of three separate, but interrelated documents:

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. Clarion Associates, the consultant contracted by the City to

prepare the UDC, has completed a draft UDC (see Attachment A for a summary of the UDC's eleven articles). Staff is reviewing the draft and is in the process of preparing the next draft for review by the Planning Commission and the public.

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. Staff is responsible for preparing the Administrative Manual. The Administrative Manual will be presented to the Planning Commission for their consideration in the fall or winter 2011.

Technical Manual. The Technical Manual includes engineering-related site standards, such as solid waste collection, street design, and detention/retention standards. Staff is responsible for preparing the Technical Manual. The Technical Manual will be presented to the Planning Commission for their consideration in the fall or winter 2011.

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.

Articles 1, 2 & 3

The following is summary of each article, as well as a description of the significant differences between the proposed UDC and LUC, of Articles 1, 2, and 3. For Articles 1 and 2, a description of several issues yet-to-be resolved is also provided. Preliminary final drafts of Articles 1 (Attachment C), 2 (Attachment E), and 3 (Attachment G) are attached.

NOTES:

1. The footnotes within each article describe the proposed significant changes to the LUC and the source material (i.e. LUC, Chapter 23A, and Development Standards) for each proposed section in the UDC. This same information is summarized in the disposition reports (Attachments C, E, and F).
2. Sections references to Articles 1, 2, and 3 have been updated and are accurate to the best of staff's knowledge. Section references to articles other than 1, 2, and 3 are highlighted in the attached articles because they require updating. These section references will be updated by the time this item returns to the Planning Commission for public hearing.

Article 1: General Provisions (Attachments B & C)

Summary. Article 1 establishes:

- The UDC as the governing zoning code for the City of Tucson as granted by the Arizona Revised Statutes:

- That the provisions of the UDC apply to all development and uses of land within the City (except as provided for by Section 1.7: Transitional Regulations;
- A set of maps depicting all land us zoning boundaries within the City of Tucson;
- That the Zoning Administrator shall render decisions and interpretations of the UDC when questions occur concerning its content or application; and,
- Transitional regulations that clarify the applicability of the Land Use Code and UDC.

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

1. LUC Sections 1.1.4 (Violations) and 1.1.6 (Enumeration) are proposed for deletion because they are no longer required;
2. The 5-day review period for the Zoning Administrator to render a decision is proposed for deletion because 5 days is not enough time to conduct the necessary research and prepare a written response, particularly during times when there is a lot of development activity in the City; and,
3. The transitional regulations are included to establish when the LUC and UDC apply.

Issue Requiring Further Consideration. UDC Section 1.7 (Transitional Regulations), Subsection D (Choice of Code) – In an effort to encourage applicants to use the UDC rather the LUC during the 3-year transition period, every procedure allowing discretionary modifications to the development regulations of the underlying zone (i.e. Flexible Lot Development, Design Development Option, Downtown Area Infill Incentive District, and the Parking Design Modification Request) will be removed from the LUC and maintained in the UDC. Staff is exploring whether there are any other procedures that can be excluded from the LUC to further encourage use of the UDC.

<u>Article 2: Review Authorities and Powers (Attachments D & E)</u>

Summary. Article 2 describes the powers and responsibilities of the legislative and administrative bodies, appointive officers, municipal agencies, and boards and commissions involved in the planning, zoning, and division of land within the City.

Significant Differences Between the LUC and the Proposed UDC.

1. UDC Sections 2.2.9 and 2.2.10 reflect the recent reorganization and renaming of the Development Services Department (DSD) to the Planning and Development Services Department (PDSD) and the Department of Urban Planning and Design to the Housing and Community Development Department (HCDD);
2. Article 2 clarifies the HCDD and PDSD's responsibilities concerning specific plans (i.e. area and neighborhood plans) such that HCDD is responsible for developing and processing the adoption of specific plans and PDSD is responsible for processing amendments to and maintaining adopted specific plans;

3. The Design Professional and the Design Examiner positions have been combined since the powers and duties of each are so similar; and,
4. The Community Design Review Committee is proposed for renaming to the City Development Review Committee. The new name more accurately reflects the duties of the committee.

Issues Requiring Further Consideration.

1. Section 2.2.6.C.7 (Gateway Corridor Zone, Variances) – Staff is considering whether to delete this section because this process is rarely, if ever, used.
2. Section 2.2.12.D.3 (City Development Review Committee – Technical Review) – Further clarification of this section is needed.

Article 3: General Procedures (Attachments F & G)

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.

Significant Differences 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 (a supplemental review manual that is a mix of policy and ordinance documents) are being consolidated into Article 3.
2. Sections 3.2.2 & 3.2.3 – 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 3.6.1 (Land Use Plan Procedure) – 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);
4. Sections 3.6.1 & 3.6.2 – The land use plan and text amendment procedures have their own sections to better distinguish the differences between the two procedures;
5. Section 3.7.1.B.4 (Design Development Option) – The two Design Development Option provisions have been consolidated into a single DDO section in the draft UDC; and,.
6. Section 3.7.1.B.4 (Design Development Option – Applicability) – This section includes a proposal currently not permitted in the LUC, which allows modifications of up to 10% of quantitative dimensional regulations in Article 6 and zoning district standards in Article 4, provided findings are met.

Issue Requiring Further Consideration. Further consideration is required in the organization and renaming of several procedures.

Attachments:
Attachment A – Summary of the Unified Development Code
Attachment B — Article 1: General Provisions – Disposition Report
Attachment C – Article 1: General Provisions (Draft)
Attachment D — Article 2: Review Authorities and Powers – Disposition Report
Attachment E – Article 2: Review Authorities and Powers (Draft)
Attachment F – Article 3: General Procedures – Disposition Report
Attachment G – Article 3: General Procedures (Draft)

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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/Uses** (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

ARTICLE 1: GENERAL PROVISIONS – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
Title and Effective Date	**1.1**	**1.1.1**	
Authority	**1.2**	**n/a**	This proposed section establishes that the UDC is adopted pursuant to powers granted by the Arizona Revised Statutes.
Purpose of this Code	**1.3**	**1.1.2**	
Applicability and Jurisdiction	**1.4**	**1.1.3 & 1.1.5**	
General Applicability and Compliance	1.4.1	1.1.5	
Zoning Maps	1.4.2	1.2.5 & 1.3.1-7	
	n/a	1.1.4: Violation	This section is proposed for deletion
	n/a	1.1.6: Enumeration	This section is proposed for deletion
Interpretations of the Unified Development Code (UDC)	**1.5**		
Interpretation by Zoning Administrator	1.5.1	1.2.1 & 23A-31	The 5-day review period is proposed for deletion
Interpretations of Graphics and Captions	1.5.2	1.2.1	
References to other Codes and Laws	1.5.3	1.2.1	
Restoring Unsafe Structures	1.5.4	1.2.8	
Terms	1.5.5		
Conflicting Provisions	**1.6**		
Conflict with Ordinances, Regulations, or Permits	1.6.1	1.2.2	
Effect on other Provisions	1.6.2	1.2.2	
No Relief from other Provisions	1.6.3	1.2.3	
Transitional Regulations	**1.7**	**n/a**	Proposed new text
Severability	**1.8**	**1.2.11**	

ATTACHMENT 6

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – JULY 2011

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ARTICLE 1: GENERAL PROVISIONS[1]

1.1. TITLE AND EFFECTIVE DATE[2]

This ordinance is enacted as Chapter 23 of the Tucson Code and may be cited as the "Unified Development Code" or "UDC" of the City of Tucson.

COMMENTARY

For a detailed account of where the current LUC and Development Standards have been relocated in the draft UDC, please refer to the separate Disposition Report that provides a section-by-section list of where each existing major section has been moved.

1.2. AUTHORITY[3]

This UDC is adopted pursuant to the powers granted by the Arizona Revised Statutes (A.R.S.).

1.3. PURPOSE OF THIS CODE[5]

The provisions of the UDC are established to protect and promote the general health, safety, and welfare of all present and future residents of Tucson and more specifically:

- To implement the General Plan;
- To guide new growth and redevelopment of the community in accordance with the policies of the General Plan;
- To encourage the most efficient use of land through site sensitive design;
- To reduce potential hazards to the public that may result from incompatible land uses or from the development of environmentally hazardous or sensitive lands;
- To protect and enhance the City's natural, cultural, historical, and scenic resources; and
- To promote the economic stability of the community.

1.4. APPLICABILITY AND JURISDICTION

1.4.1. GENERAL APPLICABILITY AND COMPLIANCE[6]

A. The provisions of the UDC apply to all development and uses of land within the City.

B. No land shall be divided into two or more parcels or be used or occupied, no site modification or construction started, and no existing use or structure expanded, reconstructed, changed, or otherwise altered until compliance with the provisions of the UDC have been certified.

C. The Planning and Development Services Department shall not issue approvals or permits for, nor shall any person commence excavation, grubbing, grading, paving, demolition, or construction of any sort before compliance with UDC standards has been certified.

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[1] This brief article is based generally on current Article 1 in Chapter 23 (Art. I. Div. 1; Sec. 1.2.1 to 1.2.4; Sec. 2.1.9; and Sec. 3.1.3) and Article 1 in Chapter 23A (Sec.23A-1 to 23A-5; and Sec. 23A-8 to 23A-10), each with a number of proposed changes. While not read frequently, this article serves as an important legal foundation for the entire document.

[2] Text from LUC Sec. 1.1.1.

[3] Proposed new text.

[5] Text from LUC Sec. 1.1.2.

[6] Text for proposed Sec. 1.4.1A through C are from LUC Sec. 1.1.3.

D. All provisions of the UDC shall be consistent with, and conform to, the General Plan and other related plans and policies adopted by the Mayor and Council.[7]

E. The certification of zoning compliance as provided in Section 1.5.1.B, Zoning Interpretations and Zoning Certifications, shall consist of the certification that proposed development and construction are in conformance with the UDC prior to final development approval.[8]

1.4.2. ZONING MAPS

A set of maps depicting all land use zoning boundaries within the City of Tucson is established and entitled "City of Tucson Zoning Maps."

A. Title

A set of maps depicting all land use zoning boundaries within the city of Tucson is established and entitled "City of Tucson Zoning Maps."

B. Purpose

The city is divided into land use zoning districts, and the establishment of the zoning maps is for the purpose of graphically indicating the locations of all land use zone boundaries within the corporate limits of the city, facilitating the application of the UDC on each individual piece of property.

C. Applicability

The City of Tucson Zoning Maps, as part of the UDC, depict the land use regulations applicable on each individual property within the city limits by identifying the zoning classification that applies on each property. Maps are added to the set upon the adoption of original city zoning for land annexed into the city.

D. Determination of Zone Boundaries

Zone boundary lines are intended to follow lot lines to the centerlines of streets, alleys, railroad rights-of-way, or extensions of such rights-of-way, except where referenced to a street line or other designated line. (See Figure 1.3.4.)

[7] Text from LUC Sec. 1.1.5., with minor clarifications.
[8] Text from 23A-4.
[10] Text from LUC Sec. 1.2.1, including both editor's notes.

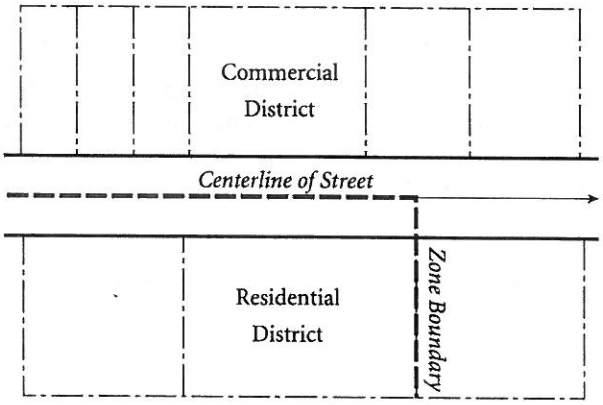
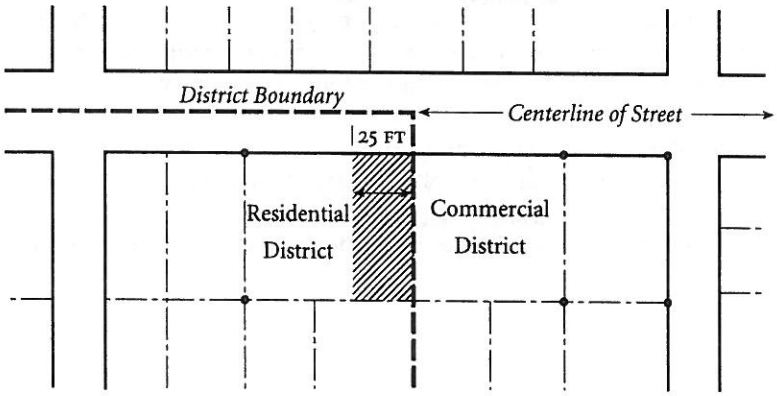


Figure 1.3.4: Determination of Zone Boundaries

E. Zone Boundaries Dividing a Lot

On any lot that was under single ownership and of record on September 20, 1948, and divided by a zone boundary into two (2) or more separate zoning categories, the permitted uses and accessory uses allowed in one zone may encroach twenty-five (25) feet into the other zone if such zone is more restrictive and the encroaching use is not permitted in the more restrictive zone. *(See Figure 1.3.5.)*



Permitted and accessory uses in one district may encroach 25 FEET into other district.

Lot under single ownership on September 20, 1948

Figure 1.3.5: Zone Boundaries Dividing a Lot

F. Zone Boundary Conflict

If any question arises concerning the location of a land use zone boundary, the Zoning Administrator renders a final decision and interpretation on the matter in conformance with Sec. 1.5.1, Interpretation by Zoning Administrator.

G. Zoning of Right-of-Way

Zoning is applicable on all property, except street rights-of-way. Use of street rights-of-way for other than public street purposes requires approval by the Zoning Administrator and the Department of Transportation. The Zoning Administrator may allow, within the right-of-way, only those uses or structures that are permitted on the property immediately abutting the right-of-way.

1.5. INTERPRETATIONS OF THE UNIFIED DEVELOPMENT CODE (UDC)[10]

1.5.1. INTERPRETATION BY ZONING ADMINISTRATOR

A. When questions occur concerning the content or application of the UDC, the Zoning Administrator shall render a final decision and interpretation on the matter in accordance with Subsection B, Zoning Interpretations and Zoning Certifications. In making a determination, the Zoning Administrator shall rely on the purpose of the section in question. Zoning Administrator interpretations can be appealed through a Board of Adjustment Appeal Procedure, Section 3.2.4.E.2. Appeals must be filed within 30 days of the date of decision. The Board of Adjustment, under extenuating circumstances, may extend the 30-day appeal period.

B. Zoning Interpretations and Zoning Certification

For any development reviewed in accordance with this Section that involves an interpretation of the substantive provisions of the UDC or the application of substantive zoning provisions in the zoning certification of a site plan, tentative plat, or final plat, a request for a written interpretation or certification may be submitted to the Zoning Administrator in the following manner:

1. A person affected by the proposed development, as defined in subsection 2 below, may request in writing that any decision requiring an interpretation of substantive zoning regulations be reviewed and decided by the Zoning Administrator. The applicant or the Zoning Administrator may place other parties on notice of the determination by providing a copy of the application to such parties at the time it is submitted to the Zoning Administrator and listing such persons as a party of record in the application.

2. A person affected by the proposed development shall include the applicant, owners or residents of property within 300 feet of the site, any neighborhood association within one mile and any person who may be personally affected by the proposed development in a manner that is beyond the impact of the development on the general public.

