



MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

**PLANNING & ZONING
COMMISSION:**

Veda McFarland, Chair
Marc Melbo, Vice Chair
Bill Louis, Secretary
Greg Loper
Gene Sweeney
Nancy Golden
Leigh Strickman

Department Liaison
Glen Van Nimwegen

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of the City Clerk, 8401 West
Monroe Street, Room 150, Peoria,
Arizona 85345 (623)773-7340,
TDD (623)773-7221, or FAX (623)
773-7304. To the extent possible,
additional reasonable
accommodations will be made
available within the time
constraints of the request.*

**PLANNING & ZONING COMMISSION
REGULAR MEETING
NOTICE & AGENDA
THURSDAY, JULY 15, 2010
6:30 P.M.
COUNCIL CHAMBERS
8401 W. MONROE ST.**

CONVENE:

ROLL CALL:

OPENING STATEMENT:

CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the Planning and Zoning Commission, and will be enacted by one motion. There will be no separate discussion of these items unless a Commission member so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

CONSENT – New Business:

- 1C** **DISPOSITION OF ABSENCE:** Discussion and possible action to approve/excuse the absences of Commissioners Louis and Loper from the June 17, 2010 meeting.
- 2C** **MINUTES:** Discussion and possible action to approve the minutes of the Regular Meeting held June 17, 2010.

REGULAR AGENDA

NEW BUSINESS:

- 3R **PUBLIC HEARING:** RE: Conditional Use Permit for a wireless communication facility.

PUBLIC HEARING - CU10-0044: Coal Creek Consulting is requesting a Conditional Use Permit to allow a wireless communication facility consisting of a 65 foot high "mono-pine" and associated ground equipment. The property is located at 6830 West Thunderbird Road, northwest of the corner of 67th Avenue and Thunderbird.

Staff Report

Open Public Hearing

Public Comment

Close Public Hearing

Commission Action: Discussion and possible action to recommend approval of a request from Coal Creek Consulting for a Conditional Use Permit to allow a wireless communication facility consisting of a 65 foot high "mono-pine" and associated ground equipment.

- 4R **PUBLIC HEARING:** RE: City of Peoria Text Amendment.

PUBLIC HEARING – TA09-02: The City of Peoria has proposed an amendment to several sections within the Zoning Ordinance including Article 14-2 "Definitions", Article 14-3 "General Provisions", Article 14-37 "Administrative and Decision Making Bodies", Article 14-33 "Planned Area Development (P.A.D.) District", Article 14-36 "Planned Community (PC) District", and Article 14-39 "Administrative Procedures". The amendment will change the definition of "Department" and all references to "Community Development Department" to reflect the Department's renaming, modify current standards regarding appeal times, provide for enhanced civic engagement processes and requirements, revise Conditional Use Permit evaluation criteria, and provide other minor "housekeeping" updates to Article 14-39.

Staff Report

Open Public Hearing

Public Comment

Close Public Hearing

Commission Action: Discussion and possible action to recommend approval of a request from the City of Peoria to amend text to the City of Peoria Zoning Ordinance.

- 5R **PUBLIC HEARING:** RE: City of Peoria Text Amendment.

PUBLIC HEARING – TA10-0101: The City of Peoria has proposed amendments to Article 14-2 titled "Definitions" and Article 14-09 titled "Non-Residential Districts" to introduce a new definition for tobacco retailer; modify definitions for tavern, bar, lounge and for retail liquor store; add tobacco retailer to the non-residential land use table; make

outdoor dining/patio and drive-through restaurant conditional uses within 200-feet of residential zoning; and amend or establish use standards for gas stations, outdoor patios, and drive-through restaurants.

Staff Report

Open Public Hearing

Public Comment

Close Public Hearing

Commission Action: Discussion and possible action to recommend approval of a request from the City of Peoria to amend text to the City of Peoria Zoning Ordinance.

CALL TO THE PUBLIC: (Non-Agenda Items)

Your comments pertaining to the Planning and Zoning Commission business are welcome. However, if you wish to address the Planning and Zoning Commission, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. Boards and Commissions are not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from Staff:

Reports from the Planning and Zoning Commission:

ADJOURNMENT:

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Board/Commission Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

**PLANNING AND ZONING COMMISSION MINUTES
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
JUNE 17, 2010
DRAFT**

A **Regular Meeting** of the Planning and Zoning Commission of the City of Peoria, Arizona, convened at 8401 W. Monroe St., Peoria, AZ in open and public session at 6:30 p.m.

Members Present: Chair Veda McFarland, Vice Chair Marc Melbo, Commissioners Gene Sweeney, Nancy Golden, and Leigh Strickman.

Members Absent: Commissioners Greg Loper and Bill Louis.

Others Present: Ellen Van Riper - Assistant City Attorney, Glen Van Nimwegen – Planning & Community Development Director, Chris Jacques - Planning Manager, and Bev Parcels – Planning Assistant.

Opening Statement: None Read.

Call for speaker request forms.

Audience: Three.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

All items listed with a “C” are considered to be routine by the Planning and Zoning Commission, and were enacted by one motion.

1C **DISPOSITION OF ABSENCE:** Approve the absences of Commissioners Louis and Sweeney from the June 3, 2010 meeting.

2C **MINUTES:** Approve the minutes of the Regular Meeting held June 3, 2010.

COMMISSION ACTION: Commissioner Sweeney moved to approve the Consent Agenda items. The motion was seconded by Commissioner Strickman and upon vote, carried unanimously.

REGULAR AGENDA

NEW BUSINESS:

3R PUBLIC HEARING: The Planning and Community Development Department presented the Peoria Sports Complex Area Urban Design Plan for adoption. The Plan covers a 570 acre area (0.9 square miles) bounded by Loop 101 (west), Bell Road (north), Skunk Creek (south) and the eastern city limits (generally 73rd Avenue). The overarching purpose of the Plan is to establish a development framework and strategy for positioning and transforming the area into a vibrant, pedestrian-friendly, mixed-use district.

STAFF REPORT: Presented by Chris Jacques – Planning Manager and Mike Ratajski – Project Manager, Project Design Consultants.

COMMISSION COMMENT:

Several Commissioners expressed satisfaction with the resulting Plan. Questions and comments included the extension of Paradise Lane east across 75th Avenue to Bell Road and the inclusion of a residential element into the district.

PUBLIC COMMENT: None

COMMISSION ACTION: Commissioner Strickman moved to recommend approval of the Peoria Sports Complex Area Urban Design Plan to City Council. The motion was seconded by Commissioner Sweeney and upon vote, carried unanimously 5-0.

CALL TO THE PUBLIC: (Non-agenda Items): None

REPORT FROM STAFF: None

REPORTS FROM THE PLANNING AND ZONING COMMISSION: None

ADJOURNMENT: There being no further business to come before the Planning and Zoning Commission, the meeting adjourned at 7:06 p.m.

Veda McFarland, Chair

Date Signed



CONDITIONAL USE PERMIT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: CU 10-0044

DATE: July 15, 2010

AGENDA ITEM: 3R

Applicant: Coal Creek Consulting (represented by [REDACTED], on behalf of Clearwire Wireless

Request: Obtain a Conditional Use Permit to allow a 65-foot high Wireless Communication Facility (WCF) and associated ground equipment.

Location: Heritage Mortuary, 6830 West Thunderbird Road (W/O NWC of 67th Avenue & Thunderbird Road)

Site Acreage: *Mortuary Site: 2.9 gross acres; Lease Area: 600 square feet*

Support / Opposition: As of the date of this printing, Staff has received one (1) email and six (6) telephone calls expressing concern and opposition to the WCF.

Neighborhood Meeting: A neighborhood meeting was held on June 16, 2010. A summary of the meeting is included as Exhibit G.

Recommendation: **Approve**, with conditions.

AREA CONTEXT

Table 1: Existing Land Use, Future Land Use, Current Zoning. (Exhibits A-B)

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Mortuary and Funeral Home	Estate Density Residential (0.0-2.0 du/ac); Target 1.0 du/ac.	Single-Family Residential (R1-35)
North	Mini-Storage	Estate Density Residential (0.0-2.0 du/ac) Target 1 du/ac.	Intermediate Commercial (C-2)
South	Vacant land and agricultural uses	Low Density Residential (2.0-5.0 du/ac) Target 3 du/ac.	Intermediate Commercial (C-2)
East	Commercial & office center	Estate Density Residential (0.0-2.0 du/ac). Target 1 du/ac.	Intermediate Commercial (C-2)
West	Single-family residences	Estate Density Residential (0.0-2.0 du/ac). Target 1 du/ac.	SF Residential (R1-35)

PROJECT DESCRIPTION

1. The applicant is proposing a new 65-foot tall wireless communications facility (WCF) disguised as a "mono-pine" with associated ground-mounted equipment cabinet to be located on the Heritage Funeral Chapel site, located at 6830 West Thunderbird Road. This site is located immediately west of the commercial center located at the NWC of 67th Avenue and Thunderbird Road.
2. The WCF will be located in a leased area of approximately 600 (20' x 30') square feet on a 2.9 acre site utilized as a mortuary and funeral home. The leased area is located behind the mortuary and funeral home buildings to the rear of the site. Direct access to the WCF is provided by the existing drive aisle from Thunderbird Road. The required parking space for maintenance of the WCF is available on-site through existing parking.
3. The proposed WCF will be located approximately 193 feet from the nearest residential property to the west (Longhorn Ranch) and approximately 395 feet from the nearest residential property line to the north (Peoria Heights Rancho Estates Unit One). An existing mini-storage facility serves as an intervening land use between the WCF and this residential neighborhood.
4. The Heritage Funeral Chapel site is currently zoned Single-Family Residential (R1-35). The site has been zoned R1-35 since 1978 (Ordinance 78-16) and was developed in 1985 as a mortuary and funeral home.
5. Wireless Communication Facilities are either permitted outright or through the issuance of a Conditional Use Permit (CUP) depending on the specific elements such as pole height or setback from residential districts.

DISCUSSION AND ANALYSIS

Applicability

6. Section 14-3-13 of the Zoning Ordinance governs Wireless Communications Facilities. The intent of this Section is to promote the use of appropriate WCF's within the parameters established under the 1996 Telecommunications Act (and as amended thereafter) while encouraging co-location and design techniques that minimize impacts of such facilities on the community.
7. Pursuant to Section 14-3-13.B(3) of the Zoning Ordinance, a WCF as a *permitted principal use* is allowed a maximum height of 50 feet within a residential district. The proposed WCF requires approval of a *Conditional Use Permit* to allow the 65-feet being proposed.
8. As described in Section 14-39-10.D of the Zoning Ordinance, the purpose of a CUP is to mitigate any identified negative impacts on the surrounding

neighborhood that may result from a specific use and provide controls to ensure maximum compatibility between nearby land uses.

Analysis

9. One of the chief objectives of the WCF Ordinance is to encourage providers to explore co-location options on an existing pole or verticality (e.g. school ballfield light pole). As stated in the Narrative (Exhibit C), the applicant sought out opportunities to co-locate on nearby existing structures of comparable height; however the alternative sites were not feasible due to a variety of factors, including height limitations and technical constraints.
10. Section 14-3-13.C of the Zoning Ordinance contains a series of applicable development standards for WCF's permitted as a Conditional Use Permit. The following is an evaluation of the proposed WCF against these standards:

Height: The maximum height of a new WCF in a residential zone is 65 feet. The proposed WCF will not exceed 65 feet.

Setback: The pole shall be setback from residential districts no less than 110% of the height of the pole (71.5 feet). The WCF will be setback approximately 193 feet from the residential district to the west. The WCF must also be setback at least 5 feet from the abutting commercial center and must meet the principal building setback from Thunderbird (30 feet). The WCF will be setback approximately 107 feet from the commercial center and 304'-10" from the Thunderbird ROW line.

Antennas: The WCF can have panel and/or whip antennas and is limited to one (1) parabolic antenna (microwave) less than 24 inches in diameter. The proposal is to erect a 65 foot mono-pole and install three panel antennas and *three* parabolic antennas at a height of approximately 60 feet. To locate the three parabolic antennas at this location, the applicant has submitted a request for a variance to increase the number of allowable microwave antennas from one to three at this location. The Board of Adjustment will hear this request at a later date.

11. To meet the intent of the WCF Ordinance, the applicant has implemented stealth design techniques to increase compatibility with the existing site. Particular attention was paid to the aesthetics of the type and design of the pole for the context of the area. With the number and size of the pine trees in this area, the alternative structure proposed was a mono-pole (Exhibit E). The mono-pole will be visible from Thunderbird Road though will be partially screened by the intervening buildings on-site. Visibility from the residences to the west will also be partially screened by the existing trees along the shared property line. Visibility of the ground equipment will be minimal. The design review of the

ground equipment enclosure indicated the enclosure will be consistent with the adjacent wall.

12. In the past, the construction of wireless communication facilities camouflaged as mono-pines or mono-palms varied greatly in the quality of their appearance and the level of camouflage that they achieve. In order to assure a quality product is utilized at this site, the applicant has provided a photo-simulation of the type of mono-pine that would be installed at the proposed location for staff approval. The mono-pine would need to be consistent with the design as depicted in the documentation as provided by the applicant (Exhibits E & F).

Notification and Neighborhood Meeting (Exhibit G)

13. A Notice of Application was forwarded to all property owners within 300 feet of the proposal and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance. Shortly after this application was submitted, staff received one email and six telephone calls (one of the calls was from the sender of the email) regarding concern over the Wireless Communication Facility (Exhibit H).
14. Though not required by the Zoning Ordinance, the City recommended that the applicant hold a neighborhood meeting with concerned residents. To this end, a neighborhood meeting was held on June 16, 2010 at Centennial High School by the applicant (Exhibit G). Approximately ten (10) individuals were in attendance.
15. Issues that were brought up included questions regarding the overall height and width of the mono-pine, what it would look like from the properties to the west, co-location capabilities on the tower, the capacity of the antennas, and the service area for the antennas.
16. A Notice of Hearing was forwarded to all property owners within 300 feet of the proposal and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance. The attendees that were able to be located were included in this notification. The site was posted at least 15 days prior to the Public Hearing with a sign meeting the content and size requirements prescribed by the Planning Division. The applicant has provided a photo exhibit and signed affidavit attesting to the posting.

Proposition 207

17. The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

FINDINGS AND RECOMMENDATION

18. Based on the following findings:

- The proposed Wireless Communication Facility is compliant with the CUP WCF parameters outlined in the Zoning Ordinance with the exception of the number of permitted Parabolic antennas which will be subject to a Variance proceeding at a later date; and
- The proposal is consistent with the intent of the ordinance by minimizing the visual impacts of such facilities by camouflaging the facility as a mono-pine to blend in with existing verticality in the area; and
- The proposal will not generate adverse impacts on adjoining properties and land uses or be injurious to the public health, safety and welfare of the community; and
- The City is in receipt of a signed and notarized Proposition 207 waiver.

It is recommended that the Planning and Zoning Commission take the following action:

Approve the request for a Conditional Use Permit under Case CU 10-0044, subject to the following conditions:

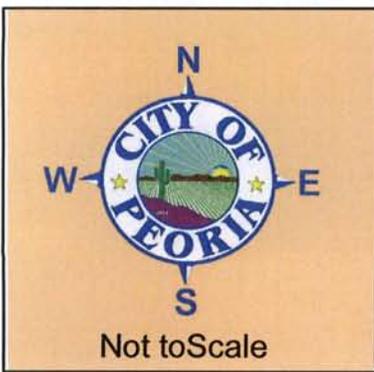
1. The use shall substantially conform to the project narrative (Exhibit C) and to the Site and Elevation Plans (Exhibits D & E) as contained in the staff report to the Planning & Zoning Commission dated July 15, 2010, except where modified herein.
2. In accordance with Section 14-39-9.F.2 of the Peoria Zoning Ordinance (1977 Edition), a building permit must be obtained within eighteen (18) months of Site Plan and Conditional Use Permit approval.

ATTACHMENTS:

Exhibits A-A1	Location Map
Exhibit B	Zoning Map
Exhibits C1-C3	Applicant Project Narrative
Exhibit D	Site Plan
Exhibit E	Elevation Plan
Exhibit F	Photo Simulation
Exhibit G	Neighborhood Meeting Summary
Exhibit H	Opposition Email

Prepared by: Lou Brannick, Development Plan Reviewer

CU10-0044 Location Map



CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting
Request: Place a 65 foot mono-pine at the rear of the existing mortuary property

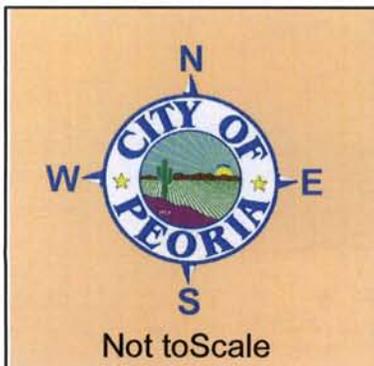
 Wireless communication facility

Exhibit A

CU10-0044 Location Map



Thunderbird Road

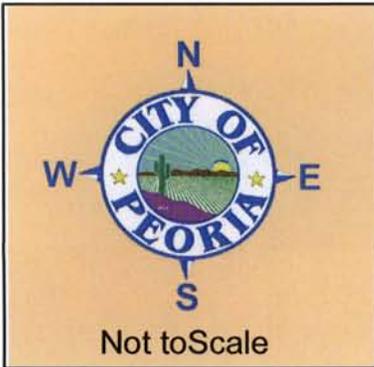


CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting
Request: Place a 65 foot mono-pine at the rear of the existing mortuary property

Exhibit A1

CU10-0044 Zoning Map



CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting
Request: Place a 65 foot mono-pine at the rear of the existing mortuary property

Exhibit B

**Clearwire Wireless Broadband
Project Narrative for Heritage Mortuary
PHX-615**

Project location

6830 W Thunderbird Ave, Peoria AZ
Heritage Mortuary

Description of Proposal

The proposal includes an installation of a new unmanned telecommunication facility, a 65' monopine to include the installation of (3) new panel antennas, and (3) new parabolic antennas ((1) 12" antenna and (2) 24" antennas). The proposed equipment cabinet will be located within the new 10'x10' lease area.