3. The Zoning Administrator shall make the final zoning determination within five days of receipt of any such written request. Any party interested in the decision may request a copy of the final zoning determination. The final zoning determination or certification shall be mailed to the applicant and all parties of record within three days of the determination.

4. The Zoning Administrator's determination shall be binding upon the applicant and all parties of record unless appealed.

1.5.2. INTERPRETATIONS OF GRAPHICS AND CAPTIONS

All graphics and captions included in the UDC are for illustrative purposes and do not have legal status.

1.5.3. REFERENCES TO OTHER CODES AND LAWS

Section references to codes and laws other than in the UDC, such as the Arizona Revised Statutes (A.R.S.) or other chapters in the Tucson Code, are generally provided for the reader's convenience. Since these codes and laws are adopted separately from the UDC, the references are administratively amended as needed to assure that correct references are maintained. These administrative amendments do not affect the substantive application of the UDC.

1.5.4. RESTORING UNSAFE STRUCTURES [12]

Nothing in this UDC shall prevent the strengthening, restoration, or upgrading of a structure to conform to minimum Building or Fire Code standards.

1.5.5. TERMS

For purposes of the UDC, the terms regulations, standards, and requirements all refer to regulatory provisions of the UDC.

1.6. CONFLICTING PROVISIONS[13]

1.6.1. CONFLICT WITH ORDINANCES, REGULATIONS, OR PERMITS

If any provisions within the UDC conflict, the most restrictive as determined by the Zoning Administrator shall apply, unless otherwise provided.

1.6.2. EFFECT ON OTHER PROVISIONS

The provisions of the UDC do not abrogate any other ordinance, statute, regulation, private covenant, agreement, or contract that is more restrictive or that requires greater performance in the regulation of any land use or development within the City.

1.6.3. NO RELIEF FROM OTHER PROVISIONS

Except as otherwise specifically provided, no provision of the UDC shall be construed as relieving any party, to whom UDC compliance approval is issued, from any other provision of county, state, or federal law or from any provision, ordinance, or regulation of the City of Tucson requiring approval, license, or permit to accomplish, engage in, carry on, or maintain a particular business, enterprise, occupation, transaction, or use.

[12] Text from LUC Sec. 1.2.8.
[13] Text from LUC Sec. 1.2.2, 1.2.3, and 1.2.4.
[15] Section is proposed new text.

1.7. TRANSITIONAL REGULATIONS[15]

1.7.1. PURPOSE

The purpose of transitional regulations is to clarify the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of this UDC.

COMMENTARY

This section was added to provide greater clarity on the status of development applications that are pending when the new UDC is adopted.

1.7.2. VIOLATIONS CONTINUE

Any violation of the previous Land Use Code (LUC) shall continue to be a violation under this UDC and shall be subject to the penalties and enforcement in Article 10: Enforcement and Penalties; except when a use, structure, or lot not lawfully existing at the time of the adoption of this UDC is deemed lawful and conforming as of the effective date of this UDC if it conforms to all of the standards of this UDC. Payment shall be required for any civil penalty assessed under the previous code, even if the original violation is no longer considered a violation under this UDC.

1.7.3. USES, STRUCTURES, AND LOTS RENDERED NONCONFORMING

A. When a building, structure, or lot is used for a purpose that was a lawful use before the effective date of this UDC, and this UDC no longer classifies such use as an allowed use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by Article 9: Nonconformities.

B. Where any building, structure, or lot that legally existed on the effective date of this Code does not meet all standards set forth in the UDC, such building, structure, or lot shall be considered nonconforming and shall be controlled by Article 9: Nonconformities.

1.7.4. APPLICATIONS COMMENCED OR APPROVED UNDER PREVIOUS ORDINANCES

A. Pending Applications

1. Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this UDC, shall be reviewed in accordance with the ordinance in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the standards of this UDC. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

2. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this UDC, may request review under this UDC by a written letter to the Planning and Development Services Department.

B. Tentative and Final Plats

1. 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.

2. A final plat application, for which the tentative plat was approved prior to the effective date of this UDC, may be processed pursuant to the applicable terms of the ordinance in place at the time of tentative plat approval, even if the application does not comply with standards set forth in this UDC.

C. Approved Projects

1. Approvals and permits that are valid on [--- insert effective date] shall remain valid until their expiration date. Projects with valid approvals or permits may be completed in conformance to the regulatory provisions in effect at the time of approval.

2. Any building or development for which a building permit was granted prior to the effective date of this UDC may be permitted to proceed to construction. If the development for which the building permit is issued prior to the effective date of this UDC fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the standards of this UDC.

D. Choice of Code[16]

For a period of three years after the effective date of this UDC, an applicant who was a landowner prior to the effective date may choose to be governed by the provisions of this UDC or those of the Land Use Code (LUC) in effect on the date this UDC becomes effective. During this three-year transition period, ending [insert date], the landowner shall comply, without exception, with all provisions of either the UDC or LUC selected by that landowner. Applicants electing to be governed by the LUC during this period will not have the ability to seek modifications or exceptions pursuant to: Flexible Lot Development, Design Development Option, Downtown Area Infill Incentive District, and Parking Design Modification Request[17]. The selection shall be made and communicated to the City on a form provided by the City prior to acceptance of any development applications on the subject property. The landowner shall not be permitted to alternate compliance between the previous LUC and current UDC during the three-year transition period. At the expiration of the three-year transition period, the LUC will be repealed.

E. Waiver of Potential Claims[18]

In exchange for the processing of [entitlements], the City requires that a property owner shall execute a waiver of any right of any potential claims under Proposition 207, the Private Property Rights Protection Act (A.R.S. Sec. 12-1134), arising from his or her development of the property as permitted by A.R.S. Sec. 12-1134 (I), in the form approved by the City Attorney. The waiver applies only to the action requested and does not diminish any other landowner rights that may exist prior to the request.

[16] This is a new proposed section that addresses staff's desire to allow (temporary) flexibility for landowners to choose to continue to be governed by the current LUC (to address Prop. 207 issues) or by the new UDC.

[17] Staff is investigating whether there are other procedures that can be added to further encourage applicants to use the UDC rather than the LUC.

[18] Proposed new text; further discussion needed.

1.8. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional, such findings do not affect the validity or constitutionality of the remaining portions of the ordinance.[21]

[21] Text from LUC Sec. 1.2.11

ATTACHMENT D

ARTICLE 2: REVIEW AUTHORITIES AND POWERS – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
Purpose of Article	**2.1**		
Review and Decision-Making Bodies	**2.2**		
Mayor and Council	**2.2.1**	**5.1.2**	
City Manager	**2.2.2**	**5.1.3**	
Planning Commission	**2.2.3**	**5.1.5**	
Zoning Examiner	**2.2.4**	**5.1.6**	
Board of Adjustment	**2.2.5**	**5.1.7**	
Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permits	2.2.5.G	23A-32.1.2.g	
Design Review Board	**2.2.6**	**5.1.8**	
Powers and Duties	2.2.6.C	5.1.8.3	
Environmental Resource Zone, Variances	2.2.6.C.5	2.8.6.8.A.2	
Communications Land Use, Zoning Examiner Legislative Procedure	2.2.6.C.13	5.1.8.3.N & O	LUC sections combined in the UDC for simplicity
Neighborhood Preservation Zone, Appeals	2.2.6.C.17	23A-32.1.2.f	
Tucson-Pima County Historical Commission	**2.2.7**	**5.1.9**	
Historic Preservation Zone Advisory Boards	**2.2.8**	**5.1.10**	
Planning and Development Services Department (PDSD)	**2.2.9**	**5.1.4.2.D & E, 5.1.11, 5.2.2.2 & 5.2.2.3**	Text from LUC Sec. 5.1.11, with significant changes from staff. This section reflects the recent reorganization and renaming of the Development Services Department (DSD) to the Planning and Development Service Department (PDSD), and the Department of Urban Planning and Design (DUPD) to the Housing Community Development Department (HCDD).
Housing and Community Development Department (HCDD)	**2.2.10**	**5.1.4 (except 5.1.4.2.D & E)**	See PDSD note for further information
Design Professional	**2.2.11**	**5.1.12 & 5.1.13**	The powers and duties of the Design Professional and Design Examiner have been combined in the UDC for simplicity purposes and to eliminate redundancy.

ATTACHMENT D

City Development Review Committee	**2.2.12**	**Development Standard 1-031.0, 2.4, 3.3, & 5.0**	The Community Design Review Committee is proposed to be renamed to the City Development Review Committee. The new name more accurately reflects the duties of the committee.

ATTACHMENT E

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – JULY 2011

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ARTICLE 2: REVIEW AUTHORITIES AND POWERS[1]

2.1. PURPOSE OF ARTICLE[2]

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

2.2. REVIEW AND DECISION-MAKING BODIES

2.2.1. MAYOR AND COUNCIL[3]

The Mayor and Council perform the following functions:

A. General Plan
The Mayor and Council shall adopt a comprehensive, long-range general plan for the development of the City known as the General Plan as provided in Section 3.6.1.E and Section 3.6.1.F and as mandated by the A.R.S., Section 9-461.05 et. seq.

B. Specific Plans and Regulations
The Mayor and Council shall adopt specific plans, regulations, programs, and legislation as described in Section 3.6.1.E and Section 3.6.1.F and as may be needed for the systematic implementation of the General Plan and as required by Arizona Revised Statutes.

C. Redevelopment Plans
The Mayor and Council shall adopt or amend redevelopment plans, which are policy plans addressing slum and blighted areas from the standpoint of providing economic incentives to stimulate development/redevelopment, in accordance with procedures in Section 3.6.1.E and Section 3.6.1.F.

D. Unified Development Code (UDC)
The Mayor and Council shall adopt and amend the UDC in accordance with procedures in Section 3.6.2.

E. Establishment of Original City Zoning
The Mayor and Council shall establish original zoning for land annexed into the City in accordance with procedures in Section 3.3.1 and as provided for in A.R.S. 9-471.

F. Changes in Zoning District Boundaries (Rezonings)
The Mayor and Council shall consider amendments to zoning district boundaries as set forth on the City Zoning Maps in accordance with procedures in Section 3.3.1.

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[1] This section is taken primarily from Art. V. Div. I; Sec. 5.2.2.3 and 5.2.3.3; Sec. 4.14; Sec. 23A-6; and DS 1-03.1.0, 1-03.5.0, 1-07.5.0, 1-08.0, 1-09.0, 1-05.5.0, 9-08.2.2/5 and 11-01.17.0. See footnotes below and disposition report for a more detailed account of where these section are have been relocated.
[2] Text from LUC Sec. 5.1.1.
[3] Text from LUC Sec. 5.1.2, with minor clarifications.
[5] Text from LUC Sec. 5.1.3

G. Appeals of Zoning Examiner (Examiner) Decisions, Special Exception Land Uses
The Mayor and Council shall consider appeals from Zoning Examiner decisions on Special Exception Land Use applications in accordance with procedures in Section 3.2.4.C.

H. Plats
The Mayor and Council shall consider final plats in accordance with procedures in Section 8.5.5.D. Authority to approve a tentative plat is delegated to the Director of the Planning and Development Services Department (PDSD).

I. Special Exception Land Uses
The Mayor and Council shall consider Special Exception Land Use requests requiring legislative consideration in accordance with procedures in Section 3.5.1.

J. Enforcement
The Mayor and Council shall adopt policies for establishing rules and procedures deemed necessary or advisable for the enforcement of the UDC.

K. Appointments
The Mayor and Council shall appoint the following individuals and members of boards and commissions.

1. Planning Commission in accordance with Section 2.2.3.
2. Board of Adjustment in accordance with Section 2.2.5.
3. Design Review Board in accordance with Section 2.2.6.
4. Design Professional in accordance with Section 2.2.11.

L. Appeals of Director's 300' Notice Procedure Decisions
The Mayor and Council shall consider appeals of the PDSD Director's decisions on applications under the Zoning Compliance 300' Notice Procedure in accordance with procedures in Sec. 3.2.4.C.

M. Protected Development Right Plan Approvals
The Mayor and Council shall consider protected development right plans submitted in accordance with A.R.S., Section 9-1201 et. seq. and the procedures in Section 3.5.2.

2.2.2. CITY MANAGER[5]

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

A. Enforcement
The City Manager assures that the UDC is enforced and that City agencies and employees provide assistance to the PDSD, HCDD, and other responsible boards and commissions in the planning, zoning, and division of land.

B. Capital Improvement Program

The City Manager, with the assistance of the HCDD and PDSD Directors and other City agencies, prepares a coordinated program of proposed public improvements for the City on an annual basis.

C. Establishment of Fees[6]

The City Manager recommends fees to be imposed in connection with reviews necessitated by the application of the UDC.

2.2.3. PLANNING COMMISSION[7]

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

A. Composition

The Planning Commission consists of 13 members as provided below.

1. Appointment

Each member of the City Council appoints two members, both of whom must be residents of the City and at least one of whom must be a resident of the Council Member's ward. The Mayor appoints one member who must be a resident of the City. Should an appointment not be made within 30 days of when the position becomes available, the appointment can be made by a majority vote of the Mayor and Council. All members of the Commission serve without compensation.

2. Qualifications

Members of the Planning Commission are appointed on the basis of their interest in the City and its future development, particularly as demonstrated by active participation in community affairs directly related to planning issues. No member shall hold any City, county, or state elective office or be a permanent employee of the City while appointed to the Commission.

3. Terms and Removal from Office

The term of appointment and the removal of a member of the Planning Commission shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

4. Vacancies

All vacant positions on the Planning Commission shall be filled by appointment as described in Subsection 1. An appointment to fill an unexpired term shall be for the unexpired portion of the term.

B. Administrative Functions

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

[6] The fee schedule, along with other information such as submittal requirements, will be relocated outside the UDC in the Administrative Manual.
[7] Text from LUC Sec. 5.1.5, with minor clarifications.

1. **Election of Officers**
The Planning Commission shall elect a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year which shall commence in February of each year.

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

3. **Quorum and Voting**
Seven members of the Planning Commission present at a meeting constitute a quorum. A concurring vote of seven members is necessary to make a recommendation to the Mayor and Council. A simple majority of those members present is required to approve or deny any other matter before the Planning Commission. If a concurring vote cannot be attained within the specified time allotted by the procedure on matters requiring Mayor and Council decision, the matter shall be forwarded to the Mayor and Council without recommendation.

4. **Records**
The PDSD shall keep public records of the Planning Commission's public hearings, findings, and recommendations.

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

6. **Subcommittees**
The Planning Commission may create such special subcommittees as it may deem necessary or desirable as provided under Chapter 10A of the Tucson Code. The members of such subcommittees shall be selected from among the members of the Planning Commission and may include other persons qualified to contribute to the work of the special subcommittee.

C. **Powers and Duties**
The Planning Commission performs the following duties.

1. **General Plan**
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on the adoption of, and amendments to, the General Plan in accordance with procedures in Section 3.6.1.D.

2. **Specific Plans**
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendment to, specific plans, including but not limited to area and neighborhood plans,

and on regulations for the implementation of the General Plan in accordance with procedures in Section 3.6.1.D.

3. **Unified Development Code (UDC)**
The Planning Commission conducts public hearings and makes recommendations to the Mayor and Council on adoption of, and amendments to, the text of the UDC in accordance with procedures in Section 3.6.2.D.

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

2.2.4. ZONING EXAMINER[8]

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

A. Position

The Zoning Examiner serves in accordance with the following provisions.

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

2. **Qualifications**
The Zoning Examiner is appointed on the basis of a demonstrated ability to perform the duties of the office, such as training and experience relevant to the conduct of administrative and adjudicative hearings and knowledge of the principles and practices of land use planning. The Zoning Examiner may not hold a City elective office concurrently with this position.