Relationship to Surrounding Properties

The unmanned wireless communications facility will generate no refuse, and will use no water or sewer services. There should be no demand for police surveillance. The facility is enclosed from other buildings, minimizing any fire dangers. Emergency vehicle access is available directly to the site via existing driveway.

The project is located on a privately owned property and the parcel is currently used as a mortuary.

The surrounding area is made up of residential homes, commercial uses and the mortuary.

Location and Accessibility

The site technician will use a 9x18 foot parking stall for the once a month routine maintenance visit. The existing access road shall be utilized for routine maintenance of the wireless communication facility as well as emergency service repairs or any non routine visits.

Circulation System

The existing access will be used resulting in no change to the circulation.

Development Schedule

To commence upon receipt of a building permit.

Community Facilities and Services

The project property is located on a large privately owned parcel.

The location, size, design, and operating characteristics of the proposed communications facility will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity. This determination is supported by the following:

- The equipment associated with the communication structure operates quietly or virtually noise-free.
- The equipment does not emit fumes, smoke, or odors that could be considered objectionable.
- The communications facility is unmanned and only requires periodic maintenance that equates to approximately one vehicle trip per month.

Radio Frequency Emissions

The facility will fall within the portion of the electromagnetic spectrum, which transmits non-ionizing radio waves. "Non-ionizing" electromagnetic emissions, at the low levels associated with this type of wireless technology, are not harmful to living cells. Among the items which result in non-ionizing electromagnetic emissions are police/fire/EMS radios, television broadcasts, CB radios, microwave ovens, baby monitors, home wireless phones, garage door openers, and many other items used in day to day life. Not to be confused with "ionizing" electromagnetic emissions which include ultra-violet light, medical x-rays and gamma rays.

Radio Frequency FCC Compliance

The FCC has allocated a portion of the radio spectrum to be used with power required to operate a wireless communication facility. The proposed facility does not exceed 718 watts per channel and thus, the Clearwire wireless communication facility is by design a low-power system. Depending upon characteristics of the site, the actual power requirements may be reduced. When operational, the transmitted signals from the site will consist of non-ionizing waves typically generated significantly lower than the FCC standard for continuous public exposure of 900 microwatts per square centimeter.

Other Information

- No Traffic Impact Study is provided due to only one trip generation per month.
- There will be no noise, smoke, dust, odor, vibration or illumination created by the proposed use.
- The site is compatible with surrounding uses.
- The proposed wireless communication facility will meet or exceed all Federal, State, Local Government agency requirements including the Federal Communication Commission (FCC) and the Radio Frequency (RF) exposure standards.
- The proposed project will be in compliance with all sections of the zoning ordinance and code requirements.
- Existing communication facilities within a 1-mile radius of the subject site were not available or lacked appropriate radio frequency engineering design requirements.
- Public utility poles lacked the available ground space needed and the appropriate height for the Radio Frequency signal.
- Other existing vertical elements were eliminated due to unwilling landlords, unavailable height, ground space, and physical site restraints.

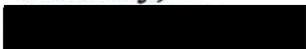
Summary

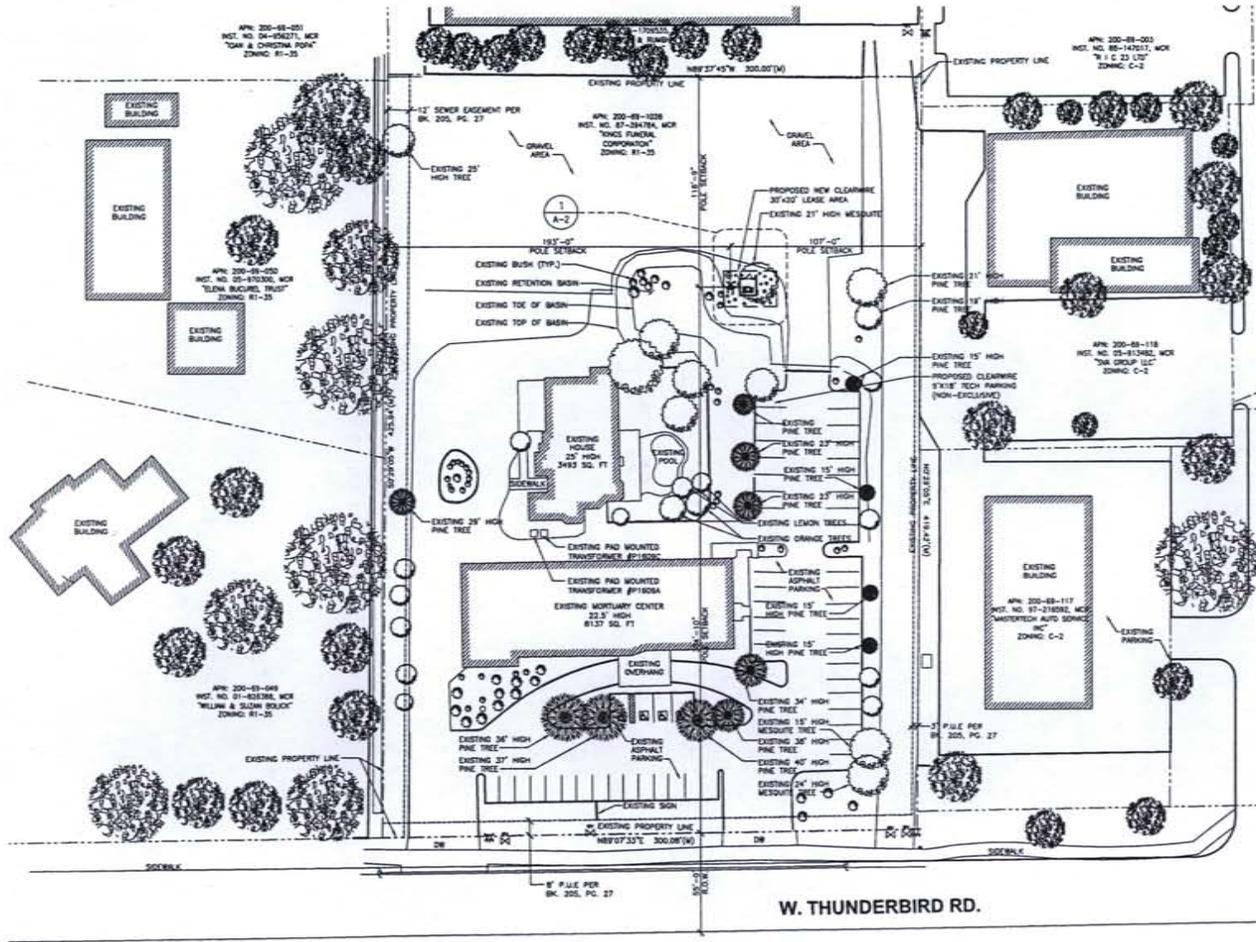
The proposed design will be engineered certified to be in compliance with the City of Peoria Zoning ordinance, International Building, Electric and Fire Codes. The proposed wireless communication facility will meet or exceed all Federal, State, Local Government agency requirements including the Federal Communication Commission (FCC) and the Radio Frequency (RF) exposure standards.

Clearwire is excited about the opportunity to bring enhanced service to the greater Peoria area. As a result, residents and tourists will benefit from the improved coverage and options available. The improvements will help to enhance E-911, City, and Public communication services.

Please refer to the drawings and supplemental information for any further clarification.

Sincerely,





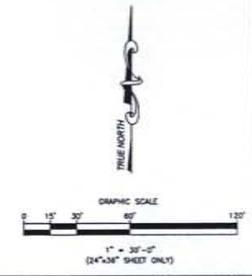
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POLE SPACINGS TABLE		
RESIDENTIAL (110K)	REQUIRED	PROPOSED
STREET	30'	30'4"-10" SOUTH
NON-RES.	5'	116"-8" NORTH 10'7" EAST



SITE PLAN

TeleSpan
2151 EAST BROADWAY ROAD, SUITE 217, TEMPE, AZ 85282
VOICE: 480.905.8669 FAX: 480.905.8616

PHX0615d
HERITAGE MORTUARY
6830 W. THUNDERBIRD RD.
PEORIA, AZ 85381

clearw're
wireless broadband
4400 CARILLON POINT
KIRKLAND, WA 98033

NO.	DATE	REVISIONS	BY	CHK	APP'D
6	05-10-10	CITY COMMENTS		CH	RD NS
5	04-21-10	CITY COMMENTS		AV	RD NS
4	02-12-10	CITY COMMENTS		AV	RD NS
3	02-03-10	CLIENT COMMENTS		AV	RD NS
2	12-10-09	CLIENT COMMENTS		AV	RD NS

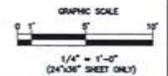
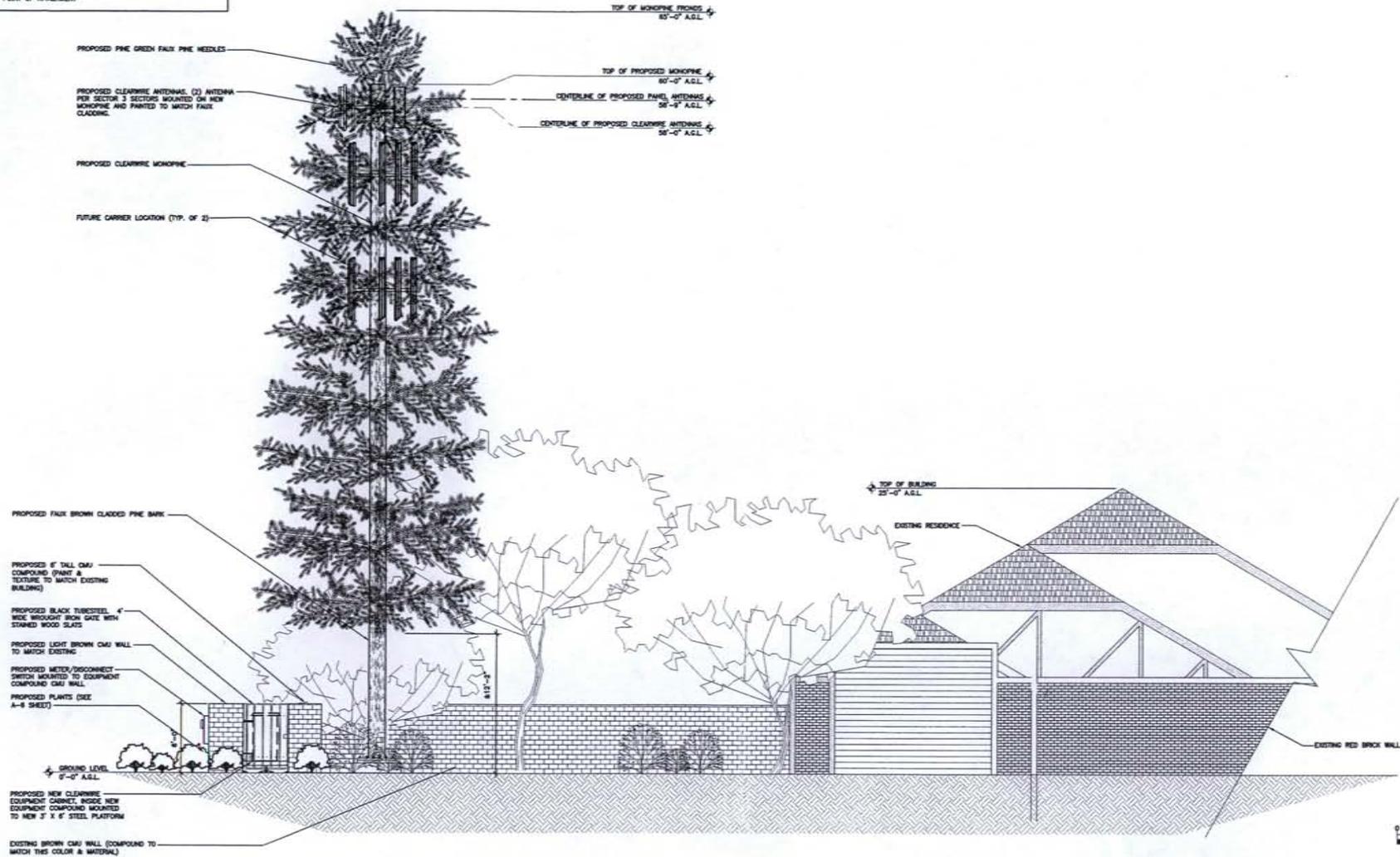
SCALE: AS SHOWN DESIGNED: RD DRAWN: WY

ZONING ONLY
NOT FOR
CONSTRUCTION

SITE PLAN	
DRAWING NUMBER	REV
A-1	6

SCALE: 1" = 30'-0" (24"x36" SHEET ONLY)

NOTE:
 1. THE MAXIMUM EXTENSION OF THE NEW ANTENNA AND ASSOCIATED ATTACHMENTS SHALL NOT EXCEED THIRTY-SIX (36) INCHES AS MEASURED PERPENDICULAR TO THE TOWER AT THE POINT OF ATTACHMENT



NORTH ELEVATION



1011 ST BROADWAY ROAD, SUITE 217, TEMPE, AZ 85282
 VOICE: 480.905.8888 FAX: 480.905.8818

PHX0615d
HERITAGE MORTUARY
 6830 W. THUNDERBIRD RD.
 PEORIA, AZ 85381

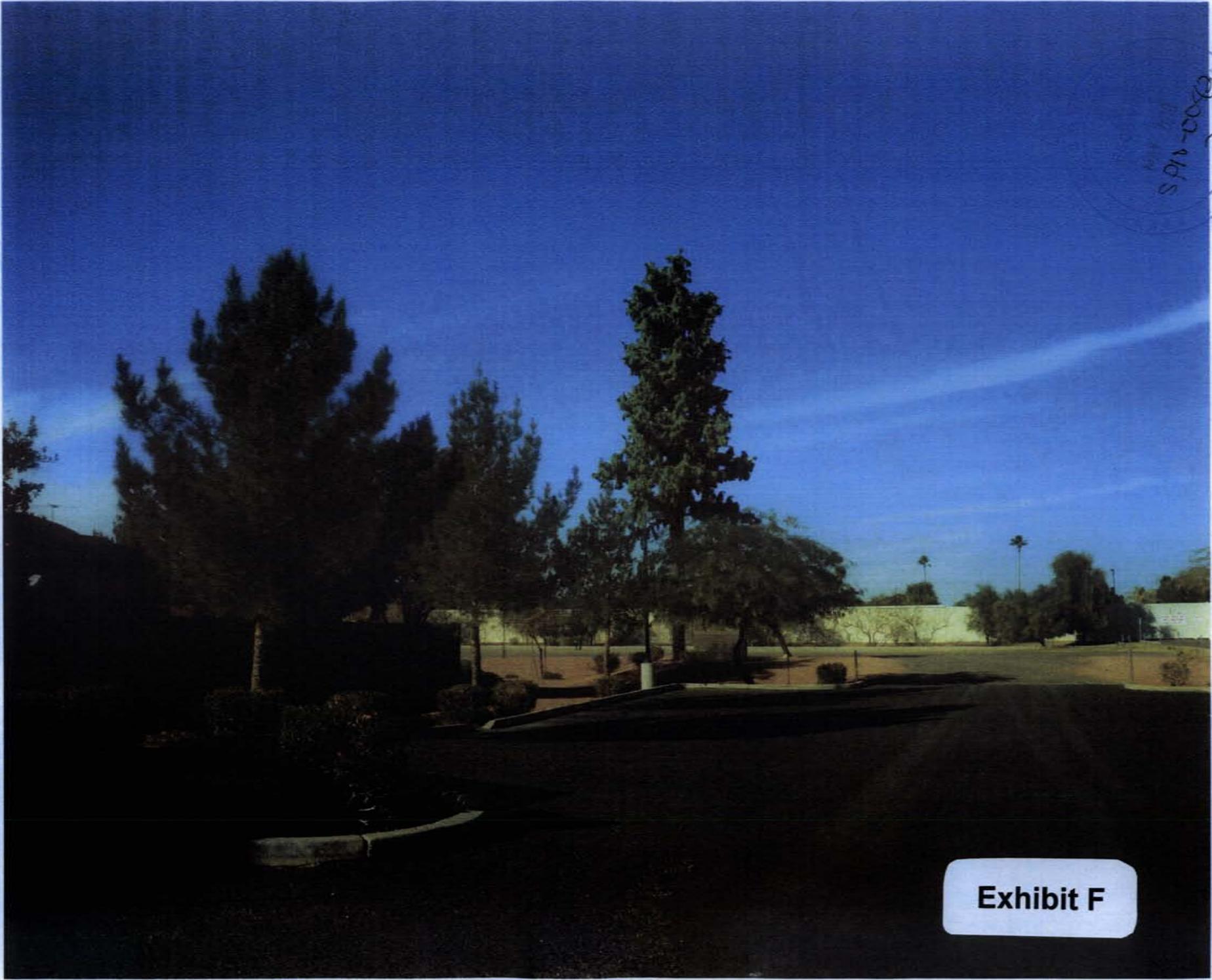
clearw're
 wireless broadband
 4400 CARILLON POINT
 KIRKLAND, WA 98033

8	06-10-10	CITY COMMENTS	CH	RO	NS
5	04-21-10	CITY COMMENTS	MY	RO	NS
4	02-10-10	CITY COMMENTS	MY	RO	NS
3	02-03-10	CLIENT COMMENTS	MY	RO	NS
2	12-10-09	CLIENT COMMENTS	MY	RO	NS
NO.	DATE	REVISIONS	BY	CHK	APP'D
SCALE: AS SHOWN			DESIGNED: RO	DRAWN: MY	

**ZONING ONLY
 NOT FOR
 CONSTRUCTION**

SOUTH ELEVATION	
DRAWING NUMBER	REV
A-3	6

Exhibit E



SP10-0000
2
MAY 20 11 23 AM '12

Exhibit F

NEIGHBORHOOD MEETING
CENTENNIAL HIGH SCHOOL
DATE: June 16, 2010

PROJECT NAME: ClearWire Heritage Mortuary
PROJECT LOCATION: Heritage Mortuary
6830 West Thunderbird Road
PROJECT DESCRIPTION: Proposed 65 foot mono-pine
ATTENDEES:



NOTES FROM MEETING:

Items discussed at 6/16 Neighborhood Meeting for Heritage Mortuary Mono-Pine

- No suggestions-just don't want it.
- What is the width of the mono-pine at its widest point?
- Can we do a balloon test?
- Need a photo-sim from the neighborhood to the west.
- Concerned about co-location clients and the effects it might have in having other towers near it built.
- What type of clientele is Clearwire looking for? This is an established neighborhood that already has wireless service. What is capacity for the antennas? How far can the antennas serve?