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

B. Administrative Functions

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

[8] Text from LUC Sec. 5.1.6, with minor clarifications.

C. Powers and Duties

The Zoning Examiner performs the following duties:

1. Rezoning

The Zoning Examiner conducts public hearings on applications to rezone property and makes recommendations to the Mayor and Council in accordance with procedures in Section 3.3.1.G.

2. Special Exception Land Use

The Zoning Examiner conducts public hearings on certain Special Exception Land Uses and, depending upon the applicable procedure, makes decisions, or provides recommendations to the Mayor and Council in accordance with procedures in Section 3.5.1.

3. Expansion of Nonconforming Use

The Zoning Examiner hears and decides requests to exceed the amount of expansion allowed for structures and land area devoted to a nonconforming use in accordance with procedures in Sections 9.2.2 and 3.5.1.

4. Substitution of Nonconforming Use

The Zoning Examiner hears and decides requests to substitute a land use for an existing nonconforming use, when the proposed substitution is from a Land Use Class that is different from the one to which the existing nonconforming use belongs in accordance with procedures in Section 3.5.1 as provided for in Section 9.2.4.

5. Other Responsibilities

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

2.2.5. BOARD OF ADJUSTMENT[10]

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

A. Composition

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

1. Appointment

Each member of the City Council appoints one B/A member who must be a resident of the appointing Council Member's ward. The Mayor appoints one B/A member who must be a resident of the City. Should an appointment not be made within 30 days of the date the position becomes vacant, the

[10] Text from LUC Sec. 5.1.7, with minor clarifications.

appointment can be made by a majority vote of the Mayor and Council. All members of the B/A serve without compensation.

2. **Qualifications**
No member of the B/A may hold any City, county, or state elective office or be a permanent employee of the City while a member of the B/A.

3. **Terms and Removal from Office**
The term of appointment and the removal of a member of the B/A shall be in accordance with Tucson Code, Chapter 10A, Article XIII.

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

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

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

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

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

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

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

C. Powers and Duties
The B/A performs the following duties.

1. **Appeals of UDC Interpretations**
The B/A hears and decides appeals from interpretations made by the Zoning Administrator in the interpretation, application, or enforcement of the UDC or in the determination of a zone boundary location as provided in Section 1.5.1.

2. **Variances from UDC Provisions**
   a. **Variance Powers granted to Board of Adjustment**
   The B/A hears and decides requests for variances from the provisions of the UDC in accordance with procedures in Section 3.2.4.E.[12]

   b. **Variance Powers not granted the Board of Adjustment**
   The B/A may not:

   (1) Delete or vary any use-specific standards[13] applicable to a Special Exception Land Use as required by the UDC or as established as a condition by the decision-making body in granting the use, unless specifically allowed by the UDC.

   (2) Make any changes in the uses permitted in any zoning classification.

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

   (4) Grant a variance to any administrative requirement of the UDC or to any requirement which is not a specific development regulation or use-specific standards required of a land use.

   (5) Grant a variance to the use-specific standards required of Educational Uses as provided in Section 4.9.3.E.

D. Appeals of City Zoning Map Interpretation
The B/A hears and decides appeals of Zoning Administrator's interpretations of the official City Zoning Maps in determining exact locations of zone boundary lines as shown on the City Zoning Maps in accordance with procedures in Section 3.2.4.E.2.

E. Appeals of Design Development Option (DDO) Decision
The B/A hears and decides appeals of decisions by the PDSD Director on DDO applications in accordance with procedures in Section 3.2.4.E.2.

F. Appeals of Administrative Design Review Decision
The B/A hears and decides appeals of decisions by the PDSD Director on Administrative Design Review applications in accordance with procedures in Section 3.2.4.E.2. In considering the appeal, the B/A shall apply the same findings required of the PDSD Director.

[12] LUC Sec. 5.1.7.3.B.1, which provides the seven criteria for approving a variance, has been relocated to UDC Sec. 3.8.1 Variance.

[13] The term "performance criteria," which is associated with the current Development Designator System, is being replaced by a simpler system called "use-specific standards."

G. Appeals of Design Review Board (DRB) Decision on Neighborhood Preservation Zone (NPZ) Permit[14]

The B/A hears and decides appeals of the DRB affirming or reversing the Director's decisions of compliance or non-compliance with the neighborhood-specific design manual and compatibility review criteria in accordance with Section 5.?.

H. Other Responsibilities

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

2.2.6. DESIGN REVIEW BOARD[16]

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

A. Composition

The DRB consists of seven members, of whom five are regular members and two are alternates, as provided below.

1. Appointment

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

2. Qualifications

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

3. Terms

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

4. Vacancies

An appointment to fill an unexpired term shall be considered a new appointment in accordance with Subsection 3. Any position on the DRB that is vacated shall be filled by appointment as described in Subsection 1.

5. Removal

A member of the DRB may be removed with or without cause by a majority vote of the Mayor and Council. A member who misses four consecutive meetings for any reason or fails to attend for any reason at least 40 percent

[14] Text from Sec. 23A-32.1.2.g
[16] Text from LUC Sec. 5.1.8, with minor clarifications.

of the DRB meetings held in one calendar year is automatically and immediately removed as a member of the DRB.

B. Administrative Functions

The DRB's administrative functions shall be accomplished as follows:

1. Election of Officers

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

2. Meetings

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

3. Quorum and Voting

Three regular members or alternates constitute a quorum. A concurring vote of a majority of the members present and voting is necessary to make a decision.

4. Records

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

5. Rules of Procedure

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

6. Required Action

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

C. Powers and Duties

The DRB performs the following duties:

1. Scenic Corridor Zone (SCZ), Development Review

The DRB reviews development applications for projects located within a SCZ, when requested by the PDSD Director or applicant, as provided in Section 5.3.11.A, and in accordance with procedures in Section 3.2.1.I. In formulating its recommendation, the DRB shall use the same standards, as provided in Section 5.3.11.B, required of the PDSD Director in making the decision.

2. Scenic Corridor Zone (SCZ), Variances

The DRB reviews, for recommendation, all requests for variances from SCZ provisions and shall forward its recommendations in accordance with

Subsection B.6. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

3. **Design Development Option (DDO), Appeals**
The DRB reviews, for recommendation, appeals of decisions by the Director of PDSD on DDO applications in accordance with procedures in Section 3.2.4. In formulating its recommendation, the DRB shall utilize the same standards, as provided in Section 3.7.1E, required of the PDSD Director in making the decision.

4. **Environmental Resource Zone (ERZ) Mitigation Plan, Appeals**
The DRB reviews, for recommendation, appeals of the PDSD Director's decisions on ERZ mitigation plans as provided in Section 3.2.4.C.4 in accordance with procedures in Section 3.2.4.C. In formulating its recommendation, the DRB shall utilize the same standards required of the PDSD Director in making the decision.

5. **Environmental Resource Zone (ERZ), Variances**
   a. The DRB reviews, for recommendation, all requests for variances from ERZ standards, in accordance with the Board of Adjustment 300' Notice Procedure, Section 3.2.4.E.1. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

   b. If the City Engineer or designee, a notified property owner, or the applicant for the variance requests consideration of stormwater management issues related to the variance, the Stormwater Technical Advisory Committee may review the variance request concurrently with the DRB and may provide written or oral testimony at the public hearing for the variance request. Any such testimony must address the required findings in Section 3.2.4.E.3.a.[17]

6. **Landscaping and Screening Standards, Variances**
The DRB reviews, for recommendation, all requests for variances from Section 7.6, Landscaping and Screening Standards, as provided in Section 7.6.9.D and in accordance with procedures in Section 3.2.4.E.3. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

[17] Text from LUC Sec. 2.8.6.8.A.2.

7. **Gateway Corridor Zone, Variances**[18]
The DRB reviews, for recommendation, all requests for variances from Gateway Corridor Zone standards, as provided in Section 5.5.5 and in accordance with procedures in Section 3.2.4.E.3. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

8. **Native Plant Preservation (NPP), Variances**
The DRB reviews, for recommendation, all requests for variances from NPP standards, as provided in Section 7.7.6.B and in accordance with procedures in Section 3.2.4.E.3. In formulating its recommendation, the DRB shall utilize the same findings required in Section 3.2.4.E.3.a for granting a variance. In addition, the DRB may make any recommendation that may assist in mitigating any negative impacts which may occur should the request be granted.

9. **Neighborhood Commercial (NC) Zone, Development Review**
The DRB reviews all proposed nonresidential development, including exterior remodeling, for approval of architectural and site design compatibility with the surrounding residential area, as provided in Section 4.7.16.B.4.

10. **Office (O-1) Zone, Development Review**
The DRB reviews all new office development in the O-1 zone, including Medical Service - Outpatient, as provided in Section 4.9.4.R.7.

11. **Communications Land Use, Zoning Compliance Review**
The DRB reviews, for recommendation when requested by the PDSD Director, Communications land uses in all zones that require approval as a Special Exception Land Use through a Zoning Compliance Review, Section 3.2.1.I.

12. **Communications Land Use, Limited Notice Procedure**
The DRB reviews, for recommendation, Communications land uses in all zones that require approval as a Special Exception Land Use through a Limited Notice Procedure, Section 3.2.1.I.

13. **Communications Land Use, Zoning Examiner Legislative Procedure**
The DRB reviews, for recommendation when requested by the Mayor and Council, or Zoning Examiner, Communications land uses in all zones that require approval as a Special Exception Land Use through a Zoning Examiner Special Exception Procedure, Section 3.5.1.B.2.[19]

[18] Staff has recommended that this provision be deleted because this process is rarely, if ever, used. The matter, however, is still under discussion.
[19] This text combines LUC Sec. 5.1.8.3.N and O for simplicity.

14. **Home Occupation: Travelers' Accommodation, Lodging, Development Review**
The DRB reviews all Home Occupation: Travelers' Accommodation, Lodging, land uses in the various zones in which the use is permitted, as provided in Section 4.8.

15. **Historic Preservation Zone (HPZ), Appeals**
The DRB reviews, for recommendation, any appeal of a PDSD Director decision that was made in compliance with the procedural requirements of the Zoning Compliance 300' Notice Procedure, Section 3.2.1.H. The DRB recommendation shall be based on the purpose of the HPZ and the specific standards for development listed in Section 5.8.6.

16. **Rio Nuevo and Downtown (RND) Zone, Development Review**
The DRB reviews, for recommendation, all proposed development in the Rio RND Zone, as provided in Section 5.10. In formulating its recommendation, the DRB shall utilize the design standards found in Sections 5.10.4 5.10.5, and 5.10.6.

17. **Neighborhood Preservation Zone (NPZ), Appeals**[20]
The DRB hears and decides appeals from decisions of the PDSD Director on NPZ permits, as provided in Section 5.11. Applicants may appeal the DRB decision to the Board of Adjustment. Appeals shall be scheduled within 30 days of acceptance of the application for appeal. The DRB, in formulating its preliminary findings and recommendations, shall apply the same standards that the Design Professional applies.

18. **Other Responsibilities**
The DRB shall perform such other functions as may be required by the UDC.

2.2.7. TUCSON-PIMA COUNTY HISTORICAL COMMISSION[22]

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

A. Establishment

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

[20] Text from Sec. 23A-32.1.2.f.
[22] Text from LUC Sec. 5.1.9., with minor clarifications.

B. Administrative Functions

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

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

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

1. Establishment of an Historic Preservation Zone or Historic Landmark

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

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

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

3. Development Review

The Tucson-Pima County Historical Commission Plans Review Subcommittee shall review any development proposal within an HPZ for compliance with design and construction requirements and standards in accordance with Section 5.8.6.

4. Demolition Review

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

2.2.8. HISTORIC PRESERVATION ZONE ADVISORY BOARDS[23]

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

A. Composition

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

1. Appointment

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

[23] Text from LUC Sec. 5.1.10, with minor clarifications.

2. Qualifications

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

3. Terms

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

4. Removal

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

B. Administrative Functions

Each HPZ advisory board is responsible for the following administrative functions.

1. Election of Officers

Each HPZ advisory board elects a Chair and Vice Chair from among its members. The terms of the Chair and Vice Chair are one year.

2. Meetings

Each HPZ advisory board holds as many regular meetings as necessary to conduct its business in a timely manner. All meetings shall be open to the public.

3. Quorum and Voting

A majority of the voting members constitutes a quorum of an HPZ advisory board. The concurring vote of the majority of members present and voting is necessary to make any recommendation to the PDSD Director or to the Mayor and Council. If a concurring vote cannot be attained within the specified time allotted by the review procedure, the matter will be forwarded without recommendation.

4. Records

Each HPZ advisory board shall keep a public record of its actions, findings, and recommendations. Records may be found at the City Clerk's Office.

5. **Rules of Procedure**
Each HPZ advisory board may adopt rules of procedure necessary to carry out its functions. Copies of such rules will be filed with the City Clerk and made available to the public through the Planning and Development Services Department (PDSD).

6. **Training**
HPZ advisory boards shall schedule not less than one meeting per year for the purposes of training related to their design review responsibilities. The training shall be coordinated with the City's Historic Preservation Officer.

C. **Powers and Duties**
Each HPZ advisory board performs the following duties.

1. **Establishment of Historic Preservation Zone**
Upon receipt of a request to establish an HPZ, the Mayor and Council may establish an HPZ advisory board for the proposed historic zone to evaluate and make recommendations on the proposed establishment of the HPZ in accordance with Section 5.8.3. As part of the review, the HPZ advisory board makes recommendations on the boundaries of the HPZ and which sites or structures are to be designated "Contributing Properties" and "Noncontributing Properties."

2. **Historic District Amendments**
Each HPZ advisory board shall make written recommendations to the PDSD Director and to the Mayor and Council concerning amendments to the boundaries of its HPZ and the addition or deletion of designated sites and structures in accordance with Section 5.8.3.

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

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

2.2.9. PLANNING AND DEVELOPMENT SERVICES DEPARTMENT (PDSD)[24]

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

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

1. **Implementation of and Compliance with the UDC**
   The PDSD shall be responsible for the implementation of and assuring compliance with the applicable provisions of the UDC on all projects being developed under the existing zoning of the property, including applicable overlay zones.

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

3. **Board of Adjustment (B/A)**
   The PDSD shall be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the B/A's findings and decisions.

4. **Design Review Board (DRB)**
   The PDSD shall be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the DRB's decisions.

5. **Historic Preservation Zones (HPZ)**
   The PDSD shall coordinate review of all alterations, new development, and demolitions within the HPZ and perform any other administrative function as required by Section 5.8.

6. **Subdivision, Minor Subdivision, and Land Split**
   The PDSD shall be responsible for the review of all development proposals for compliance with the subdivision, including Flexible Lot Development, minor subdivision, and lot split standards as provided in Article 8.

7. **Rezoning, Planned Area Development (PAD), Planned Community Development (PCD), Urban Overlay District (UOD), and Neighborhood Preservation Zone (NPZ)[25]**
   The PDSD shall review and provide recommendations for all PAD, PCD, UOD, and NPZ applications and any rezoning initiated by the Mayor and Council.

8. **Special Land Use Exception[26]**
   The PDSD shall be responsible for review and recommendation for an application in accordance with the UDC.

9. **Amendment of UDC**
   The PDSD shall be responsible for review of and provide recommendations on amendments to the UDC.

[25] This duty, with new text, was transferred from the current Planning Department to the PDSD.
[26] Duty added per staff comment.

10. **Planning Commission**[27]
The PDSD shall provide technical assistance to and be responsible for scheduling meetings, providing agendas and public notice of meetings, and maintaining public records of the Planning Commission's findings and decisions.