INFORMATION SUBMITTED BY:


Coal Creek Consulting
(480) 309-4104

Exhibit G

Lou Brannick

From: [REDACTED]
Sent: Wednesday, February 24, 2010 4:26 PM
To: Lou Brannick
Subject: Site plan and Conditional Use application, at 6830 W. Thunderbird Rd.

Hi Lou,
I'm the person who spoke to you on the phone last Friday about this application. As I said on the telephone my husband and I would like to be notified about an public hearing or other meeting that concerns this matter. Also the denial to put s a similar cell phone tower that we also spoke about was in faact in 2001, it was denied as a violation of code. I'm not sure, but I believe it was a zoning code,
I look forward to hearing from you at the appropriate time
My email is debbeart@aol.com. phone [REDACTED]
Thank you,
[REDACTED]

Exhibit H



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA09-02

DATE: July 15, 2010

AGENDA ITEM: 4R

Applicant: City of Peoria

Request: A City-initiated request to amend the following sections of the Zoning Ordinance:

A. Article 14-2, Definitions

- Update definition of "Department" to reflect the name change of the Community Development Department to the Planning and Community Development Department

B. Article 14-33, Planned Area Development (P.A.D.) District:

- Extend timeframe to submit an appeal for a minor PAD amendment decision from 7 to 10 days

C. Article 14-36 Planned Community (P.C.) District:

- Extend timeframe to submit an appeal for a minor PCD amendment decision from 7 to 10 days

D. Article 14-39, Administrative Procedures:

- Amend the notification requirements for development applications.
- Amend the Conditional Use Permit (CUP) administrative process including:
 - CUP evaluation criteria
 - CUP neighborhood involvement requirements
 - Rename Adult Uses as "Conditional Uses" instead of "Special Conditional Uses"
- Re-order the sections of Article 14-39 for ease of use.
- Extend the allowable time for holding a hearing for the appeal of a Conditional Use Permit to 75 days.

Support / Opposition: As of the date of this printing, Staff has not received any written or verbal support or opposition to this request.

Recommendation: **Approve** as requested.

BACKGROUND

1. The proposed amendment is intended to achieve several objectives. The objectives listed below are described in more detail in the Discussion and Analysis section of this report:
 - a. Improve the consistency of development processes by creating uniform timeframes for accepting appeals for various types of development cases.
 - b. Enhance the clarity and consistency of public notification requirements for development applications.
 - c. Increase public awareness of CUP applications by amending the CUP noticing and neighborhood involvement requirements.
 - d. Provide clear criteria for staff evaluations and recommendations of Conditional Use Permit (CUP) applications, in turn clarifying the CUP decision process for the Planning and Zoning Commission.
 - e. Increase the usability of Article 14-39 by reorganizing the sections.
2. Principles and procedures for the development and regulation of conditionally permitted uses are established in several sections of the Zoning Ordinance. Section 14-39-10 of the Zoning Ordinance provides administrative procedures for the approval and handling of conditionally permitted uses, while the several articles of the Zoning Ordinance pertaining to individual zoning districts contain district and use-specific requirements.
3. At their April 15, 2010 hearing, the Planning and Zoning Commission was briefed on this proposed amendment in a study session format with no action requested. Staff described the proposed amendment and its potential benefits. Commission members responded positively to the general concepts of the proposal including the extended notification distances and the enhanced citizen participation process for Conditional Use Permits. Commissioners remarked that the issue of notification has come up a number of times throughout the years when members of the public have indicated that they did not know about a proposed development project occurring in their neighborhood. In addition, staff confirmed that the potential use of additional electronic media, such as Facebook and Twitter, for notifications would be done on an "opt-in" basis to subscribers so that members of the public would not face unsolicited messages through these services.

DISCUSSION AND ANALYSIS

ARTICLE 14-2

4. The definition of "Department" is being updated to reflect the fact that the Community Development Department has been renamed the "Planning and Community Development Department".

ARTICLES 14-33 and 14-36

5. The timeframe for submitting appeals for minor PAD amendments and minor PCD amendments is currently 7 days. Other development review processes including Rezoning applications and Conditional Use Permits allow appeals to be submitted within 10 days after a decision has been rendered in the case. Increasing the window of opportunity for appeals for minor PAD amendments to 10 days will create a more uniform set of appeal standards across the various planning development processes within the City.

ARTICLE 14-39

Consistent & Clarified Notification Procedures

6. The notification procedures for the various types of development cases covered under Article 14-39 are currently scattered throughout this section of the Zoning Ordinance. The proposed amendment will consolidate all notification procedures so that an individual can easily locate all relevant notification requirements in one place, in a streamlined format with quick-access table. The requirements have been consolidated for increased consistency. For example, all type of cases requiring a Notice of Hearing (as listed in Table 14-39-6) will refer to the same section of the ordinance, in this case Section 14-39-6.A. Eliminating redundant text in the Zoning Ordinance will also simplify the management of the Ordinance as it undergoes future amendments.

Enhanced Notification

7. The current public notification procedures for development cases such as Conditional Use Permit and Rezoning cases exceed state mandated requirements. However, in pursuit of increasing civic engagement, the proposed changes to these notification procedures will significantly expand the scope of mailed notifications, reaching more residents. Notices are mailed in the form of a postcard sent via First Class US Mail. Newspaper ad requirements will remain essentially unchanged. Site posting requirements are established and amended administratively, outside of the Zoning Ordinance.
8. By reaching out to more households, the larger mailing notification distance will help increase the public's awareness of development proposals. It will also get neighbors involved early in the process, when any concerns that they might have are more easily addressed. The types of changes brought on by Conditional Uses Permit and Rezoning applications are often of the most concern to residents, therefore increasing notification for these case types will provide the greatest value when balanced against the additional notification costs. Increasing neighborhood awareness of such cases can also help to ensure that neighbors are not surprised by these land use changes.
9. The following chart provides a brief comparison of current and proposed mailed noticing standards for Conditional Use Permit and Rezoning cases:

Mailed Notification Requirements for CUP and Rezoning Applications

	Current Noticing	Proposed Noticing
Property Owners		
CUP Post Card Radius	300 ft	600 ft
Rezoning Post Card Radius		
Up to 40 acres	300 ft	600 ft
40-320 acres	600 ft	1320 ft (approx. ¼ mile)
>320 acres	900 ft	1320 ft (approx. ¼ mile)
Registered Neighborhood Associations		
CUP Post Card Radius	1 mile (NOH only)	1 mile (NOA / NOH)
Rezoning Post Card Radius	N/A	1 mile (NOA / NOH)
Registered Home Owners Associations		
CUP Post Card Radius	N/A	1 mile (NOA / NOH)
Rezoning Post Card Radius	N/A	1 mile (NOA / NOH)

NOTE: The abbreviations NOH and NOA stand for "Notice of Hearing" and "Notice of Application" respectively.

- Further notification enhancements outside of this Zoning Ordinance amendment are currently being designed by staff. Additional notification tools such as electronic media to provide the public with quick, convenient access to Planning Division case information through interactive GIS-based maps and social media networks are being developed.

Conditional Use Permit Evaluation Criteria

- Every zoning district contains certain buildings, structures, and uses of land which are normal and complementary to permitted principal uses in the district, but which, *by reason of their physical or operational characteristics, influence on the traffic function of adjoining streets, or other similar conditions, are often unnecessarily incompatible with adjacent activities and uses.* It is the intent of the conditional use permitting process to allow such uses in appropriate zoning districts, but only in specific locations within such districts and only *when they are designed and developed in a manner which ensures maximum compatibility with adjoining uses.*
- Currently, the review process for CUPs described in Section 14-39-10 may create uncertainty for potential applicants, City staff, or the Planning and Zoning Commission regarding the requirements by which CUP applications are evaluated. The proposed amendment identifies the primary factors that will be assessed in determining the compatibility of a particular conditionally permitted use (in a given location) with its surroundings. While these factors can already be considered during the staff review process (based upon the general criteria described in Section 14-9-10.E), explicitly referencing these considerations increases the transparency of the process for all parties involved.

CUP Neighborhood Involvement Criteria

13. As previously discussed, conditionally permitted uses may be incompatible with nearby existing uses if care is not taken to address potential conflicts. If staff receive written opposition to a CUP case within twenty one (21) days of receipt of the case application, the proposed amendment will require the applicant to hold a neighborhood meeting in order to identify and mitigate impacts and resolve potential conflicts with neighboring property owners. If a meeting is required, the applicant will notify all owners of real property located within 600 ft of the proposed project as well as all registered Neighborhood Associations and Home Owners Associations within one (1) mile of the proposed use.
14. While the majority of CUP proposals are unopposed, a few cases have created considerable concern among neighboring residents. The neighborhood meeting can provide the opportunity for the applicant and neighbors or other interested individuals to discuss their concerns early in the review process before staff provides recommendations and before the case is heard by the Planning and Zoning Commission, where discussion is more structured and limited in time by necessity.

Mandatory CUP Pre-Application Meeting

15. In order to assist applicants with understanding the Conditional Use Permit civic engagement process, applicants will be required to attend a Pre-Application Meeting with Planning staff. This will provide an opportunity for staff to walk applicants through the process in a face-to-face setting and ensure that they are prepared for the possibility of planning a public meeting before actually submitting an application.

Housekeeping Amendments to Article 14-39

16. Currently, City Council hearings for appealed CUPs currently must be scheduled within 45 days of receiving an appeal. This period does not allow sufficient time for staff to submit documentation and reports for City Council, or to properly notice the hearing given established City-wide protocols. When a case is appealed to the City Council, Planning Division staff prepares a written report detailing the facts of the case, including the results of the Planning and Zoning Commission hearing. The written report provided by staff to City Council for an item on a Council meeting agenda must be completed by staff approximately 2 months before the Council meeting date in order to complete the required approval processes. The proposed seventy-five (75) day window between the date that an appeal is received and the date that the appeal is heard by City Council will still allow for relatively expedient hearing of appeals for the parties involved, while allowing sufficient time for staff to properly prepare the relevant documents.
17. Section 14-39-10 –*Conditional and Special Conditional Use Permits*, currently describes conditionally permitted adult uses as “Special Conditional Uses”. This language can cause confusion with an entirely different category of uses, including cemeteries, university campuses, and quarries, which require a

“Special Use Permit” –an entirely different planning process. In order to reduce the potential for confusion, this text amendment reclassifies adult uses as simply one type of “Conditional Use”. Adult uses will remain subject to special limitations as identified in Article 14-9 -Non-Residential Districts. Section 14-39-10 also references Article 14-24 – Adult Uses. This Article of the Zoning Ordinance has since been removed and condensed into Article 14-39, therefore references to Article 14-24 have been deleted.

Public Notice

18. Public notice of this proposed amendment to the Zoning Ordinance was provided in the manner prescribed under Section 14-39-8.D, which requires notice of the time, date, and place of the hearing be published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing. The notice must include the text of the proposed amendment and a general description of any regulations proposed to be amended.

FINDINGS AND RECOMMENDATION:

19. Based on the following findings:
- The proposed amendment constitutes an improvement to the Zoning Ordinance by:
 1. Enhancing public awareness and engagement in development processes,
 2. Clarifying the evaluation criteria for Condition Use Permit applications.
 3. Standardizing appeal times for PADs and PCDs.
 4. Ensuring adequate time is available to process appeals of CUP decisions to City Council.
 - Upon review of the application, the Planning Manager has determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend to the Mayor and City Council approval of Case TA 09-02, a request to amend the Peoria Zoning Ordinance as contained in Exhibits A-D.

ATTACHMENTS:

- | | |
|-----------|-----------------------------------|
| Exhibit A | Proposed changes to Article 14-2 |
| Exhibit B | Proposed changes to Article 14-33 |
| Exhibit C | Proposed changes to Article 14-36 |
| Exhibit D | Proposed changes to Article 14-39 |

Prepared by: Melissa Sigmund
Planner

14-2-2 DEFINITIONS

Department means the Planning and Community Development Department, the entity charged with the responsibility for interpreting, administering and enforcing the City of Peoria Zoning Ordinance. (Ord. No. 02-68, Ord. No.10-XX)

Neighborhood Association means an incorporated or unincorporated group of individuals comprising a homeowner's association, merchant's association, community association or other group of individuals with similar interests due to their residence in a defined area and that has registered with the Planning and Community Development Department to receive notice of applicable proceedings. (Ord. No. 98-34A)

14-33-4 AMENDMENTS TO APPROVED PLANNED AREA DEVELOPMENT

F. *Appeals*

1. *Appeal of Planning Division decision to Planning and Zoning Commission.* An action or decision by the Planning Division on *minor* amendments may be appealed by the applicant within ~~seven (7)~~ ten (10) calendar days from the date of the Planning Manager's decision.
 - a. Appeals shall be in writing on a form provided by the Planning Division and shall include only the specific items being appealed.
 - b. The Planning Division will submit a report and any background material regarding the appeal to the Planning and Zoning Commission for its next scheduled meeting. Any persons associated with the action being appealed shall be informed by the Planning Division of the date, time, and location of the appeal hearing.
 - c. The Planning and Zoning Commission's decision on the appeal will be sent out (in writing) to the applicant. The decision of the Planning and Zoning Commission will be final, unless the applicant initiates an appeal to the City Council.
2. *Appeal of Planning and Zoning Commission decision to Council.* An action or decision by the Planning and Zoning Commission on *minor amendments* may be appealed by the applicant within ~~seven (7)~~ ten (10) calendar days after the date of the Commission decision.

EXHIBIT B

14-36-9 ADMINISTRATIVE DECISION APPEALS

- A. An action or decision by the Planning Division on *minor* amendments may be appealed by the applicant within ~~seven (7)~~ ten (10) calendar days from the date of the Planning Manager's decision.
1. Appeals shall be in writing on a form provided by the Planning Division and shall include only the specific items being appealed.
 2. The Planning Division will submit a report and any background material regarding the appeal to the Planning and Zoning Commission for its next scheduled meeting. Any persons associated with the action being appealed shall be informed by the Planning Division of the date, time, and location of the appeal hearing.
 3. The Planning and Zoning Commission's decision on the appeal will be sent out (in writing) to the applicant. The decision of the Planning and Zoning Commission will be final, unless the applicant initiates an appeal to the City Council.
- B. *Appeal to Council.* An action or decision by the Planning and Zoning Commission on minor amendments may be appealed by the applicant within ~~seven (7)~~ ten (10) calendar days after the date of the Commission decision.

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ARTICLE 14-39 ADMINISTRATIVE PROCEDURES

(Ord. No. 02-80) (Ord. No. 10-XX)

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14-39-1 INTENT

The intent of the ADMINISTRATIVE PROCEDURES Article of this Ordinance is to set forth the procedures used for application, review, and decision-making for land development request governed by this Ordinance.