11. **Airport Regulations**[28]
The PDSD shall administer and enforce airport zoning regulations in accordance with provisions of this UDC and applicable Arizona Revised Statutes.

12. **Non-conforming Uses, Temporary Uses and Structures**[29]
The PDSD shall evaluate and make decisions on non-conforming uses and temporary uses and structures in accordance with the UDC.

13. **300' and Limited Notice Procedures**[30]
The PDSD shall evaluate and make decisions on an application reviewed under the 300' or limited notice procedures in accordance with the UDC. Full notice review includes but is not limited to the following items: Flexible Lot Development; Hillside Development Zone; Scenic Corridor Zone; Environmental Resource Zone; and, Watercourse Amenities, Safety, and Habitat standards.

14. **Modifications to the UDC**[31]
The PDSD shall evaluate and make decisions on an application to modify standards such as setbacks, parking, screening and landscaping in accordance with the UDC.

15. **Administrative Design Review**[32]
The PDSD shall evaluate and make decision on an application under the Administrative Review Procedure in accordance with the UDC.

16. **Amendments to and Administration of Specific Plans (including Area, Sub-Area, and Neighborhood Plans)**
    a. **Amendments**
    The PDSD shall review and provide recommendations to the Planning Commission and the Mayor and Council on amendments to specific plans. The PDSD may coordinate with the HCDD when developing its recommendation.

    b. **Administration**
    The PDSD shall provide for the maintenance and administration of specific plans.

[27] This duty was transferred from the current Planning Department to the PDSD.
[28] This duty was relocated from the purpose statement to the list where it better fits.
[29] Duty added per staff comment.
[30] Duty added per staff comment.
[31] Duty added per staff comment.
[32] Duty added per staff comment.

17. Other Responsibilities

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

18. Director of the Planning and Development Services Department (PDSD)[33]

The PDSD Director shall be the chief administrative officer of PDSD. The PDSD Director, or designee, shall be responsible for administering the functions and duties of PDSD listed in this section. The PDSD Director or designee may perform other functions and duties, including assisting the Zoning Administrator in enforcing the UDC, as may be required for the administration of the department or as provided by the City Manager or the UDC.

19. Zoning Administrator

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

a. Unified Development Code (UDC) Interpretation

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

b. Unified Development Code (UDC) Enforcement

The Zoning Administrator shall enforce the UDC with assistance from PDSD as provided in Section 10.2, and from other City departments as may be provided by the City Manager and Mayor and Council.

c. Other Responsibilities

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

2.2.10. HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT (HCDD) [34]

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

A. Functions and Duties

The HCDD shall be responsible for the preparation, maintenance, and administration of the General Plan and certain specific plans, the preparation and maintenance of land use regulations, redevelopment plans, and other functions as deemed necessary or desirable for the City.

[33] Staff recommends deleting the list of specific Director duties in LUC Sec. 5.1.11.2 and replacing with this more general purpose statement.

[34] As mentioned above, this is the new name for the Dept. of Urban Planning and Design. The organization and duties of this section reflect staff comments.

1. **Administration of General Plan**

   a. **Preparation and Adoption**

   The HCDD prepares the General Plan, and amendments thereto, for consideration by the Mayor and Council in accordance with the procedures in Section 3.6.1.

   b. **Implementation**[35]

   The HCDD shall:

   (1) Investigate and make recommendations to the Mayor and Council concerning reasonable and practical means for putting the General Plan, or parts thereof, into effect in order that it will serve as a pattern and guide for the orderly growth and development of the City and as a basis for the efficient expenditure of its funds relating to the subjects of the General Plan. The measures recommended may include plans, regulations, financial reports, and capital budgets.

   (2) Submit an annual report to the Mayor and Council on the status of the plan and its implementation.

   (3) Endeavor to promote public interest in, and understanding of, the General Plan and regulations relating to it.

   (4) Consult with and advise public officials and agencies; public utility companies; civic, educational, professional, and other organizations; and citizens, generally, with relation to carrying out the General Plan.

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

   The HCDD shall prepare new specific plans for consideration of adoption by the Mayor and Council. Specific plans include such elements as, but are not limited to, neighborhood and area plans, plans for major streets or parks, and land use standards and policy documents for the implementation of the General Plan. The Mayor and Council, with a recommendation from the HCDD, may adopt administrative rules and procedures for the implementation of specific plans.

3. **Capital Improvement Program**

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

4. **Historic Preservation**

   The HCDD shall be responsible for the following:

   a. Overseeing the General Plan's policies pertaining to historic preservation

   b. Establishing local National Register Historic Districts and Historic Preservation Zones

[35] This section is taken from Sec. 5.2.2.3.

c. Performing the duties and responsibilities of the Historic Preservation Program, including creating and maintaining programs to encourage the recognition, restoration, and maintenance of the historic, archaeological, and cultural resources of the City and

d. Working with and assisting departments of the City and the Tucson-Pima County Historical Commission in matters affecting historic preservation.

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

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

2.2.11. DESIGN PROFESSIONAL[36]

The position of Design Professional (DP) is established 1) to review building permits for projects located in the Neighborhood Preservation Zone (NPZ) overlays for compliance with applicable design manuals, and 2) to review proposed buildings, structures, landscaping, architectural features, of proposed subdivisions, development plans, and site plans, as set forth in the UDC.

A. **Appointment and Qualifications**

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

2. **Qualifications**
a. **NPZ Review**
The DP shall be a registered architect, preferably with historic preservation experience.

b. **Subdivision Review**
The DP shall be a registered architect or landscape architect.

[36] Text from LUC Sec. 5.1.12 and 5.1.13 from the new FLD amendment. Per staff comment, we have consolidated the Design Professional (NPZ) and Design Examiner (FLD) positions but have retained the same qualifications and requirements when performing the respective duties.

B. Powers and Duties

1. NPZ Compatibility Review within Neighborhood Preservation Zones
The DP shall review applications for building permits for projects located within adopted NPZ Overlays for compliance with the applicable Design Manual and Section 5.11.7 (Neighborhood Preservation Zone Design Review Procedures). The DP will forward a written report with findings and recommendation to the PDSD Director. The Director shall take into account the recommendations of the DP when considering approval of the application.

2. Flexible Lot Development (FLD) Project Review
The DP shall review FLD projects for compliance with, but not limited to:

a. Section 8.8.9.F.1, 2 (Functional Open Space);

b. Section 8.8.9.M.2.a (Transition Edge Treatment);

c. Section 8.8.9.M.2.b (Privacy Mitigation);

d. Section 8.8.9.K.2 (Modifications to Street Perimeter Yard Setbacks); and,

e. Section 8.8.9.M.1 (Architectural Variation).

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

g. Findings for FLD Privacy Mitigation Plan
The DP may recommend a project if it meets the following findings:

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

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

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

3. Conditions

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

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

4. Conflict of Interest
The DP shall not render professional services if the DP's judgment could be affected by responsibilities to or interest in another project or person or by the DP's own interests. The DP shall comply with City of Tucson Administrative

Directive 2.02-14 and Policy 282, Ethics and Conflict of Interest for City Officers and Employees.

5. Other Responsibilities

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

2.2.12. CITY DEVELOPMENT REVIEW COMMITTEE[37]

The purpose of the City Development Review Committee (CDRC) is to provide centralized plan review intake, to direct plans to agencies representing governments and utilities for regulatory compliance review, and to provide development review applicants with information on review, resubmittal, and approval procedures.[38]

A. Organization

The CDRC is composed of those City departments, utility companies, and other agencies that have responsibilities for the regulation of land use within the City limits, as determined by the Director of the Planning and Development Services Department (PDSD). Only those departments, utility companies, and other agencies potentially affected by or with expertise related to an application are included in the CDRC review.[39]

B. Coordination

The Director of PDSD, or designated representative, shall chair the CDRC and shall be responsible for coordinating, compiling, and maintaining a record of all the responses generated by the CDRC members. CDRC recommendations are transmitted to the PDSD Director, the Zoning Examiner, the City Manager, and the applicant as applicable.[40]

C. Meetings

CDRC meetings shall be open to the public, but shall not be public hearings. Members of the public are allowed only to listen and ask questions related to the project under discussion. See Section X of the Administrative Manual for more information.

D. Functions

1. Review and Recommendation

a. The CDRC shall serve in a technical advisory capacity for the City Manager, the Zoning Examiner, the PDSD Director, the HCDD Director, and the Mayor and Council.

b. The CDRC primary functions are to facilitate and expedite the review and approval of subdivision plats, development plans, and land development regulations, and to ensure compliance with adopted codes and standards applicable to a project.

[37] Text is from DS 1-03.0, with significant reorganization and simplification (e.g., section on membership (DS 1-03.2.2) deleted to avoid administrative complications, such as needing to amend the UDC to simply add or delete a member).
[38] This purpose statement is a slightly modified version of the policy statement of DS 1-03.1.3.
[39] Staff and Clarion recommend that Section 2.2.12.A.2 be deleted from the UDC and placed in an Administrative Manual.
[40] Staff and Clarion recommend that Sec. 2.2.12.A.3.b and c be deleted from the UDC and only subsection a. be kept. These two provisions are best located in the Administrative Manual.

c. CDRC members possess the necessary administrative authority and expertise to properly evaluate matters before the CDRC and are obligated to respond expeditiously and in a timely and courteous manner.

d. CDRC members are also expected to objectively enforce standards established by an adopted code or ordinance and to assist to the best of their ability in finding solutions to technical and procedural problems.

2. **Development Standards Information**
CDRC members shall provide site-specific development-related information to individuals for sites within the City of Tucson. Such information may include explanations of development and design standards applicable to the proposed development and any other land use related information including projected capital improvements.

3. **Technical Review** [41]

a. The CDRC shall review tentative and final plats, site plans requiring review by non-PDSD agencies, and design standards, in accordance with applicable codes and ordinances.

b. Informal preliminary reviews can be done by the CDRC by scheduling a presubmittal conference with PDSD.

c. The PDSD may ask the CDRC for advice regarding any other matter related to land development.

d. The PDSD Director resolves any conflict that may arise among CDRC members regarding a development requirement or process and documents the measures taken to resolve the conflict.

[41] Staff notes that further discussion is necessary on this section.

ATTACHMENT F

ARTICLE 3: CORE PROCEDURES – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
Division 1: Purpose and Organization of Article			The procedure requirements from various sections of the LUC, Development Compliance Code Chapter 23A, and the Development Standards (a supplemental review manual that is a mix of policy and ordinance documents) are being consolidated into Article 3.
Division 2: Core Procedures			
Zoning Compliance Review	**3.2.1**	**23A-31**	
Purpose	.A		
Applicability	.B		
Application	.C		
Review Process	.D		
Site Plan	.E	3.3.2.8, 5.3.8, DS 2-05.4.0, 23A-34	
Zoning Compliance for Site Improvements in Existence on May 1, 2005	.F	5.3.12	
Limited Notice Procedure	.G	23A-40	
300' Notice Procedure	.H	23A-51	
Sequential or Concurrent Review Process	.I		
Written Statement of Reasons for Denial	.J		
Stay of the Issuance of Plan Approvals and Permits During Appeal	.K		
Application Processing	**3.2.2**		
Pre-Application Conference	.A	2-05.4.0	
Neighborhood Meeting	.B	3.4.1, 5.4.1.2	
Application Completeness	.C	2-05.4.0	
Denial of Plan Compliance Appeal	.D	23A-50(7)	
Suspension and Withdrawal of an Application	.E	5.4.1.6	
Public Notice	**3.2.3**		
Purpose	.A		
Applicability	.B		
Mailed Notice	.C		

ARTICLE 3: CORE PROCEDURES – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
Public Comments from Public Notice	.D		
Appeals and Variances	**3.2.4**	**23A-60, 61 & 62**	
Appeal Authorities	.A		
Applicability	.B		
Mayor and Council Appeal Procedure	.C	23A-62	
Takings Appeal Procedure, Individual Dedications and Exactions and Excessive Reduction of Property Value	.D	23A-63	
Board of Adjustment Procedures	.E	5.1.7.3.B.1, 5.3.3, 23A-52, 60 & 61	
Division 3: Rezoning		**3.3.5, 5.3.2, 5.4.1, 5.4.3 & DS 1-07**	
General Rezoning	**3.3.1**	**3.3.5**	
Applicability	.A		
Application Processing	.B		
Types of Rezoning Ordinances	.C		
Plan Amendment Determination	.D	1-08.5.0	
Changes to the Rezoning Application	.E		
Planning and Development Services Department (PDSD) Recommendation	.F		
Public Hearing by the Zoning Examiner Legislative Process	.G		
Time Limitations on Refiling	.H		
Planned Area Development (PAD) District	**3.3.2**	**1-06.0.0**	
Purpose	.A		
Land Use Standards	.B		
Establishment of a PAD District	.C		
Districts Established	.D		
Initiation of a PAD District	.E		

ARTICLE 3: CORE PROCEDURES – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
Compliance Determination	.F		
Submittal and Staff Review Process	.G		
Zoning Examiner Public Hearing and Recommendation	.H		
Mayor and Council Decision	.I		
PAD District Implementation	.J	2.6.3.7	
Site Plan Review	.K		
Enforcement	.L		
Interpretation	.M		
Amendment to an Adopted PAD District	.N	2.6.3.11	
Planned Community Development (PCD) District	**3.3.3**	**2.6.5.3**	
Establishment Procedure	.A		
Application Processing	.B		
Amendment Procedures	.C	2.6.5.6	
Division 4: Subdivision/Platting	**Article 8**	**23A-33.1, .2 & .3; 23A-35 (FLD)**	
Division 5: Miscellaneous Permits and Approvals	**3.5**	**23A-32 (primarily)**	
Special Exception Land Uses	**3.5.1**	**5.3.9**	
Purpose	.A		
Review and Approval Procedures	.B .B.1.b .B.2.a	 2.8.5.10 23A-53	
Findings	.C		
Conditions of Approval	.D		
Protected Development Right	**3.5.2**	**5.3.10**	
Architectural Documentation Prior to Demolition of Historic Buildings	**3.5.3**	**5.3.11**	
Division 6: Land Use Plans and Text Amendment Procedures			
Land Use Plan Procedure	**3.6.1**	**DS 1-08.0.0**	• The land use plan and text amendment procedures have their own sections to

ARTICLE 3: CORE PROCEDURES – DISPOSITION REPORT			
Title	**UDC Sec #**	**LUC Sec #**	**Significant Revisions/ Comments**
			better distinguish the differences between the two procedures; and, • 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)
Applicability	.A		
Application Processing	.B		
Application Process	.C		
Planning Commission Public Hearing	.D .D.3	5.4.2.1 5.4.2.2	
Mayor and Council Decision	.E	5.4.2.3	
Reconsideration by Mayor and Council	.F		
Reapplication	.G	DS 1-08.6.8	
Text Amendment Process	**3.6.2**	**5.4.1 & 5.4.2**	
Purpose	.A		
Initiation	.B		
Development of a Code Amendment	.C		
Planning Commission Review	.D		
Mayor and Council Review	.E		
Division 7: Administrative Modifications			
Design Development Option (DDO)	**3.7.1**	**5.3.4 & 5.3.5**	• The two DDO sections in the LUC have been consolidated into one section in the UDC; and, • This section includes a proposal currently not permitted in the LUC, which allows modifications of up to 10% of quantitative dimensional regulations in Article 6 and zoning district standards in Article 4, provided findings are met.