14-39-2 INTERPRETATION

- A. The ~~Community Development~~ Department Director, or designee thereof, shall interpret the provisions of this Ordinance, and shall interpret uses within each district as provided in the intent and regulations governing the subject district. The Director or designee shall respond in writing to written requests for Ordinance interpretations within forty-five (45) days from the date of receipt of the written request.
- B. Ordinance interpretations may be appealed to the Board of Adjustment (BOA). Such appeals may be initiated by an office, department, board, or commission of the City or by any aggrieved party. The appeals shall be processed in accordance with Section 14-39-12, "Appeals to Board of Adjustment," of this Ordinance.

14-39-3 ENFORCEMENT

A. *General.* The City of Peoria shall diligently enforce the provisions of this Ordinance to protect the health, safety, and welfare of the residents of the City of Peoria and to promote the City's planning efforts.

1. Enforcement shall include but not be limited to the following:
 - a. Receipt and examination of applications for zoning compliance certificates and occupancy permits, and issuance of said certificates and permits
 - b. Inspections of buildings, structures, and premises as necessary for enforcing the provisions of this Ordinance
 - c. Revocation of any zoning compliance certificate or occupancy permit wherein a use not permitted in the district or a structure not meeting the regulations of this Ordinance was erroneously authorized, in which case the certificate or permit shall be void
 - d. Carrying out the orders of Boards issued in accordance with the provisions of this Ordinance
2. Enforcement of the provisions of this Ordinance shall in no case entail the following:
 - a. Granting exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance
 - b. Making changes in, or varying the terms of, this Ordinance
 - c. Refusing to issue a zoning compliance certificate or occupancy permit when the applicant has complied with all provisions of this and other applicable Ordinances and codes, despite any violations of contracts, covenants, or private agreements which may result there from.

B. *Occupancy Permits.* It is unlawful to use or occupy, or permit the use or occupancy of, any building or structure except a single-family residence, or to change or extend any use of land unless and until an occupancy permit has been issued.

1. *Issuance of Occupancy Permits.* Within two (2) working days after receiving notice that the building, structure, premises, or part thereof has been completed and is ready for final use or occupancy, the City staff Department shall make an inspection. ~~The department shall issue an occupancy permit~~ shall be issued to the owner upon determining that the construction has been completed in conformity with the provisions of this Ordinance.
2. *Temporary Occupancy Permits.* The City Department may issue a temporary occupancy permit for a part of a building, structure, or use prior to completion of the entire building, structure, or use upon determining that said part is in conformity with all provisions of this Ordinance and is considered safe and suitable for use and occupancy. Such temporary occupancy permit shall remain

1 in force until the entire building, structure, or use has been completed and
2 inspected, and an occupancy permit has been issued.

3
4 C. *Inspection Fees.* Prior to the issuance of a Zoning Compliance Certificate or
5 Occupancy Permit, the applicant shall pay to ~~the Department~~ the applicable
6 inspection fee(s) to the City.

7
8
9 **14-39-4 VIOLATIONS**

10
11 A. Any structure upon which construction is started or any structure which is altered,
12 enlarged, or repaired, or any use of land which is begun or changed after enactment
13 of this Ordinance and which is in violation of any of its provisions, is hereby declared
14 a nuisance per se. Any Court of competent jurisdiction shall order such nuisance
15 abated and the owner or agent in charge of such building or premises shall be
16 adjudged guilty of maintaining a nuisance per se.

17
18 B. Any person who violates any provision of the Ordinance shall be guilty of a separate
19 offense, and upon conviction thereof, shall be liable to all applicable penalties of the
20 City Code and other laws. For purposes of this Section, "person" shall include the
21 owner of any structure or land or part thereof, and any person, architect, builder,
22 contractor, plumber, or agent employed in connection therewith, who has assisted
23 knowingly in the commission of any such violation.

24
25
26 **14-39-5 FEES**

27
28 Fees charged by the ~~Community Development~~ Department shall be as adopted in the
29 City Code.

30
31 A. *Waivers*

32
33 In cases where the applicant is the City Council, City Planning and Zoning
34 Commission, ~~Community Development~~ Department, or an official or agency of the
35 City, County, State, or Federal government, fees for administrative procedures
36 associated with this Ordinance shall be waived.

37
38 B. *Non-Profit Organizations*

39
40 For non-profit community organizations, the ~~Community Development~~ Department
41 shall reduce fees to ten percent (10%) of the fees required under this Ordinance. A
42 non-profit community organization for purposes of this Ordinance is defined as a
43 corporation organized under the laws of the State of Arizona as a non-profit
44 organization and having been certified by the United States Internal Revenue
45 Service of 1986 as amended.

46
47 C. *Hardship*

48
49 In cases where hardship exists and can be demonstrated to the satisfaction of the
50 City Council, the City Council shall have the authority to waive, reduce, or otherwise
51 adjust the normal fee as it deems appropriate.

1 **14-39-6 NOTICES**

2

3

Table 14-39-6 Notices

	<u>Notice of Application [Postcard]</u> <u>Property Owner Notification Distance Radius</u>	<u>Notice of Hearing [Postcard]</u> <u>Property Owner Notification Distance Radius</u>	<u>Newspaper Ad</u>	<u>Site Posting (Responsible Party)</u> * =	<u>Notice of Decision [Postcard]</u> <u>Property Owner Notification Distance</u>	<u>Notice of Neighborhood Meeting [Letter]</u> <u>Applicant's responsibility Notification Distance Radius</u>
<u>Administrative Relief</u>	<u>No</u>	<u>N/A</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>NA</u>
<u>Conditional Use Permits</u>	<u>600 ft</u>	<u>600 ft</u>	<u>Yes</u>	<u>Yes (Applicant)</u>	<u>No</u>	<u>If meeting is required, 600 ft</u>
<u>Hillside Appeals</u>	<u>No</u>	<u>300 ft</u>	<u>Yes</u>	<u>Yes (City)</u>	<u>No</u>	<u>NA</u>
<u>PAD/PCD Major Amendment</u>	<u>**</u> <u>==</u>	<u>**</u> <u>==</u>	<u>Yes</u>	<u>Yes (Applicant)</u>	<u>No</u>	<u>**</u> <u>==</u>
<u>PAD/PCD Minor Amendment</u>	<u>Map Amendments only (300 ft)</u>	<u>No</u>	<u>Text Amendments only</u>	<u>No</u>	<u>No</u>	<u>NA</u>
<u>Rezoning</u>	<u>**</u> <u>==</u>	<u>**</u> <u>==</u>	<u>Yes</u>	<u>Yes (Applicant)</u>	<u>No</u>	<u>**</u> <u>==</u>
<u>Site Plans</u>	<u>300 ft</u>	<u>If appealed, 300 ft</u>	<u>If appealed</u>	<u>No</u>	<u>300 ft</u>	<u>NA</u>
<u>Site Plan Major Amendment</u>	<u>300 ft</u>	<u>If appealed, 300 ft</u>	<u>No</u>	<u>No</u>	<u>300 ft</u>	<u>NA</u>
<u>Temporary Use Permits</u>	<u>No</u>	<u>If BOA hearing is required, 300 ft</u>	<u>If BOA hearing is required</u>	<u>◆</u>	<u>No</u>	<u>NA</u>
<u>Zoning Ordinance Text Amendment</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>NA</u>
<u>Variance</u>	<u>No</u>	<u>300 ft</u>	<u>Yes</u>	<u>Yes (Applicant)</u>	<u>No</u>	<u>NA</u>
<u>Zoning, Initial</u>	<u>No</u>	<u>**</u> <u>==</u>	<u>Yes</u>	<u>Yes (City)</u>	<u>No</u>	<u>NA</u>

4 * Specific site posting sign requirements are located in the Site Posting Requirements
5 guide available from the Planning Division.

6 ** If the property to be rezoned is less than 40 acres, the notification distance shall be
7 six hundred (600) ft. In cases where the property to be rezoned is forty (40) acres or
8 larger, the notification distance shall be 1320 ft.

9 ◆ Site posting may be required per 14-39-13.D. If required, the City shall be
10 responsible for posting signage on the subject property.

11

12

13

A. Notice of Application

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1. For all cases requiring a Notice of Application, within three (3) working days of
the submittal date of the application, the Department shall send notice by first
class mail to each owner of real property as last disclosed by County real estate
tax records, situated wholly or partially within the notification distances specified
in Table 14-39-6. and to each Neighborhood Association and Home Owners

1 Association that has registered with the City and is affiliated with a neighborhood
2 located within a one (1) mile radius of the subject site.

3
4 B. Newspaper Ad

5 1. For all cases requiring a newspaper ad, notice shall be published at least once in
6 a newspaper of general circulation in the city. The notice shall include a general
7 description of the subject property and a statement of the proposed application.

8
9 a. For cases involving a public hearing, the ad shall be published at least fifteen
10 (15) days prior to the hearing. Such public notice may be combined with
11 public notice for other matters to be heard at the same public hearing.

12
13 b. Newspaper ads for Zoning Ordinance Text Amendment cases shall also
14 include the text of the proposed amendment and a general description of any
15 regulations proposed to be amended.

16
17 C. Notice of Hearing

18 1. For all cases requiring a Notice of Hearing, at least 15 days prior to the hearing
19 the Department shall send notice by first class mail to each owner of real
20 property as last disclosed by County real estate tax records, situated wholly or
21 partially within the notification distances specified in Table 14-39-6, and to each
22 Neighborhood Association and Home Owners Association that has registered
23 with the City and is affiliated with a neighborhood located within a one (1) mile
24 radius of the subject site.

25
26 2. In proceedings involving rezoning of land that abuts other municipalities or
27 unincorporated areas of Maricopa or Yavapai County, or a combination thereof,
28 the Department shall transmit copies of the notice of the public hearing to the
29 planning agency of the applicable governmental unit. In proceedings involving
30 land in the vicinity of a military airport, the Department shall mail a copy of the
31 notice to the airport.

32
33 D. Site Posting.

34 1. For all cases requiring site posting, the responsible party identified in Table 14-
35 39-6 shall post the site in a conspicuous location on the subject property. The
36 sign shall be designed and constructed in accordance with the adopted
37 administrative guidelines for such signs. If the applicant is responsible for the
38 posting, they shall provide the City with a photo exhibit and affidavit attesting to
39 such posting at least fifteen (15) days prior to the hearing.

40
41 E. Notice of Decision

42 1. For all cases requiring a Notice of Decision, the Department shall send notice by
43 first class mail to each owner of real property as last disclosed by County real
44 estate tax records, situated wholly or partially within the notification distances
45 specified in Table 14-39-6, and to each Neighborhood Association and Home
46 Owners Association that has registered with the City and is affiliated with a
47 neighborhood located within a one (1) mile radius of the subject site.

48
49 F. Notice of Neighborhood Meeting

50 1. For all cases requiring a Notice of Neighborhood Meeting, the applicant shall
51 send written notice by first class mail to interested and affected persons no later

1 than ten (10) days prior to the neighborhood meeting, including but not limited to,
2 each owner of real property as last disclosed by County real estate tax records,
3 situated wholly or partially within the notification distances specified in Table 14-
4 39-6, and each Neighborhood Association, Condominium Association, Home
5 Owners Association, and apartment management office that has registered with
6 the City and is affiliated with a neighborhood located within a one (1) mile radius
7 of the subject site. The notice shall provide a description and map of the request,
8 a mailing address, telephone number, fax number, and email address where
9 comments regarding the application will be received.

10 2. For all rezoning cases, the applicant shall also send Notice of Neighborhood
11 meeting to adjacent jurisdictions and affected school districts, public utilities, and
12 state and federal agencies.

13
14 G. Failure to Receive Notice.

15 1. In accordance with ARS §9-462.04 A.7, notwithstanding the notice requirements
16 herein set forth, the failure of any person or entity to receive notice shall not
17 constitute grounds for any court to invalidate the action for which the notice was
18 given.

19
20 **14-39-7 EXPIRATION OF APPLICATIONS**

21
22 A. All applications submitted to the Planning Division for staff review will expire and be
23 deemed withdrawn if more than twelve (12) months pass from the latest date that
24 staff has provided the applicant with review comments, unless a full re-submittal of
25 case materials occurs. This includes, but is not limited to, applications for Rezoning,
26 PAD Amendments, Zoning Ordinance Text Amendments, Site Plan Reviews, Major
27 Site Plan Amendments, Conditional Use Permits, Temporary Use Permits, Requests
28 for Administrative Relief, Requests for Variance, Hillside Ordinance Appeals, Design
29 Review Appeals, Preliminary Plats, and Sign Permits. Prior to the date of expiration,
30 the applicant may file a request for an extension. The Planning Manager or designee
31 thereof may authorize a one-time, six (6) month extension. The Applicant contact of
32 record shall be provided written notice no less than thirty (30) days prior to the date
33 of application expiration.

34
35
36 **14-39-6 14-39-8 REZONINGS**

37
38 A. *General.* In accordance with the provisions of A.R.S. §9-462.01, The City Council
39 may from time to time change the zoning of parcels of land within the municipality.
40 These changes in zoning classification are intended to meet the land use needs of
41 the residents of the City and conform to the City's General Plan.

42
43 B. *Applicability.* The procedures herein described shall apply to all rezone requests
44 within the City of Peoria.

45
46 C. *Mandatory Pre-Application Conference, Plan Submittal and Approval* (Ord. No. 05-
47 25)

48
49 The applicant must attend a pre-application conference prior to applying for rezoning.
50 The requirement for a Citizen Participation Plan and required meetings with the
51 adjacent neighborhoods and interested persons will be reviewed at the conference.

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D. *Application for Rezoning*

- 1. All applications for rezoning, except those involving a PAD, PC, or detached or attached single-family units on individual lots, shall be accompanied by a Site Plan prepared in accordance with this Article; said Site Plans shall be submitted together with the rezoning application.
- 2. Rezoning may be initiated by the City Council, the Planning and Zoning Commission, the Department, or an owner or duly authorized agent of property proposed for rezoning. In the case of an application that includes property not owned by the applicant, and where the applicant is not the City Council, The Planning and Zoning Commission, or the Department, the application shall include the signatures of the real property owners representing at least seventy five percent (75%) of the land in the subject area.
- 3. Any person or entity who seeks a rezoning shall submit an application on the official form provided by the ~~Community Development~~ Department. Submittal requirements shall be as established administratively by the Department, and shall include but not be limited to the legal description of the property, the present zoning classification, the recommended use of the property in the City's General Plan, a scaled diagram of the subject parcel and surrounding area, and a Citizen Participation Plan. (Ord. No. 05-25)
- 4. The applicant shall present evidence of ownership or the type of controlling interest in the property (e.g., option to purchase) to the Department. The applicant shall submit the application together with the applicable fee to the Department.

E. *Citizen Participation Process* (Ord. No. 05-25 & Ord. No. 07-22)

A Citizen Participation Process shall accompany all rezone requests. The purpose of the Citizen Participation Process is to provide a forum for public involvement and resolution of concerns prior to the formal public hearing process. The Public Participation Process shall not be required for initial zoning cases per 14-39-79 and minor amendments to approved Planned Area Developments and Planned Community Developments.

- 1. The applicant shall hold at least one neighborhood meeting with persons who may be affected or have an interest in the application, said parties shall be notified according to the requirements of Section 14-39-6, Notices, including, but not limited to, landowners living in the vicinity of the property that is the subject of the application, affected HOA's and Condominium Associations, adjacent jurisdictions, school districts, public utilities, and public agencies (Ord. No. 05-44, & Ord. No. 07-22). The neighborhood meeting shall be held in a neutral location within the general area of the request.