ATTACHMENT G

CITY OF TUCSON
UNIFIED DEVELOPMENT CODE

PRELIMINARY FINAL PUBLIC DRAFT – JULY 2011

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ARTICLE 3: GENERAL PROCEDURES

3.1. PURPOSE AND ORGANIZATION OF ARTICLE[1]

This article describes the procedures for review of all applications for land use and development activity in the City of Tucson.

- Section 3.2, Core Procedures, describes standard procedures that are applicable to many types of procedures.
- Section 3.3, Rezoning (Change of Zoning), provides the procedures for both the general rezoning process and for more specialized rezoning processes, such as the Planned Area Development (PAD) zone. This section should be read and administered in conjunction with Section 3.3 and includes additional provisions unique to each type of procedure, such as public hearing requirements and approval criteria.
- Section 3.4, Subdivision/Platting, provides a cross reference to the general platting process and more specialized platting procedures, such as the Flexible Lot Development (FLD) Review.
- Section 3.5, Miscellaneous Permits and Approvals, provides procedures for a variety of development applications, such as special exceptions and protected development right. This section should be read and administered in conjunction with Section 3.3.
- Section 3.6, Land Use Plans and Text Amendment Procedures, provides procedures for approval and amendment to the general plan, specific plans, redevelopment plans, and the Major Streets & Routes (MS&R) Map. This section should be read and administered in conjunction with Section 3.3.
- Section 3.7, Administrative Modifications, provides procedures for minor modifications to the standards of the UDC. This section should be read and administered in conjunction with Section 3.3.

3.2. CORE PROCEDURES

This section describes review procedures that are used by more than one type of development application. In some cases, these uniform procedures will be all that is required for the approval of a particular development application For other development applications, these uniform procedures may represent only a portion of the procedures required for full review (e.g., platting of land) and supplemental procedures are provided later in this article.

3.2.1. ZONING COMPLIANCE REVIEW[2]

A. Purpose

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

B. Applicability

1. The applications requiring zoning compliance review include, but are not limited to, temporary uses, business licenses, tenant improvement, home occupations, site plan review, new construction, expansion of existing premises, certain electrical reconnections, certain wireless communications, and changes of use.

[1] Proposed new section added to provide introduction to article.
[2] Text from current Sec. 23A-31 Zoning Compliance Review, with minor deletions, reorganization and nonsubstantive clarifications.

2. For certain applications as specified in the UDC, there are also special zoning review requirements that may involve either a limited notice procedure in accordance with Subsection G of this article or a Zoning Compliance 300' notice procedure in accordance with Subsection H of this article.

C. Application

The PDSD Director may require additional information and materials following acceptance of an application where it is determined that such information is important to the review of the application. The PDSD Director may conditionally accept an application subject to obtaining subsequent approvals. The Director shall not be required to make a decision on an application until at least five days following the acceptance of the additional submittal information or five days following the time for submission of a recommendation by an advisory body.

D. Review Process

Applications are reviewed for compliance with applicable zoning regulations.

E. Site Plan[3]

1. Purpose[4]

The site plan requirement ensures 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[5]

A site plan is required for any of the following:

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 development; and
e. A residential, commercial, or industrial use reviewed as a subdivision plat, but no building permits shall be issued until a site plan is approved for all or a portion of the subject subdivision plat.

3. Application Processing

The application shall comply with the applicable requirements in Section 3.2.2 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

4. Review

City departments and applicable outside public agencies shall review an application and return comments on the application within 20 working days.

[3] 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.
[4] Revised language provided by staff.
[5] Revised language provided by staff.

Comments for subsequent reviews shall also be returned within 20 working days.[6]

5. **Approval**[7]
   a. The Director of the PDSD 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. See the exception noted below.
   b. In the case of a rezoning, a written confirmation shall be used to initiate the preparation of the rezoning ordinance for Mayor and Council consideration. The director shall sign the site plan once the rezoning ordinance is adopted and becomes effective.
   c. 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**[8]

   Expiration dates for site plans are as provided 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. **Maximum Review Period**

      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 that has not been approved is considered denied. To continue the review of a site plan for the property, a new site plan that complies with regulations in effect at that time shall be submitted. The new submittal initiates a new one-year review period.

   b. **Site Plan Approval Period**[9]

      Except in the case of a Protected Development Right Plan, Section 3.5.2, an approved site plan remains valid for a period of three years from the date of approval, subject to the following conditions:

[6] Revised language provided by staff.
[7] Revised language provided by staff.
[8] Text from LUC Sec. 5.3.8.2, with minor clarifications.
[9] This language was especially convoluted in the current code; we have attempted to simplify the language in this draft.

(1) If, at the end of three years, a building permit has not been obtained, a new site plan application shall 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, in compliance with all standards and/or ordinances 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 standards and ordinances 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 an additional three months to allow for completion of the review and for the issuance of permits.

(5) If the approval period has expired pursuant to Subsection E.6 of this Section, the resubmittal to obtain approval of a new site plan initiates a new review period in accordance with Subsection F.1.

7. Issuance of Permits

Review and approval for the issuance of permits for site plans shall be as follows.

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

Building permit applications shall 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.

c. 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, building height, density, land use, parking, and traffic circulation.

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d. Major Changes

Major changes from the approved building or site plan require review and recommendation of approval of a new plan by the review agencies. If the building or site plan is required as a special requirement imposed by the Mayor and Council, a major change shall require approval by the Mayor and Council prior to review of the revised plan.

F. Zoning Compliance for Site Improvements in Existence on May 1, 2005[10]

The owner of property, at the time of a request for a Certificate of Occupancy or Certificate of Zoning Compliance may 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 shall only apply to developed property with nonresidential zoning that is not subject to 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 shall be 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, 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].[11]
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 Districts12 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

[10] Text from recent 2010 amendment.
[11] The highlighted section references will be updated when the organization of the article's referenced are finalized.
[12] Please check that these references work (same comment for next provision), which are required due to the UDC reorganization.

5. Required drop-off areas may not be deleted.
6. Use of the property shall be in compliance with all applicable use-specific standards in Section 4.9.
7. This Section shall be 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 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 shall constitute 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. 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.
12. Requests for zoning compliance pursuant to this Section must be submitted to the City of Tucson Planning and Development Services Department, and all applicable fees paid, prior to the expiration date of this Section, as provided herein.

G. Limited Notice Procedure[13]

1. 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. These procedures are intended to provide notice to parties who may be affected by the development.

2. Applicability

Limited notice procedures apply to the following:

[13] Text from Sec. 23A-40 Special Zoning Review -- Limited Notice Procedure. The two ZCR procedures -- the renamed Zoning Compliance Limited Notice (Special Zoning Review-Limited Notice) and Zoning Compliance 300' Notice (PDSD Full Notice Procedure) – has been moved to this section, with modifications to text to eliminate redundancies.

a. Approval of resident artisan uses;
b. Requests for demolition of contributing, nonhistoric structures in historic districts;
c. Administrative, Zoning Examiner, and Mayor and Council[14] special exceptions;
d. Certain wireless facilities;
e. Design Development Options (DDO) in accordance with Section 3.7.1; and
f. Rio Nuevo District Modification of Development Regulations in accordance with Section 5.10.8.

3. **Eligibility for Limited Notice Procedure**

A proposed development shall qualify for the limited notice procedure 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 shall apply and there is a benefit to area properties from the proposed redevelopment of the property;
e. There is an administrative special exception land use designated in the UDC related to the proposed development; or,
f. There is a request for a modification of development requirements (MDR) in the RND overlay zone in accordance with Section 5.10.8.

4. **Decision by the PDSD Director**

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 Director may impose conditions for approval of the application or may require that further processing of the application proceed through the procedure in accordance with Section 3.2.1.H.

5. **Appeal to the Board of Adjustment**

A party of record may submit an appeal of the decision to the B/A in accordance with Section 3.2.4.E. 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.

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

The 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.

[14] Three types of special exceptions added per staff comment.

H. 300' Notice Procedure[15]

This procedure applies to reviews of projects within overlay zones, such as, but not limited to, the Hillside Development Zone (HDZ), Scenic Corridor Zone (SCZ), Environment Resource Zone (ERZ) and Historic Preservation Zone (HPZ), and to development applications subject to the watercourse, amenities, safety, and habitat (WASH) regulations in Tucson Code Ch 29, Article 8, Section 29-12 et seq., and review of mitigation plans for certain restaurants serving alcohol. This section does not apply to applications for development subject to the Major Streets and Routes Setback Zone or the Gateway Corridor Zone, to the Rio Nuevo and Downtown Development (RND) Zone, the Airport Environs Zone (AEZ), or the Drachman School Overlay (DSO) Zone.

1. Alteration of the Property Prohibited

No grubbing, grading, excavation or construction shall occur nor shall the City issue any approval or permit for grubbing, grading, excavation or construction on any lot or parcel subject to the overlay zone unless and until the City approves a plat or plan in conformance with this UDC.

2. WASH Development

Development subject to the Watercourse, Amenities, Safety, and Habitat (WASH) regulations in Tucson Code Section 29-12 et seq., shall be subject to review and approval in accordance with the 300' Notice Procedure, this Section, and to the standards for review set forth in Tucson Code Section 29-8 and Section 29-17 of the WASH regulations.

3. Decision by PDSD Director

a. The Director shall not make any decision prior to the expiration of the 20 day period for public comment.

b. The PDSD Director shall make a decision on applications no 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.

4. Appeal

a. The decision of the Director may be appealed to the Board of Adjustment on the grounds that the decision is not in conformance with the criteria established by the UDC.

b. The notice of intent to appeal shall be in accordance with Section 3.2.4.E. and shall be filed with the City clerk no later than 14 days after the date of the decision.

c. The complete appeal materials shall be filed within 30 days of the decision.

d. A copy of the appeal shall be provided to the Director at the time it is filed.

[15] 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.

5. 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.

I. Sequential or Concurrent Review Process

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

J. Written Statement of Reasons for Denial

If an application under this Section is not approved due to lack of compliance with zoning regulations, the applicant may request a written statement of the basis for the rejection of the application, which shall then be provided within three days.

K. Stay of the Issuance of Plan Approvals and Permits During Appeal

Where an administrative appeal is submitted in a timely manner to a City official or body in accordance with the UDC, no permits shall be issued and no formal plan approvals or inspections shall be made on any portion of an application that is subject to the appeal while that appeal, review period or the time provided for reconsideration is pending. The PDSD may, in the discretion of the Director, continue to process review of applications and may issue permits or plan approvals on applications or portions thereof that are not affected by the appeal. Where a final City decision has been made following City administrative appeals, any further appeal shall be to Superior Court in accordance with applicable law. An appeal to Superior Court shall not stay the issuance of permits or plan approvals unless the Superior Court issues such a stay.

3.2.2. APPLICATION PROCESSING

This subsection includes procedures that, depending on types of application, shall be completed prior to submittal of an application, requirements necessary to get an application accepted as complete, and rules for processing applications after they are accepted for review.[16]

A. Pre-Application Conference[17]

1. Purpose

[16] Language added to provide some context for the unique set of procedures contained in Sec. 3.3.1.
[17] The text is primarily from DS 2-05.4.0, with minor clarifications.

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.

2. Applicability

A pre-application conference is either mandatory or optional depending on the type of development application.

a. Required

A pre-application conference shall be required for the following privately-initiated development applications:

(1) Board of Adjustment Regular Hearing;

(2) Zoning Examiner Special Exception Hearing;

(3) Rezoning;

(4) PAD;

(5) Minor subdivision plat;

(6) Neighborhood Preservation Zone (NPZ) Design Review;

(7) Development in Rio Nuevo and Downtown (RND) Zone;

(8) Plan amendment (general, specific, redevelopment); and,

(9) Text amendment to UDC.

COMMENTARY

This section represents an attempt significantly decrease the length of many procedural sections by consolidating similar requirements from the current LUC, Chapter 23A, and Development Standards. Additional opportunities to simplify some procedures may still exist and require further discussion. In particular, the text for many procedures is redundant with the information in Table 3.2-1.

3. Requirements[18]

At the pre-application conference, the applicant shall share with 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, additional pre-application conference(s) may be requested by the PDSD.

4. 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.

[18] The code does not currently describe what a pre-application meeting requires of the applicant, so this provision was added.

B. Neighborhood Meeting[19]

1. 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.

2. Applicability

The neighborhood meeting is either mandatory or optional depending on the type of procedure in Table 3.2-1. Even when not required, neighborhood meetings are encouraged for all significant applications. See Table 3.2-1 for public notice and neighborhood meeting requirements.

3. Meeting Requirements[20]

a. Standards[21]

The applicant shall offer 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:

(1) The offer shall be made at least ten days prior to the date of the meeting. The offer shall be sent by first class mail to property owners, registered neighborhood associations within one mile of proposal, affected Council Wards offices, and other interested parties as required in Sec. 3.2 Public Notice;

(2) The offer 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;

(3) The offer shall advise the recipients of the offer that they may submit comments to the PDSD Director or speak at the public hearing, if any;

(4) The meeting shall occur at least 15 and not more than 60 days prior to the date of the submittal of the application; and

(5) Documentation of the offer to meet and a summary of the meeting shall be submitted with the application.

b. Exceptions[22]

(1) 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.

(2) For Board of Adjustment variance applications, the mailed offer shall contain property ownership information, a site plan, elevations, and other information necessary to fully describe the proposed project.

[19] This is a proposed new general section that is based on language from the neighborhood meeting requirement for rezonings in Section 3.4.1.
[20] From LUC 5.4.1.2, a section was added for "exceptions" to account for any special requirements for certain procedures.
[21] Based on language from staff comments.
[22] Added in response to staff comment.

(3) A neighborhood meeting shall not be required for amendments to the General Plan or for any amendment to the UDC.

C. Application Completeness[23]

1. The Director of the Planning and Development Services Department (PDSD) shall only initiate 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. If the application is determined to be complete, the application shall then be processed according to this Article. 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, should 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.

2. An application shall be 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.

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

D. Denial of Plan Compliance Appeal[24]

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 3.2.4.C.

E. Suspension and Withdrawal of an Application[25]

1. For rezonings 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 can authorize a delay of the plan amendment process for a maximum of 90 days. Additional delays may be granted but also must be requested in writing by the applicant. The PDSD Director may delay the amendment process to permit a number of related plan amendment applications to be considered at the same time.[26] An application shall not be suspended for more than one year after the date of acceptance of the application.

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[23] 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 following text from DS 2-05.4.0.: "Incomplete submittals are generally not accepted for review. However, should 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." 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.

[24] This provision was relocated from Sec. 23A-50.(7) and made a uniform standard.

[25] The provisions for suspension and withdrawal of applications (LUC Sec. 5.4.1.6) were moved to this section and separated into two consecutive sections for clarity. They still apply only to legislative decisions.

[26] Three previous sentences of this subsection are adapted from DS 1-08.6.3.

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. Should an application be withdrawn from processing, PDSD shall determine the amount of fees to be refunded, if any are eligible for refund.

3.2.3. PUBLIC NOTICE[27]

A. Purpose[28]

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

B. Applicability

Public notice is required for development applications per Table 3.2-1. Also see the section indicated in column H of Table 3.2-1 for the individual procedure for potential additional details.

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[27] The text and table in this section are based on the language provided by staff, with revisions for clarity and organization. In addition, with the insertion of this new general notice section, we have deleted all the notice-related references in the individual procedures throughout this article that are now addressed by this consolidated section.
[28] 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 NEIGHBORHOOD MEETING REQUIREMENTS

R = required
PC = Administrative decision with public comment
PH = Public hearing required

* = See Sec. 3.2.3.C.4 for special notice requirements
** = Notice shall be 1/8 of a page display
*** = In accordance with ARS 9-4601.06

A. Procedure	B. Mailed Notice	C. Decision	D. Distance (ft)	E. Published Notice	F. Posting	G. Notice of Decision	H. Section	I. Neighbor-hood Meeting
Zoning Compliance Limited Notice	R*	Admin with PC	50			R	3.2.1.G	R
Zoning Compliance 300' Notice	R	PC	300*		R	R	3.2.1.H	R
B/A Regular Hearing	R	PH	300*	R	R	R	3.2.4.E.1	R
SE–ZE Hearing	R	PH	300*	R	R	R	3.5.1.B.2	R
SE–ZE–M/C Hearing	R	PH	300*	R	R		3.5.1.B.3	R
General Plan		PH		R***			3.6.1	
Specific Plans and Amendments (e.g., neighborhood plans)	R	PH	300**	R			3.6.1	R
Text Amendment		PH	300*	R			3.6.2	
Text Amendment/ Overlay (e.g., IID)	R	PH	300*	R	R		3.6.2 Art. 5	
Rezoning, PAD, UOD	R	PH	300*	R	R		3.3.1.G 3.4.2	R
PCD	R	PH	2,640	R	R		3.3.3	R
Overlay rezoning (except as noted above, e.g., NPZ*, ERZ, SCZ IID, AE, RND, HPZ)	R	PH	300*	R	R		Art. 5	
B/A Appeals	R (per 3.2.3.B.4 .e	PH	300*	R		R	3.2.4.E.2	
M/C Appeals	R	PH	300*	R	R		3.2..4.C	R
Takings Appeals	R*	PH					3.2.4.D	
FLD Tentative Plat	R*	PC	300*			R	8.8.9.Q.2	R
NPZ Design Review	R	PC	50			R	5.11.7	
Design Review Board Appeal	R	PH	50			R	3.3.3 Art. 5	
RND Full Review	R	PH	300*	R	R	R	5.10	

Table Key

SE-ZE = Special Exception Zoning Examiner Hearing
SE- ZE-MC = Special Exception Zoning Examiner Hearing followed by Mayor and Council Hearing
M/C = Mayor and Council
B/A = Board of Adjustment
PAD = Planned Area Development
PCD = Planned Community Development District
UOD = Urban Overlay District
FLD = Flexible Lot Design subdivision
NPZ = Neighborhood Preservation Zone
ERZ = Environmental Resource Zone
SCZ = Scenic Corridor Zone
IID = Downtown Area Infill Incentive District Zone
AE = Airport Environs Zone
RND = Rio Nuevo and Downtown Zone
HPZ = Historic Preservation Zone
PDSD = Planning and Development Services Department

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C. Mailed Notice

When required per Table 3.2-1, mailed notices shall comply with the requirements of this section.

1. Content of Mailed Notice

A mailed notice shall contain the following:

- **a.** Time, date, and location of the hearing;
- **b.** A general description of the type, size, and location, as applicable, of the matter to be considered;
- **c.** A general description of the area affected;
- **d.** An advisory that comments regarding the matter may be submitted prior to the public hearing;
- **e.** In the case of a change in zoning, if the application involves property within the high noise or accident potential zone, as defined in A.R.S. 28-8461, that fact shall be stated in the notice;[29] and
- **f.** In the case of FLDs, the notice shall contain name location, case number, type of development, site size, residential density, number of stories, maximum density bonus (if applicable); amenities, where the plat can be viewed by the public, and the address and telephone number of the PDSD, a phrase indicating that any person may request further notification of actions concerning the FLD.

2. Preparation of Notice

Mailed notices shall:

- **a.** Use the latest Pima County Assessor records to determine the property owners to be notified;
- **b.** Use mailing labels generated from the Assessor records within 60 days of the application filing, neighborhood meeting or public hearing, whichever is applicable;
- **c.** Obtain mailing labels from the PDSD;
- **d.** Be sent as first class mail for rezonings. Other mailings shall be per PDSD policy.

3. General Requirements for Notice Recipients

Mailed notices shall:

- **a.** Be sent to the applicant and all property owners within the distance specified in Table 3.2-1 above;
- **b.** Be sent to any other persons the Director determines are affected by the application or has an interest in the matter;
- **c.** Be sent to Pima County and other municipalities where the subject property being reviewed adjoins their boundaries;
- **d.** Be sent to all persons who have registered their names for purpose of receiving notice;

4. Special Notice Requirements

For the following situations notice shall:

[29] 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.

a. Neighborhood Associations

Be sent if a 300' or greater notice area is required to all neighborhood associations, registered with the City, whose boundaries are within one mile of the subject site. For the Limited Notice Procedure and Neighborhood Preservation Zone Design Review only the neighborhood association including the application shall be noticed.

b. Tucson International Airport and Davis Monthan Air Force Base

Be sent to Tucson International Airport and Davis Monthan Air Force Base for sites within the Airport Environs Zone and for all procedures using the Zoning Examiner Legislative Process;

c. Public Service Agencies

Be sent to public service agencies affected by the application as determined by the PDSD Director;

d. Ward Offices

Be sent to the Council Ward office for General Plan amendments; UDC text amendments; text amendment involving creation of overlay zone; and specific plans such as area, sub-area, neighborhood, Major Streets and Routes and, redevelopment plans;

e. Appeals

Be sent, on an appeal, to the applicant, the same parties notified to the original application, and those who provided oral or written comments on the application not less than 15 days and not more than 30 days before the appeal.[30]

f. Text Amendments/Overlay

Be sent to property owners within 300' only.

5. Timing of Notice

The requirements of this section apply as made applicable by Table 3.2-1.

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. For public notice requiring a one-eighth (1/8) page display ad, the notice may be provided earlier than 30 days prior to hearing. Non-public hearing notice shall be sent or posted in accordance with PDSD policy.

b. Public Comment Period

For all procedures requiring a public comment period, there shall be a period of 20 days following the date on which notice is mailed for submission of comments on the proposal to the PDSD.

[30] Revised consistent with staff comment.

c. Exceptions

(1) Zoning Compliance Limited Notice Procedures and Neighborhood Preservation Zone Design Review

These two procedures shall have a period of ten days for public comment to PDSD following the date the notice is mailed. The ten-day period for comment may be waived if the applicant provides written documentation that all parties of record have waived one or more of the notice, comment, or appeal provisions.

(2) Rio Nuevo and Downtown District Minor Review

See Notice of Decision for timing of notice.

(3) Takings Appeal Procedure

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.

(4) Flexible Lot Development

Public notice that a tentative plat application for an FLD has been filed and accepted for review shall be mailed within five days after acceptance of the application. A public comment period of no less than 20 days shall be provided from the date the notice is mailed.

d. Calculation of Notice Area

(a) General

The distance for notification shall be in accordance with requirements in Table 3.2-1.

(b) Measurement

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

(ii) Adjoining property under the same ownership as the subject property and adjoining public right of way shall be combined with in the property in determining the boundaries from which the notice is measured.

6. Published Notice

a. Newspaper Ad

In accordance with the requirements in Table 3.2-1, published notice shall be provided at least once in a newspaper with general circulation in the City and at least 15 but not more than 30 calendar days prior to the hearing date. Notice shall contain the following: Time, date and location of the hearing, general explanation of the matter to be considered, and general description of the affected area, if applicable.

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b. Display Ad

For UDC text amendments, in addition to the requirements above, a "display ad" covering not less than one-eighth of a full page shall be published at least once in a newspaper with general circulation in the City and at least 15 but not more than 30 calendar days prior to the hearing date. The City shall also send notice by first class mail to persons who register their names and addresses with the municipality as being interested in receiving notice of UDC text amendments. The annual fee is five dollars per year for this service" because this provision is already addressed in the mailed notice section. In addition, the five dollar fee should not be included in the code at all but put in a separate noncodified fee schedule.

7. Posted Notice

a. General

When required per Table 3.3-1, notice shall be posted on the affected property no later than 15 days prior to the public hearing. At least one notice shall be posted for each street the property adjoins. At a minimum, the poster shall include the following:

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

(2) The case name;

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

(4) For B/A, description of the request;

(5) The date, time, and location of the public hearing, if applicable; and

(6) Beginning and end of public comment period; and,

(7) The telephone number for the PDSD or other applicable City department.

b. Exceptions

(1) Non-public hearing notice shall be posted in accordance with PDSD policy.

(2) Board of Adjustment Regular Hearing posting does not apply to appeals on Zoning Administrator interpretations that are not specific to a certain property.

8. Notice of Decision

When required per Table 3.2-1, the PDSD shall provide mailed notice of decision to the applicant and the party of record, if applicable, within three days of the date of the decision. The City Clerk shall provide mailed notice of decision in the case of property designated as an Historic Preservation Zone, final plats, rezoning and Special Exception Mayor and Council.

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9. 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 affects 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 3.2.4.E.[31]

D. Public Comments from Public Notice

Property owners and other interested persons may submit their comments regarding an application prior to a public hearing by submitting them to the appropriate officials conducting the hearing (e.g., Planning Commission, Zoning Examiner, Mayor and Council, or Design Review Board) in care of the PDSD Director, whichever agency is identified in the notice. Comments shall be submitted directly to the PDSD Director. The PDSD Director shall forward the comments to the Planning Commission, or submit them to the Planning Commission at the public hearing.[32]

3.2.4. APPEALS AND VARIANCES

A. Appeal Authorities

Appeals from zoning and development decisions shall be to the Mayor and Council or Board of Adjustment (B/A) as specified in each procedure.[33]

B. Applicability

This section applies to appeals to the Mayor and Council, Zoning Examiner, and Board of Adjustment, as well as to applications for a variance to the UDC.

C. Mayor and Council Appeal Procedure[34]

Appeals to the Mayor and Council may be made from 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, on Administrative, Zoning Examiner, and Special Exception Land Uses and such other matters as are designated in this Section and in the UDC. The Mayor and Council shall consider the appeal following a public hearing in accordance with this Section. 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. A decision on an appeal by the Mayor and Council is considered a final action for the purposes of the UDC.[35]

1. Filing of an Appeal

Appeals shall 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

[31] Text relocated from other sections of the LUC but made more generally applicable.
[32] Language revised consistent with staff comments.
[33] This section was reorganized consistent with staff comment. The deleted provisions regarding further appeals have been relocated and clarified below.
[34] Text from Sec. 23A-62, with minor clarifications.
[35] Last sentence added per staff comment.

development approvals based on the decision and all formal land use action on the development proposal subject to the appeal.

2. **Application Processing**
The application shall comply with the applicable requirements in Sections 3.2.2 and 3.2.3 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

3. **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.

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

5. **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.

6. **City Manager's Communication**
The PDSD Director shall forward 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 to the Mayor and Council.

7. **Mayor and Council Public Hearing**
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.

8. **Mayor and Council Decision**
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.

9. **Final Decision**
The decision by the Mayor and Council shall be announced and shall be final at the time the decision is made following the public hearing.

10. 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.

D. Takings Appeal Procedure, Individual Dedications and Exactions and Excessive Reduction of Property Value[36]

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.

1. Decisions Subject to Appeal

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

(1) Where the property owner has a legally recognized property interest in the property that is subject to the City decision; and

(2) Where a final discretionary administrative decision has been made by the PDSD Director, Zoning Examiner, or the Mayor and 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

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

b. 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.

2. Filing of Appeal

An appeal shall 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 shall be the effective date of the regulation. No fee shall be charged for an appeal under this Section.

3. Public Hearing

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

[36] Text taken from Sec. 23A-63.

4. 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.

5. 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 4 above, the appeal shall be denied. If the City has failed to meet its burden as set forth in subsection 4 above, the Zoning Examiner shall:

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

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

6. Appeal of Zoning Examiner's Decision[37]

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.

E. Board of Adjustment Procedures[38]

1. Board of Adjustment Regular Hearing[39]

a. Applicability

This process applies to applications for variances and modifications of development regulations in the RND district in accordance with Section 5.10.8, and DDOs in accordance with Section 3.7.1.

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

The PDSD Director shall prepare a recommendation and forward it, together with the Design Review Board (DRB) and stormwater technical advisory committee (STAC) recommendations when required, to the applicant and the B/A not less than five days prior to the scheduled public hearing. The recommendation shall be 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.

[37] This provision added per staff comment.

[38] In response to staff comment, we clustered all B/A procedures in one section and located them within the new Appeals and Variance section?

[39] Text from Sec. 23A-52 Board of Adjustment Full Notice Procedure, with minor reorganization and clarifications.

c. 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.

d. Board of Adjustment Public Hearing

The B/A shall hold a public hearing in accordance with the following and the Board of Adjustment's rules and regulations.

(1) The application shall comply with the applicable application processing requirements in Sec. 3.2.2 and 3.2.3.

(2) 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.

(3) 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.

(4) 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.

(5) Comments may be given by any person, either verbally or in writing.

(6) 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.

(7) A record of the hearing is made and retained as a public record.

e. 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.

f. Reconsideration

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

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

(2) The request is based upon new evidence or materials that were not presented and could not reasonably have been presented at the public hearing on the case.

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g. Change of Condition

After a DDO or a variance has been granted by the board, the property owner/applicant may request a change to a condition for approval as imposed by the board based upon changed circumstances that affect the condition. The request shall be heard by the board and the board 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 board determines that the request is for a minor change of condition, it may decide whether to approve or deny the change. If the board 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 conformance with Section 3.2-1.

2. Board of Adjustment Appeal Procedure[40]

a. Applicability

Appeals are limited to review of substantive zoning regulations, such as development standards and use specific standards and required findings for approval,[41] in the following cases:

(1) Decisions by the Zoning Administrator, including interpretations of the UDC, notices of violations of the UDC, determinations of violations of conditional uses consistent with Section 10.5.3;

(2) Review decisions where the PDSD Director has challenged the historic designation of a structure proposed for demolition;

(3) Decisions of the Design Review Board (DRB) pertaining to applications in Neighborhood Preservation Zones in accordance with Section 5.11.7.F;[42]

(4) Decisions by the PDSD Director on Design Development Options; and,

(5) Other determinations in accordance with the UDC.

b. Filing of an Appeal

Appeals shall 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.

[40] In response to staff comment, this B/A appeals procedures was relocated from the appeals section into this consolidated B/A section. This section was reorganized for clarity.
[41] The same applicability language from the general appeals section was carried over for clarity.
[42] This provision added (language modified for clarity) from new NPZ appeals amendment.

c. Application Processing

The application shall comply with the applicable requirements in Sec. 3.2.2 and 3.2.2 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

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 appeal with the members of the B/A between the filing of the appeal and the final determination by the B/A.

e. Planning and Development Services Department (PDSD) Director's Report

The PDSD Director shall forward the appeal, any additional materials provided by the appellant, the recommendations, or in the case of an appeal of NPZ design review, the decision[43] of the DRB or other applicable advisory body, any materials provided by any other party and the Director's report and recommendation to the B/A no later than five days prior to the scheduled meeting.

f. Board of Adjustment Public Hearing

The B/A may hold a study session and shall hold a public hearing on the appeal in accordance with the rules and standards of the Board of Adjustment. The B/A shall reach a decision following the close of the 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.

g. Approval

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

h. Final Decision

The decision by the B/A shall be announced and shall be final at the time the decision is made following the public hearing.

i. Reconsideration

The appellant, the applicant, the Zoning Administrator, or in the case of a decision relating to NPZ design review, the PDSD Director,[44] may request reconsideration of a decision on an appeal provided the request is filed with the Zoning Administrator 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

[43] This provision added from new NPZ appeals amendment.
[44] This provision added from new NPZ appeals amendment.

request shall be scheduled for the next regular meeting of the Board of Adjustment.

j. 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 B/A 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 Board of Adjustment.