~~For purposes of this section, vicinity shall mean the following (Ord. No. 05-44):~~

SIZE OF PARCEL	NOTIFICATION
SUBJECT TO REZONING	DISTANCE

1	Up to 40 Gross Acres	300 feet
2	40 to 320 Gross Acres	600 feet
3	More than 320 Gross Acres	900 feet

- 4
- 5 ~~2. At a minimum, the applicant shall send written notice to interested and affected~~
- 6 ~~persons no later than ten (10) days prior to the neighborhood meeting. The~~
- 7 ~~notice shall provide a description and map of the request, a mailing address,~~
- 8 ~~telephone number, fax number, and email address where comments regarding~~
- 9 ~~the application will be received;~~
- 10
- 11 3. The applicant shall prepare and submit a report to the ~~Community Development~~
- 12 ~~Department that describes the meeting, numbers in attendance, any comments~~
- 13 ~~received at the meeting or any other form of communication received regarding~~
- 14 ~~the application, how these comments will be evaluated, and any mitigation issues~~
- 15 ~~identified as a result of the comments and concerns received.~~
- 16
- 17 4. *Timing of Citizen Participation Meetings and Communications* (Ord. No. 05-25, &
- 18 ~~Ord. No. 07-22). The required neighborhood meeting shall be conducted within~~
- 19 ~~forty-five (45) calendar days of submittal of the application. No hearing date shall~~
- 20 ~~be scheduled until the meeting report is submitted and validated by the~~
- 21 ~~Community Development Department.~~
- 22

23 ~~F. *Notice of Application.* The community Development Department shall mail a Notice~~

24 ~~of Application within three (3) working days of the submittal date of the Rezone~~

25 ~~application to each owner of property as last disclosed by County real estate tax~~

26 ~~records, situated wholly or partially within the notification distance specified under~~

27 ~~Section 14-39-6.E. The applicant shall furnish to the Community Development~~

28 ~~Department the names, addresses, and stamped, addressed envelopes for the~~

29 ~~property owners and the Department shall mail the notices.~~

30

31 **G E.** *Department Review*

32

- 33 1. The ~~Community Development Department~~ shall review the application in
- 34 ~~accordance with provisions set forth in the Process Guide. City staff will initially~~
- 35 ~~review the application for completeness and may identify issues and make~~
- 36 ~~recommendations and comments related to the request. The applicant shall~~
- 37 ~~revise the application as necessary.~~
- 38
- 39 2. The applicant may appeal the requirements or conditions contained in the CPP
- 40 ~~approval and shall submit a request to have the requirements or conditions~~
- 41 ~~reviewed by the Planning Manager. Such request shall be in writing and shall be~~
- 42 ~~submitted within 10 days after the approved plan has been delivered to the~~
- 43 ~~applicant. The Planning Manager shall provide a written decision within 14 days~~
- 44 ~~of receipt of the request. (Ord. No. 05-25)~~
- 45
- 46 3. Action by the Planning Manager may be appealed by the applicant to the
- 47 ~~Community Development Department Director as the point of final appeal. The~~
- 48 ~~request for review by the Community Development Department Director shall be~~
- 49 ~~submitted in writing within 10 days from the date of delivery of the Planning~~
- 50 ~~Manager's decision to the applicant. The Community Development Director shall~~

1 provide a written decision within 14 days from receipt of the request. (Ord. No.
2 05-25)

- 3
- 4 4. After the applicant submits an application that the ~~Community Development~~
5 Department determines to be complete and prepared in accordance with the
6 above, City Departments shall review the application. The ~~Community~~
7 ~~Development-Department~~ shall transmit to the applicant the comments from City
8 Departments. The applicant then shall revise and resubmit the application
9 materials to address all of the concerns and issues raised in the comments.
10 When the application is complete, the ~~Community Development~~ Department shall
11 write a report with a recommendation, set a date for a public hearing with the
12 Planning and Zoning Commission, and forward the report to the Commission.
13
- 14 5. The Planning Manager shall not approve or recommend approval of any rezoning
15 unless the Planning Manager has received a Waiver of Proposition 207 from the
16 Owner or Owners of the property that is the subject of the rezoning or has
17 determined that the absence of such a waiver of Proposition 207 is consistent
18 with the City's General Plan and Zoning goals and requirements.

19 (~~Section 14-39-6~~ amended by Ordinance No. 07-14, enacted April 17, 2007 and effective
20 May 17, 2007.)

21

22

23 ~~H. Notice of Hearing~~

- 24
- 25 ~~1. The Community Development Department shall provide notice of the time, date,~~
26 ~~and place of the public hearing, at least fifteen (15) days prior to the hearing, as~~
27 ~~follows:~~
- 28
- 29 ~~a. Newspaper. Publish at least once in a newspaper of general circulation in~~
30 ~~the City. The notice shall include a general description of the subject~~
31 ~~property and a statement of the existing and proposed zoning for said~~
32 ~~property. Such public notice may be combined with public notice for other~~
33 ~~matters to be heard at the same public hearing.~~
- 34
- 35 ~~b. Posting. The applicant shall post the site in a conspicuous location on the~~
36 ~~subject property within the timeframe specified herein. The sign shall be~~
37 ~~designed and constructed in accordance with the adopted administrative~~
38 ~~guidelines for such signs. The applicant shall provide the City with a photo~~
39 ~~exhibit and affidavit attesting to such posting within the manner and~~
40 ~~timeframe described herein.~~
- 41
- 42 ~~c. Mailing. Send notice by first class mail to each owner of real property as last~~
43 ~~disclosed by County real estate tax records, situated wholly or partially within~~
44 ~~the notification distances specified under Section 14-39-6.E. (Ord. No. 05-25)~~
- 45
- 46 ~~2. Land Abutting Another Municipality or Military Airport. In proceedings involving~~
47 ~~rezoning of land that abuts other municipalities or unincorporated areas of~~
48 ~~Maricopa or Yavapai County, or a combination thereof, the Community~~
49 ~~Development Department shall transmit copies of the notice of the public hearing~~
50 ~~to the planning agency of the applicable governmental unit. In proceedings~~

1 involving land in the vicinity of a military airport, the Community Development
2 Department shall mail a copy of the notice to the airport.

- 3
4 ~~3. Failure to Receive Notice. In accordance with ARS §9-462.04 A.7,~~
5 ~~notwithstanding the notice requirements herein set forth, the failure of any person~~
6 ~~or entity to receive notice shall not constitute grounds for any court to invalidate~~
7 ~~the action for which the notice was given.~~

8
9 † G. *Planning and Zoning Commission Hearing and Recommendations*

- 10
11 1. The Community Development Department shall refer all rezonings to the
12 Planning and Zoning Commission for study and public hearing. ~~The Notice of~~
13 ~~hearing shall be as provided above in Subsection H, "Notice of Hearing."~~
14
15 2. In its deliberations on the matter, the Commission shall consider oral or written
16 statements from the applicant, the public, City staff, and its own members. The
17 Commission shall recommend to the Council that the application be granted as
18 requested, be denied, or be granted subject to specific conditions.
19
20 3. In its deliberations, the Commission may continue the public hearing concerning
21 the application; however, the Commission shall not continue the public hearing
22 more than three meetings in succession without again providing notice in the
23 above prescribed manner.
24

25 ‡ H. *City Council Hearing and Action*

- 26
27 1. The City Council may adopt the Planning and Zoning Commission's
28 recommendations without holding a second public hearing unless (Ord. No. 05-
29 35):
30
31 a. The applicant (for the rezoning request), aggrieved party, member of the
32 public, or a member of the City Council objects to adoption of the
33 recommendation of the Planning and Zoning Commission without a City
34 Council hearing. Said objection shall be filed in writing within ten (10)
35 calendar days after the Commission renders its recommendations.
36
37 b. The Planning and Zoning Commission has recommended approval of the
38 proposed amendment and a written legal protest, as defined in A.R.S. §9-
39 462.04.H., as amended or renumbered, has been filed.
40
41 2. Council Action. The City Council, after receiving the report and recommendation
42 of the Planning and Zoning Commission, may take action as follows:
43
44 a. Affirm in whole or in part the action of the Commission;
45
46 b. Reverse in whole or in part the action of the Commission;
47
48 c. Modify any decision, determination, or requirement of the Commission; or
49
50 d. Remand the matter back to the Commission for further consideration. (Ord.
51 No. 05-35)

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3. Legal Protest. A Legal Protest occurs when protests are filed in accordance with A.R.S. §9-462.04.H., as amended or renumbered. The protests must be filed in writing, with the ~~Community Development~~ Department, within ten (10) calendar days after the Commission renders its recommendations. Actions involving Legal Protest require a supermajority vote of the City Council in accordance with A.R.S. §9-462.04.H., as amended or renumbered. (Ord. No. 05-35)

4. Withdrawal of Objection, Protest, or Request for Public Hearing. To withdraw a protest, objection, or request for public hearing, the applicable party must provide a request in writing to the ~~Community Development~~ Department. (Ord. No. 05-35)

~~K~~ I. *Application Withdrawn or Denied.* In the event that a rezoning amendment is denied by Council or is withdrawn after the Commission hearing, the Commission shall not reconsider an application for the same request, or any other application for the same zoning requirement that applies to the same property described in the original application or any part thereof, for a period of one year from the date of said denial, unless, as determined by the ~~Community Development~~ Department, the conditions upon which the original denial was based have changed.

~~L~~ J. *Conditions of Approval.* As part of any rezoning approval, the Planning and Zoning Commission may recommend and the City Council may adopt conditions and/or schedules for the development of the property.

1. Conditions. The City Council may condition approval of a rezoning upon the occurrence of one or more of the following:

- a. Development in accordance with a specific Site Plan and/or obtaining Site Plan approval in accordance with Section 14-39-9, "Site Plan Review," of this Article.
- b. Reduction in the otherwise applicable floor area ratio, lot coverage, building height, or density requirements.
- c. Increases in the otherwise applicable building setback, lot area, parking space, landscaping, or open space requirements
- d. Public dedication of right-of-ways as streets, alleys, public ways, drainage, utility, and/or other public improvements, and/or the installation of off-site improvements as are reasonably required by or related to the effect of rezoning
- e. Such other conditions as may be allowed by law
- f. Completion of a re-use plan as determined by the ~~Community Development~~ Department

2. Schedules. The City Council may require as part of a rezoning approval specific time schedules for any or all of the following:

- 1 a. Approval of a final site plan
2
3 b. Submission and approval of a preliminary plat for the subdivision of the
4 subject property
5
6 c. Submission and approval of the final plat for the subdivision of the subject
7 property
8
9 d. Application for and issuance of a building permit to commence construction of
10 one or more buildings upon the subject property.
11
12 e. Commencement of on-site construction on the subject property in accordance
13 with the final site plan as approved
14
15 f. Completion of a specified percentage of construction on the subject property
16 in accordance with the final site development plan
17
- 18 3. Adoption of Ordinance. The City Council shall set forth in the rezoning Ordinance
19 any condition(s) or schedule(s) imposed pursuant to this Section.
20
- 21 4. Failure to Comply with Adopted Conditions and Schedules. If an applicant fails
22 to comply with any condition(s) or schedule(s) adopted by Council upon the
23 rezoning of the property, the applicant shall be subject to the following:
24
- 25 a. The applicant may file a request with the Planning and Zoning Commission
26 for an extension of the time schedule for meeting the adopted requirements.
27 The Commission shall consider the request and submit a recommendation to
28 the Council. The Council shall thereupon determine whether or not the
29 extension will be approved.
30
- 31 b. The ~~Community Development~~ Department Director, or designee thereof, may
32 file an application with the Planning and Zoning Commission requesting
33 reversion of the zoning, based upon the applicant's failure to comply with the
34 adopted conditions for the rezoning. The Commission shall consider the
35 ~~Community Development~~ Director's application and may accept, modify, or
36 reject and shall thereupon recommend acceptance, modification, or rejection
37 of the application to the City Council.
38
- 39 c. Upon action by the Commission, the ~~Community Development~~ Director's
40 application together with the Commission's recommendation shall be
41 submitted to the City Council for final action. The Council may accept, reject,
42 or modify the recommendations of the Commission in accordance with the
43 foregoing, outlined above in Sub-section J, "City Council Hearing and Action."
44
- 45 M K. *Change of Classification of Requested Zoning Districts.* In cases where an
46 application is made to request a change from a more restrictive to a less restrictive
47 zoning district, the City Council may elect to grant the amendment for a district that is
48 more restrictive than the requested district but less restrictive than the current district.
49 The City Council may take such action without requiring a new or amended
50 application and with providing new or additional notice.
51

1 **N L.** *Right-of-Way Dedication.* Pursuant to A.R.S. §9-462.01, the City Council may
2 require, as a condition to the change or zoning, the dedication of right-of-way
3 necessary for roadways and other public improvements as a reasonably required by
4 or related to the effect of the rezoning.

5
6 **Ø M.** *Effective Date of Rezoning.* Rezoning amendments shall become effective thirty
7 (30) days after the date of adoption by the City Council.

8
9 **P N.** *Public Participation.* Pursuant to A.R.S. §9-462.01, the City is required to
10 establish a public participation process for rezoning applications that require a public
11 hearing. The notice requirements set forth above shall constitute the City's adopted
12 Public Participation process.

13
14
15 **14-39-7-14-39-9 INITIAL ZONINGS**

16
17 **A. Legal Requirements.** Pursuant to ARS §9-462.04 (E), the City shall consider areas
18 annexed to the City of Peoria, until officially zoned by the City Council, to be zoned
19 as shown on the official zoning map of the original jurisdiction at the time of the
20 annexation. The original jurisdiction's zoning shall be effective for a maximum of six
21 (6) months after annexation. Pursuant to ARS §9-462.04 (E) and §9-471 (L), the
22 City shall, within six (6) months of the annexation, adopt zoning classifications which
23 permit densities and uses no greater than those permitted by the County immediately
24 before annexation

25
26 **B. Application.** The ~~Community Development~~ Department shall file applications for the
27 initial zoning of annexed land. Once filed, such applications shall be subject to the
28 same procedures herein outlined for Rezoning, with the exception that a Notice of
29 Application as described therein, shall not be required. Changes in zoning of the
30 annexed territory that occur after the initial zoning shall thenceforth be subject to the
31 Rezoning procedures contained herein. Citizen Participation Plans shall not be
32 required for the initial zoning of property subsequent to annexation. (Ord. No. 05-25)

33
34 **C. Building Permits.**

35
36 1. The City shall honor Maricopa County building permits, lawfully issued not more
37 than sixty (60) days prior to the effective date of annexation. Within sixty (60)
38 days after the effective date of annexation, the City shall issue a building permit
39 when construction details conforming to City building codes and County zoning
40 regulations, in effect at the time the County permit was issued, are provided to
41 the City. Any fee paid to the County for the County permit shall apply towards
42 the City permit fee, and only the balance shall be paid to the City before a City
43 permit is issued.

44
45 2. A City building permit shall not be required for buildings legally under
46 construction, with a building permit issued by Maricopa County prior to the
47 effective date of annexation, in cases where exterior walls have been completed
48 to the plate line or beyond. The City shall require that building construction be
49 structurally safe and in conformance with pertinent County zoning regulations in
50 effect at the time the County permit was issued.

14-39-8 14-39-10 TEXT AMENDMENTS

A. *General.* The City Council may, from time to time as the public necessity, convenience, general welfare, or good zoning practice require, amend, change, repeal, or supplement the regulations established in this Ordinance.

B. *Application.*

1. Changes or amendments to the text of regulations contained in this Ordinance may be initiated by the City Council, Planning and Zoning Commission, Board of Adjustment, City Staff, or any member of the public.

2. An applicant shall submit an application for a text amendment on the official form provided by the ~~Community Development~~ Department. Submittal requirements shall be as established administratively by the Department and are set forth in the Process Guide. The application shall include the existing language in the Ordinance that is proposed to be changed, the proposed language, and the reason for the requested amendment. The applicant shall submit the application materials together with the applicable fee to the ~~Community Development~~ Department.

C. *Department Review.* The application shall be reviewed by appropriate City Departments. After the review is complete, the ~~Community Development~~ Department shall write a report with a recommendation, set a date for a public hearing with the Planning and Zoning Commission, and forward the report to the Commission.

~~D. *Notice of Hearing.* No public hearing shall be conducted without first providing public notice. Notice of the time, date, and place of the hearing shall be published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing. The notice shall include the text of the proposed amendment and a general description of any regulations proposed to be amended.~~

~~E. *D. Planning and Zoning Commission Hearing and Recommendation.* The ~~Community Development~~ Department shall refer all proposed text amendments to the Planning and Zoning Commission. The Commission shall conduct a public hearing, review the proposal, and make a recommendation in accordance with the same procedures herein prescribed for Rezoning Amendments.~~

~~F. *E. City Council Hearing and Action.* The City Council, after receiving the report and recommendation of the Planning and Zoning Commission, shall consider the proposal. If there is no protest related to the amendment, the Council may adopt the recommendation of the Commission without holding a second public hearing. In cases where there is written protest to an application for a text amendment, the Council shall hold a public hearing and notice of the hearing shall be published in a newspaper of general circulation in the city at least fifteen (15) days prior to the hearing.~~

14-39-9 14-39-11 SITE PLAN REVIEW

1 A. *Applicability*

2
3 1. All development in the City of Peoria, except detached or attached single-family
4 units on individual lots, shall be subject to Site Plan Review as provided in this
5 Ordinance.
6

7 B. *Application for Site Plan Review.* An application for Site Plan Review shall be
8 submitted to the ~~Community Development~~ Department on an official form provided
9 by the Department. The application shall satisfy the submittal requirements as
10 provided in the Site Plan and Design Review Process Guides. The application shall
11 contain sufficient information for the City to determine whether the proposed
12 development meets the development requirements of the City.
13

14 ~~C. *Notice of Application.* The Community Development Department shall mail a Notice~~
15 ~~of Application within three (3) working days of the submittal date of the Site Plan~~
16 ~~application to each owner of property as last disclosed by County real estate tax~~
17 ~~records, situated wholly or partially within three hundred (300) feet of the subject~~
18 ~~property. The applicant shall furnish to the Community Development Department the~~
19 ~~names, addresses, and stamped, addressed envelopes for the property owners, and~~
20 ~~the Department shall mail the notices.~~
21

22 ~~D~~ C. *Plans Review.* The City shall review Site Plan applications in accordance with
23 the Process Guides. If the Department determines that the proposed Site Plan 1) is
24 consistent with the health, safety, and welfare of the community; 2) is in harmony
25 with the purposes and intent of this Ordinance, the General Plan, and the plan for the
26 area; and 3) will not cause traffic congestion or seriously depreciate surrounding
27 property values, then the Department may grant Site Plan Approval and may impose
28 such conditions and safeguards as the Department deems necessary to satisfy the
29 provisions in this Ordinance. The Department may determine that the conditions
30 required for approval do not exist and, thereupon, deny Site Plan approval. The
31 Planning Manager shall not approve or recommend approval of any Site Plan unless
32 the Planning Manager has received a Waiver of Proposition 207 from the Owner or
33 Owners of the property that is the subject of the Site Plan or has determined that the
34 absence of such a Waiver of Proposition 207 is consistent with the City's General
35 Plan and Zoning goals and regulations and is consistent with the health, safety, and
36 welfare of the community. (as required by element 1, above)

37 (~~Section 14-39-9~~ amended by Ordinance No. 07-14, enacted April 17, 2007 and effective
38 May 17, 2007.)