3. Variance[45]

The Board of Adjustment (B/A) may grant a variance from the requirements of the UDC in accordance with this Section. Application requirements shall be established by the PDSD Director and shall include, but not be limited to, property ownership information; a site plan; elevations, if applicable; and other information that may be necessary to evaluate the request.

a. Findings for Approval[46]

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;

(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,

[45] In response to staff comment, the variance procedure has been merged into the new stand-alone B/A section. Text from LUC Sec. 5.3.3.

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

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.

b. Issuance of Permits

On variance requests that have been approved by the Board of Adjustment, permits shall not be issued before the end of the appeal period.

c. Expiration of Approval

Any variance granted through this process or on appeal shall be 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 shall be a variance granted for lot size reduction for which a plat has been recorded in compliance with the variance.

3.3. REZONING (CHANGE OF ZONING)[47]

3.3.1. GENERAL REZONING

Changes to zoning boundaries are considered by the Zoning Examiner (ZE) at a public hearing for recommendation to the Mayor and Council. The Mayor and Council shall make the final decision.

A. Applicability

1. General

The requirements of this Section apply to original City zoning for newly annexed areas and for amendments to the zoning of specific properties including changes in the zoning classifications (rezoning).[48]

2. Special Application for Zoning Examiner Legislative Process

The Zoning Examiner public hearing process in Section 3.3.1.G applies also to rezonings to the Planned Area Development (PAD) zone (see Section 3.3.2) and Planned Community District (PCD) (see Sec. 3.3.3), designation of properties subject to established overlay zones, and for certain Special Exceptions.

[47] 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.

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

B. Application Processing

The application shall comply with the applicable requirements in Sec. 3.2.2 and 3.2.2 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

C. Types of Rezoning Ordinances[49]

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.

1. 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 is effectuated and the zoning map is changed to reflect the new zoning.

2. Subdivision Plat

a. 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 [50]and the subdivision plat is approved and recorded within the time period allowed, the new zoning shall become effectuated, and the zoning base maps are changed to reflect the new zoning.

b. 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 multiuse development with phased construction, the subdivision plat can be a block (or master) subdivision plat, with each block encompassing each land use area.

c. 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 shall be subject to the recordation of the final plat prior to the expiration of the time period applicable to the rezoning. Although an ordinance can be

[49] This section was moved from the bottom of this section to the beginning because it is essentially introductory information.
[50] Changes made per staff comments.

adopted based on the approved tentative plat, no permits can be issued on the project until the plat has been recorded and the zoning has been effectuated.

3. 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 inspection would 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 is effectuated, and the zoning base maps are changed to reflect the new zoning.[51]

D. Plan Amendment Determination[52]

1. Requirement for a Plan Amendment

Rezoning applications shall 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. Determination by the PDSD at the Request of the Applicant

If an applicant ascertains that the rezoning request likely does not comply with one or more of the applicable plan policies and that a plan amendment will likely be required before the application can be submitted, the applicant may request, in writing, a determination on plan consistency from the PDSD Director prior to submitting the rezoning application. A written notice of decision shall be provided to the applicant if it is determined that a plan amendment shall be required.

b. 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

[51] We propose to move the following language regarding "future development" 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."
[52] Text from DS 1-08.5.0 Plan Amendment Determination.

determines a plan amendment is necessary, the applicant shall comply with Section 3.6.1 and no further formal processing of the application will occur.

c. **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 shall be 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.

2. **Appeal of Plan Amendment Determination**

a. The PDSD Director's decision that a plan amendment is required may be appealed to the Mayor and Council. The appeal shall be submitted in writing to the PDSD within ten days of the PDSD Director's written notice of decision. Appeals shall be processed in accordance with procedures set forth in Section 3.2.4.C, Mayor and Council Appeal Procedure.3. An appeal stays all processing until the appeal is heard and decided.

E. 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. If the changes require additional review, the changes shall be accepted only if submitted prior to the legal advertisement and public notification of the public hearing and provided the changes are accompanied by the applicant's written consent to begin the process again from the time of application. A public hearing on the rezoning application shall be held within 70 calendar days of the date the application is accepted. This timetable does not provide the additional time necessary for staff to evaluate significant changes prior to the required public notice of the rezoning hearing. 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. Once the public hearing has been advertised, any request to delay the public hearing or to change the application shall be submitted to the Zoning Examiner for determination. Should the public hearing be delayed, the applicant shall remit to the City an additional rezoning public notice label fee (to 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 shall be paid by the applicant to provide the required notice to the neighboring property owners.

F. 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 shall be prepared by the PDSD. The report shall be distributed to the Zoning Examiner, the applicant, and the owners of property located within 300 feet of the rezoning site. The report shall be sent to the Zoning Examiner and applicant and made available to the public at least 15 days prior to the public hearing.

G. Public Hearing by the Zoning Examiner Legislative Process

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

2. **Original City Zoning**[53]

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 shall be provided in conformance with A.R.S. §9-461.06.A. A case that establishes original City zoning may be initiated any time after the filing, in the office of the Pima County Recorder, the blank petition for annexation of the subject property in accordance with state law.

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 per 3.5.1B.3. The Zoning Examiner hearing procedure set forth in this Section shall also be used for both types of applications. The public hearing shall be opened 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 shall have the ability 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 shall also have the authority, after the close of the public hearing, to obtain additional information or clarify 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 or continue the public hearing to a specified date, time and place provided that the continuance is not for more than 30 days.

(2) Beyond these limitations, 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; or use or rely upon any communication, report, staff memorandum, or other material prepared in connection with the particular case, unless it is made a part of the record. The Zoning Examiner may inspect the site provided all parties are given an opportunity to be present.

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

b. Zoning Examiner's Preliminary Recommendation

The Zoning Examiner shall issue a report with preliminary findings and a preliminary recommendation within five days of the close of a hearing. The preliminary recommendation shall be 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 shall be submitted to the Zoning Examiner within five days of the date of the preliminary recommendation. The Zoning Examiner has five days following the receipt of a request for reconsideration to take action on the request that may include 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. The final recommendation shall not be subject to further requests for reconsideration. If the Zoning Examiner determines that a significant change to the preliminary recommendation is appropriate, the public hearing shall 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 shall be held within 40 days of the close of the last public hearing. Notice of the reopened hearing shall be 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. A request for Mayor and Council public hearing shall be made within the required 14-day period without exception. If a public hearing is requested, notice shall be

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provided in the same manner as the notice provided for the Zoning Examiner's public hearing.

4. 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.

a. 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 be established by the Mayor and Council. Unless the Mayor and Council state a shorter time period, the applicant has five years from the date the request is authorized to complete all conditions of approval.

b. 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.

5. 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.

6. Mayor and Council Decision

a. 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, modify, delete or add to the proposed conditions for approval, remand the case to the Zoning Examiner for further proceedings, adopt an ordinance changing the zoning, deny the application or take other appropriate action.

b. 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.

7. Mayor and Council Adoption of the Change of Zoning

a. Where 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.

b. For a project that is proposed to be completed in phases, the Mayor and Council may adopt a separate ordinance for each phase of the project, provided that each phase can meet all required conditions and codes without reliance on future phases.[54]

8. Voting Requirements

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

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

b. 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.

9. Ordinance Effective Date

Ordinances granting changes in zoning are 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 can be granted that are in furtherance of the rezoning request until the 30 days have lapsed and the conditions of rezoning have been met.[55]

10. 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 reconsideration 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.

11. Change in Conditions of Approval[56]

An applicant may request a change to conditions. 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 shall be considered as follows.

[54] This provision was moved here from the general rezoning text but has been modified, per staff request, to address the awkward and misleading use of the term "partial ordinance" for phased projects. We have replaced the current text, "A partial ordinance may be adopted if the project is completed in phases and conditions are met for only that phase. The portion of the request considered for the partial ordinance must be able to meet codes without reliance on future phases" with the text above.

[55] 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.

[56] This section has been revised consistent with staff direction.

a. Types of Changes

There are the following three types of changes:

(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 an approved rezoning's preliminary site plan 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 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 to substantially amend the conditions of approval or the approved preliminary site plan requires Mayor and Council approval after a public hearing. Notice of such hearing shall be given in the same manner as for the procedure adopting the conditions. The same voting requirements as for the original adoption shall apply to the request for a substantial change of conditions.

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(3) Minor Change to Conditions
Minor amendments to conditions of approval must be considered by the Mayor and Council in a public meeting.

12. Time Period for Completion of Conditions

a. 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.

b. The length of the time period permitted to complete conditions of rezoning can vary 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.

13. Extension of Time

a. 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.

b. A time extension, however, may be requested prior to the time period expiring. The request shall be filed prior to the expiration date so Mayor and Council can take action on the request prior to the expiration of rezoning.

c. 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 shall be drafted and forwarded to the City Clerk for City Manager review and Mayor and Council consideration.

d. 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.

e. No extension beyond ten years from the original date of approval shall be allowed.

f. 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.

14. 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.

H. Time Limitations on Refiling[57]

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 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.

3.3.2. PLANNED AREA DEVELOPMENT (PAD) DISTRICT[58]

A. Purpose

The purpose of the Planned Area Development (PAD) district is to enable and encourage comprehensively planned development in accordance with adopted plans and policies.

B. Land Use Standards

1. A PAD zone is a zoning classification which provides for the establishment of zoning districts with distinct standards as adopted by Mayor and Council. A PAD zone shall be identified as a Planned Area Development (PAD) District and may have land use standards different from the zoning regulations applicable to other zoning districts in this Chapter and any other PAD District.

2. PAD Districts 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.

3. Where a provision in a PAD District varies from the UDC, the provisions in the PAD District shall govern.

[57] Much of the text of this section is marked for deletion because it is redundant with the ZELP provisions now incorporated into the rezoning section.

[58] 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.

C. Establishment of a PAD District

1. A PAD District is established through a Zoning Examiner Legislative Procedure, Sec. 3.3.1.G.

2. Each PAD District must be in compliance with the adopted General Plan and applicable subregional, area, and neighborhood plans.

D. Districts Established

The list of established PADs shall be maintained by the Planning and Development Services Department (PDSD).

E. Initiation of a PAD District

A PAD District is initiated by filing an application with the PDSD for a Zoning Examiner Legislative Procedure in conformance with Sec. 3.3.1.G.

F. Compliance Determination. See Sec. 3.3.1.D.

G. Submittal and Staff Review Process

1. As part of the pre-application conference step, PDSD does a preliminary review of the draft PAD document.
2. After PDSD finds this preliminary draft PAD document complete, this draft document is submitted with all other documents for a comprehensive PAD application completeness review per Section 3.2.2.C.
3. Upon finding the PAD application complete, the rezoning process follows 3.3.1.F[59] and the ZELP per Section 3.3.1.G.

H. Zoning Examiner Public Hearing and Recommendation

1. Within 30 days after the review agencies recommend approval, the PAD rezoning request is scheduled for a public hearing before the Zoning Examiner in accordance with Section 3.3.1.A.2.

2. PDSD shall prepare and file a report with facts, findings, and a recommendation with the Zoning Examiner and forward a copy to the applicant at least 15 days prior to the public hearing.

I. Mayor and Council Decision

The rezoning to the PAD zone shall be considered by Mayor and Council. The Mayor and Council may approve the rezoning or decide to hold a public hearing before approving, denying, or continuing the rezoning request. The Mayor and Council may also remand the rezoning request back to the Zoning Examiner.

J. PAD District Implementation[60]

The implementation of PAD Districts shall be in accordance with the procedures of the UDC. PAD Districts may establish additional implementation procedures, provided such methods are not in conflict with required procedures and are fully described by the PAD District document.

K. Site Plan Review

No development shall occur within a PAD District until a site plan is approved by the City in accordance with Sec. 3.2.1.E. The PDSD Director is granted the authority to approve PAD District site plans.

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[60] Text from LUC Sec. 2.6.3.7.

L. Enforcement

Standards adopted for each District are enforced in the same manner as provided in Section 2.2.9.A.18(b) .

M. Interpretation

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

N. Amendment to an Adopted PAD District[61]

1. Changes to conditions and terms of a Planned Area Development that affect the overall density, intensity, and classifications of land uses shall be processed as a new change of zoning. Changes to other conditions of a Planned Area Development shall be in accordance with Section 3.3.1.G.11.b.
2. PAD District amendments shall be in substantial conformance with the objectives of the PAD District and in conformance with Section 3.4.1.G.11.
3. Amendment Application
   - **a.** An amendment to a PAD District 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 District standards.
   - **b.** The application shall 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 District. A major change is one which:
     - **(1)** Allows uses not otherwise permitted in the PAD District or a section of the PAD District;
     - **(2)** Varies or changes a PAD District 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 District;
     - **(4)** Changes designated buffers or perimeter landscaping, as delineated in the PAD District, which was established to adapt the PAD District 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 District;
     - **(6)** As a consequence of more than one nonsubstantial change submitted concurrently, cumulatively results in a significant change in the objectives or goals of the PAD District; or
     - **(7)** Results in a significant change in pedestrian or traffic circulation within the PAD District 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

[61] Text from LUC Sec. 2.6.3.11.

recommendation to the Mayor and Council. The procedure for considering the change shall be a Zoning Examiner Legislative Procedure, Section 3.3.1.G. 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.

3.3.3. PLANNED COMMUNITY DEVELOPMENT (PCD) DISTRICT[62]

A. Establishment Procedure

A PCD District shall be established through a Zoning Examiner Legislative Procedure, in accordance with Section 3.3.1.G of the UDC.

B. Application Processing

The application shall comply with the applicable requirements in Section 3.2.2 and 3.2.3 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

C. Amendment Procedures[63]

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 shall not preempt an applicant's ability to apply for other modification procedures available within the Unified Development Code (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 District. The PDSD Director shall determine if the potential impacts to the PCD District 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 (i) the categories of changes listed in Subsection b, (ii) other changes specifically identified as administrative amendments in the PCD District approved by the Mayor and Council, and (iii) categories of changes deemed by the PDSD Director to be comparable to those identified in (i) or (ii) or otherwise to have no negative potential impacts on the PCD District.

[62] Text from LUC Sec. 2.6.5.3.

[63] 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.

b. Administrative Amendment Categories

The following changes and comparable changes are presumed to be administrative unless they significantly affect the PCD District 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 District 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 District or the DA.

(4) A transfer involving a change in total number of dwellings or gross leaseable 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 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 District 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 District 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 3.5.1.B.2. Minor amendments include (i) the categories of changes listed in Subsection b, (ii) changes specifically identified as minor amendments in the PCD District approved by the Mayor and Council, and (iii) categories of changes deemed by the PDSD Director not to change substantially the overall PCD zoning but that have potential impacts on the intensity of land use mix of the PCD District 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 leaseable 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 District.

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 shall be processed pursuant to the Zoning Examiner Legislative Procedure, Section 3.3.1.G. Major amendments include (i) those categories of changes listed in Subsection b, (ii) other changes specifically identified as major amendments in the PCD District 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 District and that are deemed by the PDSD Director to change substantially the overall PCD zoning or the application of the PCD District 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 3.3.3.C.1.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 District.

(3) Change that would allow uses not otherwise permitted in the PCD District, zone, 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 District'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 District.

(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 District or a change adjacent to existing residential development in the PCD District where the intensity of development exceeds ten percent in the number of units or gross leaseable floor area in the DA or zoning district.

3.4. SUBDIVISION / PLATTING

See Article 8: Subdivision Standards for platting procedures.

3.5. MISCELLANEOUS PERMITS AND APPROVALS[64]

3.5.1. SPECIAL EXCEPTION LAND USES[65]

A. Purpose

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.

B. Review and Approval Procedures

There are three types of Special Exception Land Uses: 1) the Administrative Special Exception, reviewed by the PDSD Director; 2) the Zoning Examiner Special Exception, reviewed by the Zoning Examiner; and 3) the Mayor and Council Special Exception, with recommendation from the Zoning Examiner and final decision by the Mayor and Council. Application requirements shall be established by the PDSD Director and shall include, but not be limited to, information on the subject property and surrounding uses, proposed use, traffic considerations, land use impact analysis, and any other information as appropriate to evaluate the requests.

1. Administrative Special Exception Procedure

a. Generally

This is an administrative procedure requiring review and approval by the PDSD Director through the Zoning Compliance - Limited Notice Procedure, Section 3.2.1.G. Approval shall be granted if the PDSD Director finds the proposal in compliance with the findings as listed in Subsection C. The approval may be subject to conditions as provided in Subsection D. The Director's decision may be appealed in accordance with the Board of Adjustment Appeal Procedure, Section 3.2.4.E.2.

[64] Text for section is taken primarily from 23A-32 Design Review.
[65] Text from LUC Sec. 5.3.9.

b. Airport Special Exception[66]

The special exception for uses within the Airport Environs Zone is an Administrative Special Exception. All developments that are proposed to exceed the limits of Performance Standards established in Section 5.6.8.A., B, and C, shall be approved as Special Exception Land Uses upon application, review, and approval in accordance with Section 3.2.1.G Limited Notice Procedure. These applications shall be analyzed for: 1) land use compatibility with base operations, 2) proximity to the end of the runway, 3) location in relationship to major flight tracks, and 4) compliance with the intent of the DM Joint Land Use Study.

2. Zoning Examiner Special Exception Procedure

This procedure requires a public hearing and approval by the Zoning Examiner in accordance with the procedures below. The Zoning Examiner may approve the request upon compliance with all the findings as listed in Subsection C. If approved, the approval may be subject to conditions as provided in Subsection D. The Zoning Examiner's decision may be appealed through the Mayor and Council Appeal Procedure, Section 3.2.4.C.

a. Applicability[67]

This procedure applies to Zoning Examiner Special Exception land uses and for expansions of nonconforming uses and substitutions of nonconforming uses (uses not within the same land use class).

b. Application Processing

The application shall comply with the applicable requirements in Sections 3.2.2 and 3.2.3 regarding pre-application conferences, neighborhood meetings, public notice, completeness, and other related application procedures.

c. 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.

d. Zoning Examiner's Public Hearing

The public hearing shall 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.

(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.

[66] Text from LUC Sec. 2.8.5.10. Text moved to this section for better organization and per staff comment.

[67] 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.

(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 shall be made and retained as a public record.

e. Authority and Conduct of the Zoning Examiner

(1) The Zoning Examiner shall have the ability to obtain information from all parties, including PDSD review agencies, prior to the public hearing, provided all requests for information are in writing and the request and information are included as part of the public record. The Zoning Examiner shall also have the ability, after the close of the public hearing, to obtain additional information or clarify information presented and of record at the hearing provided the request for additional information or clarification is requested in writing and such request and information are included as part of the record.

(2) Beyond these limitations, the Zoning Examiner shall not communicate, directly or indirectly, with any party or party's representative in connection with any issue involved with a particular request, except upon notice and opportunity for all parties to participate; use or rely upon any communication, report, staff memorandum, or other material prepared in connection with the particular case, unless it is made a part of the record; or inspect the site with any party or party's representative, unless all parties are given an opportunity to be present.

f. Zoning Examiner's Decision

The Zoning Examiner may close the public hearing or continue the public hearing to a specified time, date and place provided the continuance is not for more than 30 days. Within five days of the close of a hearing, the Zoning Examiner shall make a decision to approve, approve with conditions, or deny the application.

g. Appeal

The Zoning Examiner's decision may be appealed by a party of record to the Mayor and Council in accordance with Section 3.2.4.C by 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 within 30 days of the decision.

h. 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 shall be reviewed by the PDSD staff for recommendation to the Zoning Examiner. The request shall then be considered at a public hearing in accordance with this Subsection 2.

3. **Mayor and Council Special Exception Procedure**
This is a legislative procedure requiring a public hearing by the Zoning Examiner and approval by the Mayor and Council in accordance Section 3.3.1.G.3. It is also subject to conditions as provided in Subsection D.

C. Findings

The following findings shall be made by the PDSD Director and Zoning Examiner when evaluating a request in accordance with Section 3.5.1.B.1 and Section 3.5.1.B.2. The use:

1. Meets the standards expressly applied by all adopted 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 Subsection 1.D;
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 subregional, area, or neighborhood plan.

D. Conditions of Approval

In approving an application, the PDSD Director, Zoning Examiner, or the Mayor and Council may impose such reasonable and appropriate conditions and safeguards as may be necessary to ensure compliance with the criteria for approval. Such 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. Setbacks for structures or activities greater than the minimum required by the applicable zoning district;
2. Structural or vegetative screening greater than that required by the landscaping and screening standards of this Section X to buffer the surrounding land uses from the proposed use;
3. Limitations on the height, size, or illumination of signs more restrictive than the applicable requirements of the Tucson Sign Code;
4. 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; and
5. Dedication of necessary right-of-way for streets, alleys, drainageways, and utilities.

3.5.2. PROTECTED DEVELOPMENT RIGHT[68]

After a site plan or tentative or final plat has been approved, an applicant may apply for a protected development right. A protected development right is a right granted to undertake and complete the development and use of property as shown on the Protected Development Right Plan without needing to comply with subsequent changes in zoning standards and technical standards adopted during the period of the Protected Development Right, except as provided by Arizona Revised Statutes (ARS), Sec. 9-1204. In the event of a conflict between the provisions of this Unified Development Code (UDC) and ARS, Sec. 9-1201 through 9-1205 inclusive, as they may be amended, the statutory provisions shall govern. The protected development right application requirements are provided in Section 2-17 of the Administrative Manual.

A. Grant of Protected Development Right

A protected development right shall be granted upon approval by the Mayor and Council.

B. Effective Date of Protected Development Right

A protected development right shall be deemed established with respect to a property on the effective date of Mayor and Council approval of the Protected Development Right Plan.

C. Duration of Protected Development Right

The duration of the protected development right 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 Arizona Revised Statutes (ARS), Sec. 9-1203.

D. Modification of Site Plan Expiration Dates

Notwithstanding Section 3.2.1.E.6, a site plan that has been designated a Protected Development Right Plan shall expire upon termination of the protected development right.

3.5.3. ARCHITECTURAL DOCUMENTATION PRIOR TO DEMOLITION OF HISTORIC BUILDINGS[69]

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.

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.

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

[68] Text from LUC Sec. 5.3.10.
[69] Text from 2010 amendment.

not contributing properties within designated or pending National Register Historic Districts; are not individually listed on the National 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 contributing properties within designated or pending National Register Historic Districts; or are individually listed on the National Register of Historic Places; or 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 5.10.7 is required in addition to the provisions contained in this section.

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

C. 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.

D. 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.

E. 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.

F. 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.

3.6. LAND USE PLANS AND TEXT AMENDMENT PROCEDURES

3.6.1. LAND USE PLAN PROCEDURE[70]

A. Applicability

Applications reviewed under this procedure require consideration by the Planning Commission at a public hearing(s) for recommendation to and final decision by the Mayor and Council. This procedure is used for the following applications:[71]

[70] 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.

1. Adoption of or amendment to the General Plan;
2. Adoption of or amendment to specific plans and regulations, such as, but not limited to subregional, area, and neighborhood plans;
3. Adoption of or amendment to the Major Streets and Routes (MS&R) Plan; and
4. Adoption of redevelopment plans.

B. Application Processing[72]

The application shall comply with the applicable requirements in Sections 3.2.2 and 3.2.3 regarding pre-application conferences, neighborhood meetings, public notice, completeness, public comment, and other related application procedures.

C. Application Process[73]

Applications shall be in conformance with the General Plan, applicable specific plans, the UDC, the applicable fees in the administrative manual, other pertinent codes and regulations and the following:

1. Applications for the amendment to an area or neighborhood plan within two years of the date of adoption of the plan shall not be processed unless Mayor and Council consent to the application;
2. Applications for designation of protected peaks and ridges shall be accepted only from the City or one or more property owners of the subject property;
3. The re-adoption of the General Plan shall only be initiated by the Mayor and Council. Notice of initiation shall be provided in conformance with A.R.S. §9-461.06; and,
4. Redevelopment plans shall be initiated after a resolution by the Mayor and Council declaring that an area is subject to redevelopment in accordance with state law prior to initiating a redevelopment plan.

D. Planning Commission Public Hearing[74]

The Planning Commission shall hold at least one public hearing. For the re-adoption of or a major amendment to the General Plan, the Planning Commission shall hold at least two public hearings, each in a different location within the City and shall provide additional consultation and public notice in conformance with A.R.S. §9-461.06.

1. **Planning Commission's Recommendation**

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 it is closed within 90 days of the date of the initial hearing. The Planning Commission shall issue a recommendation, including a statement of the reasons for the recommendation, within 45 days of the close of the hearing(s). The application, together with the Planning Commission Recommendation and the City Manager's Recommendation, is forwarded to the Mayor and Council for decision. If the Planning Commission fails to issue a

[71] The applications have been reorganized into a list to make them easier to understand.
[72] This is new text identical to cross reference in other procedures.
[73] 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.
[74] Text from LUC Sec. 5.4.2.1.

recommendation within the prescribed time, the application shall be forwarded to the Mayor and Council for a decision and shall state the reasons for the positions taken by members of the Planning Commission.

2. **Planning Commission's Recommendation for Redevelopment Plans**
For redevelopment plans, the Planning Commission reviews the plan for compliance with the General Plan and any applicable specific plans 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.

3. **Reconsideration by Planning Commission**[75]
The Planning Commission may, by majority vote of all members, choose to reconsider a decision made on a plan amendment application, provided the vote to reconsider is made within 30 days of the date of decision. Should the Planning Commission vote to reconsider, the reconsideration must take place a minimum of 14 days from the date of the vote, 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.

E. Mayor and Council Decision[76]
The Mayor and Council shall hold a public hearing on legislative applications prior to making a decision. The decision on legislative applications shall consider the application, the Planning Commission's recommendation and the City Manager's recommendation and public comments. 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. 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. For redevelopment plans, notice shall 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.

F. Reconsideration by Mayor and Council[77]
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 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

[75] Text for this provision from DS 1-08.6.6.C.
[76] Text from LUC Sec. 5.4.2.2.
[77] Text from LUC Sec. 5.4.2.3.

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.[78]

G. Reapplication[79]

New plan amendment applications shall 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.

1. When the application does not involve a request for a zoning district or land use that was denied;
2. When there has been substantial change in the use of the property adjacent to the plan amendment site since the previous case was heard; or
3. When there has been an ownership change on the plan amendment site and a substantially modified development concept is presented.

3.6.2. TEXT AMENDMENT PROCESS[80]

A. Purpose

As authorized by A.R.S. Section 9-462, this Section establishes a public process for a code amendment including a text amendment and a text amendment/overlay i.e., a rezoning to an overlay zone with the text and/or map provisions within the Unified Development Code. The amendment must include a recommendation or other action by the Planning Commission and adoption by the Mayor and Council. The amendment shall be consistent with the overall purpose of the Unified Development Code.

B. Initiation

The Mayor and Council is responsible for the initiation of a code amendment. The Mayor and Council may initiate a request for a code amendment from the Planning Commission or from a private individual who has submitted evidence that a public benefit would result from such an amendment. After the Mayor and Council's initiation of an amendment, the Planning Commission shall follow their rules of procedure in setting an amendment for public hearing.

C. Development of a Code Amendment

The Planning and Development Services Department is responsible for the development and coordination of a code amendment.

D. Planning Commission Review

1. Commission Study Session

A study session may be required by the Commission to determine the merits of a draft amendment, unless an amendment has been set for public hearing by the Mayor and Council. The Commission may remand an amendment to the department for further development, or set it for public hearing.

[78] The last sentence of this provision requires clarification.
[79] Text from DS 1-08.6.8.
[80] This section's text provided by staff.

2. **Commission Public Hearing**
Public hearing notice shall be in accordance with Section 3.2.3 unless the Mayor and Council require additional public notice.

a. The Commission shall hold, at a minimum, one public hearing at which all interested parties may appear and shall be heard.

b. The Commission may continue the hearing in accordance with 3.7.1.D.1.[81] After the public hearing, the department shall transmit the findings, recommendation or other action of the Commission to the Mayor and Council.

E. **Mayor and Council Review**
Public hearing notice shall be provided in accordance with Section 3.3 unless the Mayor and Council require additional public notice. The Mayor and Council may adopt, deny, or continue an amendment or remand the item to the Planning Commission

COMMENTARY

A significant proposed change in the draft UDC is the creation of single, but more extensive, Design Development Option (DDO). First, the two current DDOs are proposed to be consolidated into one DDO process. This is partially necessary because the current DDO that applies to the Development Designator (Sec. 5.3.4) needs to be replaced (or re-named) once the Development Designator System is replaced as intended as part of this UDC reformatting project. Second, we have proposed an additional option within the DDO to allow staff to approve minor deviations of up to 10% for many quantitative development regulations not covered by the current DDOs. This option is intended to give staff the flexibility to approve small changes to proposals on issues that will not significantly affect neighbors but will avoid a costly and unnecessary variance procedure. This change will leave the City with two modification procedures, the DDO to approve small deviations and the variance for everything else.

3.7. ADMINISTRATIVE MODIFICATIONS

3.7.1. DESIGN DEVELOPMENT OPTION (DDO)[82]

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.

[81] This reference should be verified by staff.
[82] The DDO text has been rewritten to incorporate the recommended text provided by staff. We made some organizational modifications to the text to improve clarity.

B. Applicability

The following dimensional, screening, and landscaping standards may be considered for modification under this Section:[83]

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;
4. In addition to the dimensional standards above, the PDSD may approve minor modifications of up to ten percent of quantitative dimensional regulations in Article 6 and zoning district standards in Article 4, provided that the applicable findings below in Subsection E are met. This provision does not apply to parking, landscaping and screening standards. The ten percent limit on modifications is measured by rounding the standard to the nearest whole unit, with half units (.5) rounded up to the next unit;

C. Design Review Board Recommendation

For subsections B.3 and 4 above, prior to a decision by the PDSD Director, the Design Review Board shall review the request and make a recommendation to the PDSD Director.

D. PDSD Review and Approval

1. General

The PDSD Director shall review and make a final decision on a DDO according to the Zoning Compliance Limited Notice procedures in Section 3.2.1.G.

2. Exception

Minor modifications of ten percent or less for wall height and setbacks are exempt from the Limited Notice Procedure. The PDSD shall make the findings contained in Subsection E for such minor modifications in the approval document of any approved minor modifications.

E. Findings for Approval

1. General Findings for All Modifications

For all modification requests, the PDSD Director shall find that the modification:

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;

[83] We deleted the following staff suggested language because it is redundant with the PDSD review section below: "using the Special Zoning Review Limited Notice (LN) (See Sec. 3.3.3 – Special Zoning Review Limited Notice)."

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[84]

In addition to the findings in Subsection E.1 above, 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 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. Applies 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;

e. 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

f. 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.

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

3. Specific Findings for Screening

In addition to the findings in Subsection E.1 above, the PDSD Director shall find in the case of screening that the modification[85] does not lower the height of a required screening device to a point where it cannot accomplish its purpose;

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[85] 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.