39 ~~E. *Notice of Decision.* The Community Development Department shall mail a Notice of~~
40 ~~Decision to each owner or property as last disclosed by County real estate tax~~
41 ~~records, situated wholly or partially within three hundred (300) feet of the subject~~
42 ~~property.~~
43

44 ~~F~~ D. *Appeals.* The applicant or any member of the public may file a request to appeal:
45 (a) the decision to approve or deny a site plan; (b) a site plan stipulation; or (c) an
46 exaction or dedication associated with the site plan. (Ord. No. 05-19)
47

48 1. *Appeal to Planning and Zoning Commission.* The Planning and Zoning
49 Commission shall hear appeals related to decisions to approve or deny a site
50 plan, and for site plan stipulations other than stipulations for exactions or

1 dedications. The Commission may approve in whole or in part, modify, or deny
2 the request, or continue the appeal. The decision of the Planning and Zoning
3 Commission shall be final.

4
5 a. *Filing.* The appealing party shall file the request for appeal, whether to the
6 Planning and Zoning Commission or to the Land Use Hearing Officer, within
7 ten (10) calendar days of the Notice of Decision. The request shall include
8 the reasons for the appeal and be filed in writing. If no appeal is filed within
9 ten (10) calendar days of the Notice of Decision, the decision of the
10 ~~Community Development~~ Department shall be final.

11
12 b. ~~*Appeal Notice.* At least fifteen (15) days prior to the hearing, the~~
13 ~~Community Development Department shall mail a Notice of Hearing to~~
14 ~~each owner of property, as last disclosed by County real estate tax~~
15 ~~records, situated wholly or partially within three hundred (300) feet of the~~
16 ~~subject property.~~

17
18 2. *Appeal to Land Use Hearing Officer for Exactions or Dedications.* The Land Use
19 Hearing Officer shall hear appeals related to exactions or dedications associated
20 with the site plan, in accordance with Article 14-37, "Administrative and Decision
21 Making Bodies," Section 14-37-9.C., "Land Use Hearing Officer."

22
23 **G E.** *Building Permits Based upon Approved Site Plan.*

- 24
25 1. For all development subject to Site Plan review, an approved Site Plan and
26 proper zoning are required prior to the commencement of any construction or
27 development on the site.
28
29 2. The applicant shall obtain the necessary building and/or construction permits
30 within eighteen (18) months of the date of approval of the Site Plan application, if
31 not obtained within the eighteen (18) month time frame, the applicant may, prior
32 to the date of expiration, file a request for an extension, whereupon the Planning
33 Manager may authorize a one-time, six (6) month extension. If the time frame
34 has expired, the applicant shall submit a new Site Plan, together with the
35 applicable documents and fees as stipulated in the above provisions.

36
37 **H F.** *Amendments to Approved Site Plans.* Any change or modification to an
38 approved Site Plan shall be considered an amendment to the Site Plan. For all Site
39 Plan amendments, revised Site Plans incorporating the changes shall be submitted
40 to the ~~Community Development~~ Department. Site Plan amendments shall be
41 classified as Major or Minor and processed accordingly.

- 42
43 1. *Criteria for Major Amendments.* Any modification which, as determined by the
44 ~~Community Development~~ Department, substantially changes the approved site
45 plan, shall be considered a major site plan amendment. The Department shall
46 consider all amendments that would increase project gross land area, building
47 square footage, or residential densities by more than ten (10) percent, materially
48 change project land use, or alter circulation patterns to be Major Site Plan
49 Amendments.
50

- 1 2. *Criteria for Minor Amendments.* Any modification which, as determined by the
2 Community Development Department, does not substantially change the
3 approved site plan, shall be considered a Minor Site Plan Amendment. The
4 Department shall consider changes such as minor dimensional building
5 configuration and landscape changes, as well as the addition of shade
6 structures, to be Minor Site Plan Amendments.
7
- 8 3. *Approval of Major Amendments.* If the Community Development Department
9 determines that an application is for a Major Site Plan Amendment, a new
10 application form together with the revised Site Plan, associated materials, and
11 the application fee shall be submitted to the Community Development
12 Department and shall be subject to the Application, Site Plan Review, and
13 Appeal processes as herein set forth.
14
- 15 4. *Approval of Minor Amendments.* If the Community Development Department
16 determines that an application is for a Minor Site Plan Amendment, the
17 Department shall approve or deny the application through the Building Permit
18 process.
19

20
21 **~~14-39-10~~ 14-39-12 CONDITIONAL AND SPECIAL CONDITIONAL USE PERMITS**

22
23 **A. Intent**

- 24
- 25 1. Every zoning district contains certain buildings, structures, and uses of land
26 which are normal and complementary to permitted principal uses in the district,
27 but which, by reason of their physical or operational characteristics, influence on
28 the traffic function of adjoining streets or similar conditions, are often
29 unnecessarily incompatible with adjacent activities and uses. It is the intent of
30 this chapter to permit conditional uses in appropriate zoning districts, but only in
31 specific locations within such districts and only when designed and developed in
32 a manner which ensures maximum compatibility with adjoining uses. It is the
33 purpose of this Ordinance to establish principles and procedures for the
34 development and control of such uses.
35
- 36 2. A Conditional Use Permit shall be issued for all designated conditional uses
37 under the City's Zoning Code ~~with the exception of adult uses as defined in this~~
38 ~~Ordinance. For such adult uses, a Special Conditional Use Permit shall be~~
39 ~~required, and the application shall be processed in the same manner as for the~~
40 ~~Conditional Use Permit except as otherwise provided herein.~~
41

42 **B. General Regulations**

- 43
- 44 1. Zoning district regulations established elsewhere in this Ordinance specify that
45 certain buildings, structures, and uses of land may be allowed by the
46 Commission as permitted conditional uses in a given district subject to the
47 provisions of this Ordinance and to requirements set forth in the district
48 regulations.
49
- 50 2. The Community Development Department shall consider any building, structure,
51 or use existing on the effective date of this Ordinance as meeting the

1 requirements and conditions of this Ordinance provided that the building,
 2 structure, or use is listed as a Permitted Conditional Use in the applicable zoning
 3 district. Continuance of the use shall not require the issuance of a new or
 4 additional Conditional Use Permit. However, the ~~Community Development~~
 5 Department shall consider a building, structure, or use that fails to conform to the
 6 requirements of this Article as non-conforming as described in Article 14-26,
 7 "Non-Conforming Uses," and its continuance shall be governed by all non-
 8 conforming use regulations stipulated in this Ordinance.

- 9
- 10 3. When issued, a Conditional Use Permit shall be personal to the permitted and
 11 applicable only to the specific use and to the specific property for which it is
 12 issued. However, once all zoning and site development requirements imposed in
 13 connection with the permit have been satisfied and an occupancy permit has
 14 been issued, the Conditional Use Permit shall thereafter be transferable and shall
 15 run with the land. Thenceforth, maintenance of special conditions imposed by
 16 the permit, as well as compliance with other provisions of this Article, shall be the
 17 responsibility of the property owner.
- 18
- 19 4. A Conditional Use Permit shall terminate upon any interruption or cessation of
 20 the use authorized by the Conditional Use Permit for a period of one-hundred
 21 and eighty (180) days.
- 22
- 23 5. A ~~Conditional or Special~~ Conditional Use Permit shall expire within eighteen (18)
 24 months of the date of approval of the application in the event that: (a) the use has
 25 not been exercised; or (b) a building permit or another regulatory permit, or
 26 demonstrable evidence to obtain such, is not obtained within this timeframe.
 27 (Ord. No. 05-19)

28

29 C. Mandatory Pre-Application Conference

30

31 The applicant must attend a pre-application conference prior to applying for a
 32 Conditional Use Permit. Submittal requirements specific to the desired use will be
 33 discussed at the conference.

34

35 DC. Application. An application for a Conditional Use Permit shall be submitted to the
 36 ~~Community Development~~ Department on an official form provided by the
 37 Department. The application shall satisfy the submittal requirements as provided in
 38 Conditional Use Process Guide. Submittal requirements shall be as outlined in the
 39 Process Guide and shall include, but not be limited to, the following:

- 40
- 41 ~~1. A detailed site plan prepared in accordance with the provisions set forth in~~
 42 ~~Section 14-39-9, "Site Plan Review," of this Article, with the exception of~~
 43 ~~applications pertaining to Day Care Group Homes and Home Occupations.~~
- 44
- 45 ~~2. A design review submittal as required under Chapter 20 of the Peoria City Code~~
 46 ~~(1992) and any guidelines thereto, with the exception of Day Care Group Homes~~
 47 ~~and Home Occupations.~~
- 48
- 49 41. Identification of impacts upon adjacent residential neighborhoods within one
 50 quarter mile, or such other distance deemed appropriate by the Planning

1 Manager, from the subject site and of the means proposed to address the
2 identified impacts.

3
4 ~~32.~~ Specific conditions proposed by the applicant to make the proposed use
5 compatible with existing permitted principal and conditional uses.

6
7
8 ~~53.~~ Other data as may be required by the Planning Manager in order to determine
9 whether the proposed use qualifies as a conditional use under the Zoning
10 Ordinance and the City's Codes and guidelines. ~~This Sub-section shall not be~~
11 ~~applicable to applications for Special Conditional Use Permits under this Article.~~

12
13 ~~D. *Notice of Application.* The Community Development Department shall mail a Notice~~
14 ~~of Application within three (3) working days of the submittal date of the Conditional~~
15 ~~Use Permit or Special Conditional Use Permit application to each owner of property~~
16 ~~as last disclosed by County real estate tax records, situated wholly or partially within~~
17 ~~three hundred (300) feet of the subject property.~~

18
19 E. *Review.* The Department shall review applications for Conditional Use Permits and
20 make a recommendation for approval or denial to the Planning and Zoning
21 Commission based on the following criteria;

- 22
23 1. Whether the use is designated as a permitted Conditional Use within the zoning
24 district in which the property is located.
- 25
26 2. Whether the use meets the locational and development standards provisions, as
27 applicable for the ~~Conditional or Special~~ Conditional Use Permit, for the zoning
28 district in which the property is located.
- 29
30 3. Whether the use is consistent with the goals, policies, and intent ~~future land use~~
31 ~~map of the General Plan and specific elements of the General Plan~~ and any
32 adopted Specific Plan applicable to the site where the proposed use is located.
- 33
34 4. Whether the use is consistent with documentation and recommendations
35 provided by reviewing City Departments.
- 36
37 5. Whether the use complies with all applicable city codes, standards, and
38 guidelines governing such use.
- 39
40 6. Whether the use will be materially detrimental to the health, safety, or general
41 welfare of persons residing or working in the vicinity of the property, to the
42 neighborhood, or to the public welfare; or if the use will unreasonably interfere
43 with the use and enjoyment of nearby properties. Consideration shall include,
44 but not be limited to the following factors:
- 45 a. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or
46 illumination;
- 47 b. Impact on surrounding areas resulting from an unusual volume or character
48 of traffic;
- 49 c. Ingress and egress to the property and proposed structures;
- 50 d. Pedestrian and vehicular circulation with particular reference to fire
51 protection;

- 1 e. Parking and loading; and
 2 f. Impact on public services, including schools, utilities, and recreation.

3
 4 6. For Conditional Use Permits

- 5
 6 a. ~~Compliance with specific standards established by the Planning Manager that~~
 7 ~~are designed to mitigate any identified impacts that arise out of the proposed~~
 8 ~~use for which the Conditional Use Permit is sought upon the surrounding~~
 9 ~~area, including residential neighborhoods adjacent to the proposed site as~~
 10 ~~determined by the Planning Manager; and~~
 11
 12 b. ~~Compliance with specific standards established by the Planning Manager that~~
 13 ~~are designed to ensure compatibility with existing principal permitted uses~~
 14 ~~and conditional uses by addressing the factors set forth in the *Intent* provision~~
 15 ~~of this Section 14-39-10.~~

16
 17 7.e. The Planning Manager shall not approve or recommend approval of any
 18 Conditional Use Permit unless the Community Development Department has
 19 received a Waiver of Proposition 207 from the Owner(s) or Owners of the
 20 property that is the subject of the Conditional Use Permit or has determined that
 21 the absence of such a Waiver of Proposition 207 is consistent with the City's
 22 General Plan and Zoning goals and regulations.

23 (Section 14-39-10 amended by Ordinance No. 07-14, enacted April 17, 2007 and
 24 effective May 17, 2007, and Ordinance No. 09-XX, effective XXX, 2009.)

25
 26 87. For Adult Uses ~~Special Conditional Use Permits:~~ Whether the use complies with

27 specific guidelines established by the Planning Manager for all Adult Uses

28 ~~Special Conditional Use Permits.~~ Such guidelines are designed to ensure

29 compatibility with existing principal permitted uses and conditional uses and

30 conform with the intent and purpose for which Conditional Use and ~~Special~~

31 ~~Conditional Use~~ Permits are granted. Such guidelines must be in writing and on

32 file before the date of the application of the ~~Special Conditional Use~~ Permit for

33 the Adult Use and copies shall be on file with the ~~Community Development~~

34 Department, City Clerk Department, and Office of the City Attorney.

35
 36 F. Notice of Hearing

- 37
 38 1. ~~At least fifteen (15) days prior to the date of the hearing for the Commission to~~
 39 ~~consider the Conditional Use or Special Conditional Use Permit, the Department~~
 40 ~~shall provide notice as follows:~~
 41
 42 a. ~~Mail notice to each owner of real property located wholly or partially within~~
 43 ~~three hundred (300) feet of the subject site. The mailing shall be to the~~
 44 ~~address of the property owner as contained in the records of the Maricopa~~
 45 ~~County Assessor.~~
 46
 47 b. ~~Newspaper. Publish at least once in a newspaper of general circulation in~~
 48 ~~the city. The notice shall include a general description of the subject property~~
 49 ~~and a statement of the proposed application.~~

- 1 c. ~~Mail notice to each Neighborhood Association that has registered with the city~~
2 ~~and is affiliated with a neighborhood located within a one-mile radius of the~~
3 ~~subject site.~~
- 4
- 5 d. ~~Post notice on the subject property in accordance with guidelines established~~
6 ~~by the Community Development Department. The posting shall be located in~~
7 ~~a conspicuous place and be visible from the street fronting the property.~~

8

9 F. Citizen Participation Plan

10

11 If written opposition to a Conditional Use Permit application is received by Planning
12 staff within 21 days of the initial application submittal to the Planning Division, a
13 Citizen Participation Plan shall be required as part of the process of identifying and
14 addressing potential negative impacts that the proposed use may impose on the
15 surrounding area. The Citizen Participation Plan shall include the following:

- 16 a. The applicant shall hold at least one neighborhood meeting with persons who
17 may be affected or have an interest in the application. The neighborhood
18 meeting shall be held in a neutral location within the general area of the
19 request.
- 20 b. At a minimum, the applicant shall send written notice to interested and
21 affected persons; said parties shall be notified according to the requirements
22 of Section 14-39-6, Notices.
- 23 c. The applicant shall prepare and submit a report to the Department that
24 describes the meeting, number of individuals in attendance, any comments
25 received at the meeting or any other form of communication received
26 regarding the application, how these comments will be evaluated, and any
27 mitigation issues identified as a result of the comments and concerns
28 received.

29

30 G. *Public Hearing*

- 31
- 32 1. The Planning and Zoning Commission shall conduct a hearing to consider the
33 ~~Conditional Use or Special Conditional Use Permit.~~ and approve or deny the
34 ~~application.~~
- 35
- 36 a. If the Commission approves the application, the Department shall issue a
37 ~~Conditional or Special Conditional Use Permit~~ setting forth all conditions and
38 requirements imposed pursuant to this Ordinance and adopted by the
39 Commission as part of the approval governing such use.
- 40
- 41 b. If the Commission denies the application, the Commission shall, by motion,
42 set forth written findings of fact identifying the basis for the denial and the
43 specific criteria in this ordinance that have not been met.
- 44
- 45 c. Continuance. The matter shall not be continued except by request of the
46 applicant, or at the request of the Planning and Zoning Commission if the
47 applicant concurs with the Commission's request.
- 48
- 49 2. The decision of the Commission shall be final and effective ten (10) calendar
50 days following the hearing unless an appeal has been filed pursuant to this
51 Article.

1
2 H. *Appeal of Decision of Planning and Zoning Commission to City Council.* Any
3 member of the public, including the applicant, may appeal a decision of the Planning
4 and Zoning Commission to the City Council. Such appeal shall be filed in writing,
5 within ten (10) calendar days of the date of the hearing, with the Department.
6

7 The Department shall set the hearing date, for an appeal of a Conditional Use
8 Permit, ~~which shall be no more than forty-five (45)~~ seventy five (75) days after the
9 date the appeal is filed. ~~A Special Conditional Use Permit shall be scheduled within~~
10 ~~twenty-one (21) days to provide for a prompt adjudication of the permit application. If~~
11 ~~necessary, a special meeting of Council shall be held to meet the time requirement.~~
12

13 1. *Notice.* The ~~Community Development~~ Department shall ensure that notice is
14 provided in the manner described ~~above~~ for the Planning and Zoning
15 Commission hearing.
16

17 2. *Hearing.*

18
19 a. The City Council shall hold the hearing and shall reverse, affirm, or modify
20 the decision of the Commission. The Council shall base its decision on the
21 written findings previously issued by the Commission, applicable law, the
22 review criteria stipulated in this Section, and guidelines promulgated by the
23 Department.
24

25 b. If the City Council reverses or modifies the decision of the Commission, the
26 Council shall direct the City Attorney to prepare written findings setting forth
27 the basis for the reversal or modification.
28

29 3. *Continuance.* The matter shall not be continued except by written request of the
30 applicant prior to the hearing or upon oral request of the applicant on the record
31 at the hearing. The City Council may request a continuance as long as the
32 applicant is in concurrence of said request.
33

34 I. *Continuing Jurisdiction and the Revocation, Modification, or Suspension of Permits*

35
36 1. ~~Conditional and Special Conditional Use Permits.~~

37
38 a. The Planning Manager shall have continuing jurisdiction over all ~~Conditional~~
39 ~~Use and Special Conditional Use Permits~~ and may recommend that a permit
40 be revoked, modified, or suspended should any of the following occur:
41

42 1) The permit was obtained by fraud or misrepresentation;

43
44 2) The use authorized by the permit has been exercised in violation of the
45 conditions of its approval;

46
47 3) A change in circumstances consisting of any of the following has
48 occurred:

49 a) Impacts from the approved conditional use to neighboring properties.
50
51

b) Changes in aesthetic or environmental impacts such as noise, odors, or pollution.

4) The use authorized by the permit has been exercised in a manner that is detrimental to the public health, safety, or welfare of the community or in a manner that constitutes a nuisance to neighboring property owners, adjacent neighborhoods, or the City.

a) Notice and a public hearing shall be provided in the same manner as for ~~Conditional and Special-Conditional Use Permit applications, set forth above in Sub-section E, "Notice and Public Hearing."~~

~~2.5) Special-Conditional Use Permits for Adult Uses.~~ For proceedings to revoke, modify or suspend the approval of a ~~Special-Conditional Use Permit for an Adult Use,~~ the Commission shall consider no criteria other than the a) criteria set forth in this Article, criteria set forth in Article 14-9 "Non-Residential Districts" pertaining to Adult Uses 14-24, "Adult Uses," and c) guidelines promulgated by the Planning Manager in accordance with said Articles.

J. *Adult Uses.* Applications for uses that are classified as Adult Uses, pursuant to Article 14-2 "Definitions" ~~14-24, "Adult Uses,"~~ shall be made in the same manner as all other Conditional Uses; however, such uses ~~shall require a Special-Conditional Use Permit and~~ shall be subject to the additional stipulations set forth in Article 14-9, "Non-Residential Districts."

1. *Conditions or Limitations.* When granting of a ~~Special~~ Conditional Use permit for any Adult Use, the Planning and Zoning Commission may impose only those conditions or limitation upon the establishment, location, construction, maintenance, or operation of the Adult Use specifically authorized in this Article or in Article 14-9, "Non-Residential Districts," 14-24, "Adult Uses."
2. *Denied Application.* No application for a regulated use which has been denied in whole or in part shall be resubmitted for a period of one (1) year from the date of the denial.
3. *Appeal.* An applicant may appeal a denial of a ~~Special~~ Conditional Use permit by the City Council in accordance with Title 12, Chapter 7, Article 6, Arizona Revised Statutes.

~~14-39-11~~14-39-13 TEMPORARY USE PERMITS

A. *Intent.*

1. In addition to regulating uses which are permanent in nature, it is the intent of this Ordinance to provide for certain temporary uses for limited periods of time. Allowing temporary uses, as herein provided for, is not intended to permit uses otherwise prohibited by the Zoning Ordinance or to allow permanent uses to be established.

1 2. The purpose of this Section is to establish the procedures and outline the review
2 criteria to be used by the ~~Community Development~~ Department when
3 considering an application for a Temporary Use Permit. All Temporary Uses
4 shall be conducted so as not to be detrimental to the surrounding properties and
5 shall be subject to the standards and regulations contained herein. The
6 ~~Community Development~~ Department shall not grant a Temporary Use Permit
7 until adequate assurances have been provided ensuring compliance with the
8 provisions of this Ordinance and all other applicable City codes.
9

10 B. *General.* Every Temporary use shall require a Temporary Use Permit as herein
11 stipulated.
12

13 C. *Permitted Temporary Uses.* The City may grant a Temporary Use Permit for any of
14 the following uses.
15

- 16 1. Carnivals, circuses, or similar special events.
- 17 2. Christmas tree sales, pumpkin sales, or similar holiday-related events.
- 18 3. Temporary municipal uses. (Ord. No. 05-22)
- 19 4. Off-site retail sales of souvenirs, gifts, and food incidental to a sporting or cultural
20 event.
- 21 5. Tent revival or fellowship meetings.
- 22 6. Craft shows, home and garden shows, festivals, or similar events.
- 23 7. Outdoor concerts, paid admission events, and events involving the distribution of
24 alcoholic beverages.
- 25 8. Such other uses as the City may deem to be within the intent and purpose of this
26 Section.
27

28 D. *Application.* A property owner or duly authorized agent may submit an application for
29 a Temporary Use Permit. The applicant shall obtain the official application materials
30 from the Department. Submittal requirements shall be as outlined on the official form
31 and any other requirements that the Department deems necessary to understand the
32 proposal, including Site Plans prepared in accordance with Section 14-39-9, "Site
33 Plan Review," of this Article. The applicant shall submit the official application and
34 associated materials, together with the applicable fee, to the Department.
35

36 E. *Posting.* Temporary Uses which, in the opinion of the Department, meet all the
37 following criteria shall not require posting:
38

- 39 1. The use and/or structure complies with all applicable codes and Ordinances;
- 40 2. The use and/or structure does not interfere with pedestrian access ways, fire
41 lanes, driveways, landscaped areas, or traffic visibility at driveways or street
42 intersections;
43

- 1 3. Parking on the property is adequate to serve any existing permanent use and the
2 temporary use;
- 3
- 4 4. The temporary use shall not be conducted between the hours of 10 P.M. and 7
5 A.M.; and
- 6
- 7 5. The City Engineer, or designee thereof, approves vehicular access for the
8 proposed temporary use.
- 9

10 Temporary uses which, in the opinion of the Department, do not meet all of the
11 above criteria shall be posted. For such temporary uses, the City shall post the
12 subject property within five (5) working days following submittal of the application

13

14 F. *Review and Approval*

- 15
- 16 1. Application for a Temporary Use Permit shall be reviewed by the ~~Community~~
17 ~~Development~~ Department who shall approve, conditionally approve, or
18 disapprove the application. Approval shall be given only when in the judgment of
19 the City such approval is consistent with the intent and purpose of this Section of
20 this Ordinance.

21 In considering the application, the Department may include, but are not be limited
22 to, the following conditions:

- 23 a. Regulation of parking, dust control measures, and site lighting.
- 24
- 25 b. Regulation of hours of operation.
- 26
- 27 c. Regulation of site ingress and egress.
- 28
- 29 d. Assurance of compliance with building, fire, electrical, and all other
30 appropriate codes.
- 31
- 32 e. Such other conditions deemed necessary to carry out the intent and purpose
33 of this Section.
- 34
- 35 f. All signage proposed for the temporary use or event shall be in compliance
36 with Article 14-34, "Signs." All signage shall obtain a separate sign permit.
37 (Ord. No. 04-211)
- 38
- 39
- 40
- 41 2. For proposals that require posting, the Department shall render a decision no
42 sooner than five (5) and no later than eight (8) working days from the date of
43 posting. For proposals that do not require posting, the Department shall render a
44 decision no later than five (5) working days from the date of submittal of the
45 application.
- 46
- 47 3. The Department shall notify the applicant, in writing, of the decision to approve or
48 deny the application, and shall state any conditions for approval or reasons for
49 denial in said letter.
- 50

- 1 4. Issuance of Permits. To be issued a permit, the applicant shall sign an
2 agreement with the City stating that upon cessation of the use or expiration of the
3 permit, whichever occurs first, the premises will be promptly cleaned and
4 restored to substantially the same condition existing prior to commencement of
5 the temporary use.
6
- 7 5. Time Limits and Renewal of Permits. All Temporary Use Permit approvals shall
8 be subject to a time limit as set forth by the Department or Board of Adjustment.
9 A Temporary Use Permit shall be granted for no longer than sixty (60) days,
10 except for off-site construction yards or residential sales or construction offices
11 which may be permitted for the duration of the project or as determined by the
12 City. Continuation of the use beyond the stipulated time limit shall require the
13 submittal and approval of a new application. Approval shall be made subject to
14 any further conditions that the ~~Community Development~~ Department deems
15 necessary to assure that all adverse impacts to the surrounding properties are
16 minimized to the fullest extent possible. (Ord. No. 04-211)
17
- 18 6. When renewing Temporary Use Permits; the Department shall adhere to the
19 following:
20
 - 21 a. Off-site construction yards and residential sales and construction offices
22 lasting up to one (1) year may be renewed once or for a period as determined
23 by the City. (Ord. No. 04-211)
24
 - 25 b. All other renewals shall not exceed a period of sixty (60) days, in accordance
26 with the following:
27
 - 28 1) Temporary uses lasting up to thirty (30) days shall be not be renewed
29 more than twice within a one (1) year period.
30
 - 31 2) Temporary uses lasting thirty (30) to sixty (60) days shall not be renewed
32 more than once within a one (1) year period.
33

34 *G. Appeal of Decision to Board of Adjustment*
35

- 36 1. Upon receiving notification of the ~~Community Development~~ Department's
37 decision to approve or deny the application for a Temporary use Permit, the
38 applicant or any party in interest, aggrieved by the decision may file an appeal to
39 the Board of Adjustment. Such appeal shall be filed in writing, within seven (7)
40 calendar days of the decision. Any appeal to the Board of Adjustment shall follow
41 the procedures outlined in this Article, Section 14-39-~~12~~14, "Appeals to Board of
42 Adjustment," Sub-section I, "Temporary Use Permit."
43
- 44 2. Upon appeal, the Department shall file all material on the matter with the Board
45 of Adjustment. The Board shall review the case based on the material filed by
46 the Department and on information presented at the hearing. The Board shall
47 uphold the action of the Department, remand the matter back to the Department
48 with instructions for further review, or overturn the action of the Department.
49
50

51 ~~14-39-12~~ 14-39-14 **APPEALS TO BOARD OF ADJUSTMENT**

- 1
- 2 A. *General.* The Board of Adjustment shall 1) hear and decide appeals from decisions
- 3 of the ~~Community Development~~ Department concerning the interpretation of
- 4 provisions of the Ordinance; 2) hear appeals from decisions of administrative hearing
- 5 officers; 3) act on applications for temporary use permits, and 4) act on applications
- 6 for variances (other than those variances determined to be minor).
- 7
- 8 B. *Stay of Proceedings.* Upon filing of an appeal by the appellant, all proceedings in the
- 9 matter shall be stayed, unless the ~~Community Development~~ Department Director or
- 10 designee certifies to the Board, after receipt of such appeal, that a stay would cause
- 11 imminent peril to life and property and the Board issues an order.
- 12
- 13 C. *Limitations of Power.* The Board of Adjustment shall be subject to the following
- 14 limitations of power:
- 15 1. Under no circumstances shall the Board allow a use not permissible under the
- 16 terms of this Ordinance, whether expressly or by implication, in the zoning district
- 17 in which the property is located.
- 18
- 19 2. Every decision of the Board shall be based upon finding of fact, and every finding
- 20 of fact shall be supported in the record of its proceedings. A mere finding of
- 21 recitation of the enumerated conditions, unaccompanied by the findings of
- 22 specific fact, shall not be deemed findings of fact and shall not be deemed in
- 23 compliance with this Ordinance.
- 24
- 25 3. The Board shall not hear any matter arising out of an exaction provided by a
- 26 Zoning.
- 27
- 28 D. *Hearing and Presentation of Evidence*
- 29
- 30 1. Parties in interest shall have the right to present their case by oral or
- 31 documentary evidence, to submit rebuttal evidence, and to conduct such cross-
- 32 examination of witnesses as may be required for a full and true disclosure of the
- 33 facts, in accordance with the following:
- 34
- 35 a. The submission of documentary evidence shall not, by reason of its written
- 36 form, prejudice the interest of any party.
- 37
- 38 b. The Board shall, as a matter of policy, provide for the exclusion of irrelevant,
- 39 immaterial, or unduly repetitious evidence, and, in the furtherance of this
- 40 policy, may limit cross-examination.
- 41
- 42 c. A petition to the Board signed by persons not parties in interest to an appeal,
- 43 as defined herein, shall not be considered documentary evidence and shall
- 44 have no bearing on the Board's decision, nor shall any person presenting
- 45 such petition be considered the agent of its signers.
- 46
- 47 2. No order of the Board permitting the erection or alteration of a building shall be
- 48 valid for a period longer than 18 months, unless a building permit for such
- 49 erection or alteration is obtained within such period and such erection or
- 50 alteration is commenced and proceeding toward completion in accordance with
- 51 the terms specified by the Board. (Ord. No. 03-06)

1
2 E. *Jurisdiction.* The ~~Community Development~~ Department Director or designee may
3 request the opinion of the Office of the City Attorney as to the jurisdiction of the
4 Board. The Board shall consider the opinion of the Office of the City Attorney prior to
5 the accepting jurisdiction and hearing the matter.

6
7 F. *Appeal to Superior Court.* Pursuant to A.R.S. Title 12, Chapter 7, Article 6, an
8 affected party may file an appeal to a decision of the Board of Adjustment to the
9 Superior Court.

10
11 G. *Variance*

12
13 1. *General.* The Board of Adjustment may grant a variance that departs from the
14 terms of these zoning regulations pertaining to 1) height or width of structures, 2)
15 size of yard and open spaces, or 3) other development standards where such
16 departure will not be contrary to the public interest, and where, owing to
17 conditions peculiar to the property because of its size, shape, or topography, and
18 not as a result of the action of the applicant, the literal enforcement of this
19 Ordinance would deprive the owner of the reasonable use of the land and/or
20 building involved.

21
22 2. *Application.* A request for variance shall be made by filing an official application
23 and development plan, together with the applicable fee, with the ~~Community~~
24 ~~Development~~ Department, at least thirty (30) days prior to the Board meeting.
25 The application shall identify the exceptional conditions and the peculiar and
26 practical difficulties being claimed as a basis for the requested variance. The
27 development plan shall contain sufficient information for the Board to consider
28 the request and make a proper decision on the matter. Such additional materials
29 required for submittal are described in greater detail in the Process Guide.

30
31 ~~3. *Notice of Hearing.* The Community Development Department shall provide~~
32 ~~notice of the time, date, place, and purpose of the Board of Adjustment hearing~~
33 ~~to consider a variance request at least fifteen (15) days prior to the hearing as~~
34 ~~follows:~~

35
36 ~~a. Publish once in a newspaper of general circulation within the City.~~

37
38 ~~b. Post in a conspicuous place on or close to the subject property in accordance~~
39 ~~with guidelines established by the Community Development Department.~~

40
41 ~~c. Mail to each owner of real property situated wholly or partially within three~~
42 ~~hundred (300) feet of the subject property.~~

43
44 3.4. *Evidence Required.* At the public hearing the applicant shall present a
45 statement and adequate documentation to demonstrate the following:

46
47 a. circumstances or conditions exist on the subject property that does not exist
48 on other property in that zoning district.

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- b. The literal interpretation of the provisions of this Ordinance would deprive the appellant of rights commonly enjoyed by other properties in the same zoning district.
- c. The alleged hardship caused by literal interpretation of the provisions of this Ordinance includes more than personal inconvenience and financial hardship and is not the result of actions by the appellant.
- d. Granting the variance will not confer upon the applicant any special privilege that is denied by this Ordinance to other land, parcels, structures, or buildings in the same zoning district.
- e. Granting the variance will not interfere with or substantially or permanently injure the appropriate use of adjacent conforming properties in the same zoning district.

4.5. *Board of Adjustment Action*

- a. Approval. In the event the Board of Adjustment determines that the applicant demonstrates compliance with conditions set forth above in Sub-section (G)(4), "Evidence Required," of this Section 14-39-12 "Appeals to Board of Adjustment," it may approve or conditionally approve the variance. Approval may be granted only upon the affirmative vote of the majority of the Board members present.
- b. Findings. In approving or conditionally approving the variance, the Board shall find that
 - 1) The reasons set forth in the appeal justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
 - 2) Granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- c. Conditions of Approval. In granting any variance, the Board may impose such conditions and safeguards as it deems appropriate to ensure that the purpose and intent of this Ordinance will be fulfilled and to ensure that the integrity and character of the zoning district is maintained.
- d. Considerations. The Board shall not consider the following when considering grounds for granting a variance:
 - 1) Non-conforming uses or violations related to lands, uses, or structures in the same zoning district
 - 2) Permitted uses or structures in other zoning districts
- e. Denied Application. In the event the Board of Adjustment denies an application for a variance, no permits shall be issued.

1
2 5.6. *Propriety of Variance.* Every variance granted shall be personal to the
3 appellant; however, the variance shall be transferable and run with the land after
4 an occupancy permit for any authorized structure or structures has been issued.
5

6 6.7. *Time Limits.* If a variance is granted, the applicant shall obtain site plan
7 approval, where applicable, or a building permit in cases where no site plan is
8 required within eighteen (18) months of the date of approval of the variance.
9

10 7.8. *Guarantees.* The Board of Adjustment may require guarantees in such
11 form as it deems suitable to ensure compliance with any conditions of approval
12

13 8.9. *Violations.* The violation of any condition under which a variance is
14 granted shall cause the variance to cease to exist and any permit(s) therewith
15 shall become null and void.
16

17 H. *Interpretation*
18

19 1. *General.* The Board shall hear and decide any appeal in which it is alleged there
20 is an error in an order, requirement, or decision made by the Department in the
21 administration or enforcement of the City's Zoning Ordinance.
22

23 2. *Application.* Applications for an appeal of an interpretation shall be filed in
24 writing, with the Department, within thirty (30) days after the action appealed
25 from, together with the applicable fee, and shall specify the grounds thereof. An
26 appeal concerning interpretation or administration of this Ordinance may be filed
27 by any office, department, board, or commission of the City or by an aggrieved
28 person(s), which for the purpose at hand shall be deemed to be any persons(s)
29 who demonstrate to the BOA substantial interest in the appeal or who receive a
30 particular and direct impact from the interpretation that is distinguishable from the
31 effects or impacts upon the general public.
32

33 ~~3. *Notice of Hearing.* The Community Development Department shall provide~~
34 ~~notice at least fifteen (15) days prior to the Board of Adjustment hearing by~~
35 ~~publishing in a newspaper of general circulation within the City.~~
36

37 3.4. *Board of Adjustment Action.* Pursuant to A.R.S §9-462.02 (G), the Board
38 shall reverse or affirm, wholly or partly, or modify the order, requirement or
39 decision of the Department being appealed, and make such order, requirement,
40 decision, or determination as necessary.
41

42 I. *Temporary Use Permit*
43

44 1. *General.* The Board shall hear and act upon appeals for temporary use permits
45 for those uses which are specifically authorized in this Ordinance. The applicant
46 or any party in interest aggrieved by the decision of the Department concerning a
47 Temporary Use Permit may file a notice of appeal with the Board of Adjustment.
48

49 2. *Application.* An aggrieved person who shall be construed to be the applicant or
50 any party in interest may file an appeal with the Board for a decision of the
51 ~~Community Development Department~~ on a Temporary Use Permit. Applications

1 for the appeal shall be filed in writing, with the Department, on the official form
2 provided by the Department, together with the applicable fee, within seven (7)
3 days after the Department's decision, and shall specify the grounds for the
4 appeal. The Department shall transmit to the Board all papers constituting the
5 record upon which the action appealed from is taken.
6

7 ~~3. *Notice of Hearing.* The Board shall fix a reasonable date for hearing the appeal.
8 The Department shall mail a notice of the hearing within three (3) working days of
9 the submittal date of the Temporary Use application to each owner of property as
10 last disclosed by County real estate tax records, situated wholly or partially within
11 three hundred (300) feet of the subject property. For the mailing, the applicant
12 shall furnish to the Department the names, addresses, and stamped, addressed
13 envelopes for the property owners.~~

14
15 The appellant, the Director of the Community Development Department, and the
16 parties in interest shall receive notice of the hearing.
17

18 3.4. *Board of Adjustment Action*

- 19
20 a. Pursuant to ARS §9-462.06, the Board shall reverse or affirm, wholly or
21 partly, or modify the order, requirement, or decision of the Department being
22 appealed, and make such order, requirement, decision, or determination as
23 necessary.
24
25 b. As part of the terms of any temporary use permit, the Board may stipulate
26 certain restrictions and limitations in accordance with Section 14-39-11,
27 "Temporary Use Permits," of this Ordinance.
28
29

30 ~~14-39-13~~14-39-15 **ADMINISTRATIVE RELIEF (Ord. No. 03-03)**

31
32 A. *Applicability.* This "Administrative Relief" section pertains to minor deviations from
33 property development standards as described in Article 14-5, "Single-Family
34 Residential Districts," Section 14-5-5, "Property Development Standards for
35 Permitted Residential Uses," and Articles 14-19A and 14-19B entitled "Suburban
36 Ranch District (SR-43 and SR-35), Sections 14-19A-5 and 14-19B-5, "Property
37 Development Standards for Permitted Principal Uses" and all amendments thereof.
38

39 B. *General*

- 40
41 1. Requests for Administrative Relief shall fall into one of the following categories:
42
43 a. Subdivision Plat. A modification from the front, rear or side yard setbacks, as
44 shown in a recorded subdivision plat, that are more restrictive than the
45 corresponding setbacks required in the City's Zoning Ordinance. However,
46 the modification shall not result in front, rear, or side yard setbacks that are
47 less than those required in the City's Zoning Ordinance.
48
49 b. Other than Subdivision Plat. A modification, from the front, rear, or side yard
50 set backs or from the maximum percentage of lot coverage, for an amount

1 that is not greater than five percent (5%) of the setback or lot coverage
2 required in the City's Zoning Ordinance.

3
4 2. All other modifications shall be considered Variances and shall be forwarded to
5 the Board of Adjustment for a hearing in accordance with procedures herein
6 outlined in Section 14-39-12, "Appeals to Board of Adjustment," Sub-section G,
7 "Variance."

8
9 3. Requests for Administrative Relief shall be acted upon by the Planning Manager
10 and shall adhere to the procedures in this Section.

11
12 C. *Conditions for Approval.* The Planning Manager may authorize Administrative Relief
13 when a literal enforcement of any provision(s) of Article 14-5, Section 14-5-5, and all
14 amendments thereof, pertaining to property development standards for permitted
15 principal uses would result in unnecessary property hardship and when evidence is
16 presented demonstrating to the satisfaction of the Planning Manager that all of the
17 following conditions are fulfilled:

18
19 1. The request is not part of multiple applications from an individual homebuilder for
20 a specific subdivision or planned community;

21 2. The requested modification will not be detrimental to persons residing or working
22 in the vicinity, to adjacent property, to the neighborhood, or to the public welfare
23 in general;

24
25 3. The granted Administrative Relief is the minimum development standard
26 modification that will make possible the reasonable use of the land and/or
27 structure; and

28
29 4. Appropriate and specific conditions as may be deemed necessary in order to fully
30 carry out the intent of this Section have been stipulated by the Planning
31 Manager.

32
33 D. *Application for Administrative Relief*

34
35 1. A request for Administrative Relief may be filed by any property owner, or any
36 department, agency, or division of the City of Peoria, of Maricopa or Yavapai
37 County, of the State of Arizona, or of the federal government.

38
39 2. An applicant shall submit an application for Administrative Relief to the
40 Department on an official form provided by the Department, together with the
41 applicable fee(s). The application shall specify the modifications from the zoning
42 code that are being requested, the reason for the request, and the desired
43 decision.

44
45 ~~E. *Notice of Application.* For the purposes of providing notice, the applicant shall~~
46 ~~furnish the Department a list of names and addresses as well as stamped,~~
47 ~~addressed envelopes of all owners of real property within three hundred (300) feet of~~
48 ~~the subject property. The Department shall mail the notice within three (3) business~~
49 ~~days of submittal of the application.~~

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51 E.F. *Protest*

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1. If no protest is received by the Department from any notified property owner within ten (10) days of the mailing date of notice, the Planning Manager shall act on the request.
2. If a protest is received by the Department from any notified property owner within ten (10) days of the mailing date of notice, the matter shall be reclassified as a Variance and submitted to the Board of Adjustment. In these cases, no additional filing fees will be charged.

F.G. *Appeal.* If the decision of the Planning Manager is not satisfactory to the applicant, the applicant may appeal the decision to the Board of Adjustment in accordance with procedures set forth in Section 14-39-12, "APPEALS TO BOARD OF ADJUSTMENT."

G.H. *Null and Void.* A violation of any condition stipulated by the Planning Manager shall be a violation of this Section and such a violation shall render the granted Administrative Relief null and void. An approval shall also be null and void if the use has not commenced or if a building permit has not been obtained within sixty (60) days of authorizing the variance or within any greater or lesser time stipulated by the Planning Manager, not to exceed one (1) year.

14-39-1414-39-16 HILLSIDE APPEALS

- A. *Applicability.* The Land Use Hearing Officer shall hear appeals from decisions of the ~~Community Development~~ Department arising from the administration of requirements contained in Article 14-22A (Hillside Development Overlay District). The applicant or any property owner within three hundred (300) feet of the subject property shall file such appeal. The Land Use Hearing Officer shall also consider applications for variance from the provisions of Article 14-22A, "Hillside Development Overlay District." The owner for the subject property shall file such application.
- B. *Filing.* The applicant shall file an application for an appeal in writing, with the Department. The application shall 1) describe the basis of the variance request, 2) specifically set forth those provisions of Article 14-22A from which a variance is being sought, and 3) specifically set forth those decisions of the ~~Community Development~~ Department that are being appealed. The Department shall transmit a copy of the appeal to the Hearing Officer.
- C. *Determination of Hearing Officer.* Upon receipt of an appeals application, the ~~Community Development~~ Department Director shall make a determination as to the nature of the appeal and shall determine the appropriate appeal hearing officer to hear the case. Those appeals of a technical nature such as utility locations, final grading and drainage, or heights of cut and fill shall be heard by the City Engineer, or designee thereof, acting in the capacity of hearing officer. All other appeals including slope category determination, allowable densities, lot coverage, and disturbance calculations shall be heard by the Land Use Hearing Officer. The Land Use Hearing Officer shall be the City Manager or designee.

1 ~~D. Notice of Hearing~~

- 2
- 3 ~~1. Upon receipt of a completed application for an appeal or a variance to the~~
4 ~~Hillside Ordinance, the Community Development Director, or designee thereof,~~
5 ~~shall fix a reasonable date for hearing the action.~~
- 6
- 7 ~~2. The Department shall provide notice of the time, date, and location of the hearing~~
8 ~~at least fifteen (15) days prior to the hearing date as follows:~~
- 9
- 10 ~~a. Publish notice in local newspaper.~~
- 11
- 12 ~~b. Post notice on subject property in accordance with guidelines established by~~
13 ~~the Community Development Department.~~
- 14
- 15 ~~c. Mail notice, by first class mail, to all property owners of record located wholly~~
16 ~~or partially within three hundred (300) feet of the subject property. To provide~~
17 ~~such notice, the applicant shall furnish to the Department a list of names and~~
18 ~~addresses along with two sets of stamped, addressed envelopes for said~~
19 ~~property owners, and an affidavit attesting to the accuracy for the submittal~~
20 ~~package.~~
- 21
- 22 ~~3. The Department shall transmit to the hearing officer a copy of the appeal and the~~
23 ~~complete file.~~
- 24

25 D-E. *Action of Hearing Officer*

- 26
- 27 1. The hearing officer shall hold a hearing and provide the applicant, Community
28 Development Department staff, and owners of property located wholly or partially
29 within three hundred (300) feet of the subject property an opportunity to present
30 their position. Such hearings shall be informal and the rules of evidence and civil
31 procedure shall not apply. The hearing officer shall have the authority to
32 approve, deny, or modify the request.
- 33
- 34 2. The Hearing Officer's decision shall be in writing and shall be provided to the
35 applicant, the Community Development Department, and all property owners
36 within three hundred (300) feet of the subject property.
- 37

38 E-F. *Appeal to City Council*

- 39
- 40 1. Any member of the public may appeal the decision of the hearing officer to the
41 City Council. The appeal shall be in writing and shall specifically set forth the
42 decision of the hearing officer that is being appealed. The appeal shall be filed
43 with the Community Development Department Director within ten (10) days of the
44 decision.
- 45
- 46 ~~2. The Department shall mail a notice of the appeal at least fifteen (15) days prior to~~
47 ~~the Council meeting wherein the appeal will be heard to each property owner~~
48 ~~situated wholly or partially within three (300) feet of the subject property. To~~
49 ~~provide such notice, the applicant shall furnish to the Department a list of names~~
50 ~~and addresses along with stamped, addressed envelopes for said property~~
51 ~~owners. The Department shall be responsible for mailing such notices.~~

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~~2.3.~~ The Department shall transmit to the City Council a copy of the appeal letter, the decision of the hearing officer, and supporting material. At a regularly scheduled Council meeting, the applicant and the hearing officer shall present their positions. Owners of property located wholly or partially within three hundred (300) feet of the subject property shall also be provided an opportunity to present their position.

~~3.4.~~ The City Council shall have the authority to affirm, overrule, or modify the decision of the hearing officer or remand the matter back to the hearing officer.

~~14-39-15~~ 14-39-17 **DESIGN REVIEW APPEALS**

A. *Filing*

1. The applicant may appeal a final decision of the Department on a design review submittal to the Design Review Appeals Board. Such appeal shall be filed on the official form provided by the Department, within ten (10) calendar days of the Department's decision, to the Department, together with any applicable fee. The appeal shall specifically indicate those items of the final decision by the Department being appealed.

2. The Department shall submit any response to the appeal and relevant background material on file to the Design Review Appeals Board for the next scheduled meeting.

B. *Action of the Design Review Appeals Board.* The Design Review Appeals Board shall hear an appeal within thirty (30) calendar days of submission of the appeal. The Board shall make a decision on the date of the hearing, unless continued at the discretion of the Board, and shall transmit the decision to the applicant in writing. The decision of the Design Review Appeals Board shall be final.

~~14-39-16~~ **EXPIRATION OF APPLICATIONS**

~~A. All applications submitted to the Community Development Planning Division for staff review will expire and be deemed withdrawn if more than twelve (12) months pass from the latest date that staff has provided the applicant with review comments, unless a full re-submittal of case materials occurs. This includes, but is not limited to, applications for Rezoning, PAD Amendments, Zoning Ordinance Text Amendments, Site Plan Reviews, Major Site Plan Amendments, Conditional Use Permits, Temporary Use Permits, Requests for Administrative Relief, Requests for Variance, Hillside Ordinance Appeals, Design Review Appeals, Preliminary Plats, and Sign Permits. Prior to the date of expiration, the applicant may file a request for an extension. The Planning Manager or designee thereof may authorize a one-time, six (6) month extension. The Applicant contact of record shall be provided written notice no less than thirty (30) days prior to the date of application expiration.~~



ZONING ORDINANCE TEXT AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: TA 10-0101
DATE: July 15, 2010
AGENDA ITEM: 5R

Applicant: City of Peoria Planning Division

Request: Amend Section 14-2, Definitions and Section 14-9, Non-Residential Districts of the Peoria Zoning Ordinance with respect to Tobacco Retailers; Outdoor Patios; Bars, Taverns, Lounges; Gasoline Service Stations; and Drive-Through Restaurants.

Support / Opposition: As of the date of this printing, Staff has not received public comment for this proposal.

Recommendation: **Approve** as requested.

BACKGROUND

1. The proposed amendments are a variety of housekeeping items and code enhancements. Specifically, recent experience with outdoor patios, bars, taverns, lounges, gas stations and drive-through restaurants has shown that modifications to land use standards and limitations and use permissions are necessary to achieve the intents of the General Plan, protect residential uses and promote commerce in the City. Additionally, clarified definitions and minor modifications to the land use table will enhance the usability of the code and keep it compliant with recent state legislation.
2. On May 20, 2010 The Planning and Zoning Commission was briefed on the proposed amendments and offered staff discussion and guidance. The Commission asked staff to review residential separation distances for gas stations and review design standards for drive-through restaurants. Staff examined the comments and recommends no change to the amendments. As proposed, they align with existing City noise and light codes and they are comparable to other community's zoning codes. All other items were favorably received.

ANALYSIS AND DISCUSSION

Tobacco Retailer

3. In recent years, hookah lounges, cigar bars and similar tobacco uses have become more common in the Phoenix metro area. Although considered a permitted "retail use" in most circumstances, no formal definition exists to describe these uses. The Smoke Free Arizona legislation allows smoking within these types of businesses. In response to this, staff proposes to define "Tobacco Retailer" as any business which has more than 50% of its sales derived from tobacco and/or tobacco accessory sales and may allow smoking within the business. This is consistent with the Smoke Free Arizona legislation. The definition is broad enough to capture cigar bars, tobacco stores, and hookah lounges yet narrow enough to exclude restaurants, bars and other retail stores. The use is also proposed to be a permitted use in the C-2 through C-5 zoning districts.

Outdoor Dining

4. In 2006, outdoor dining was made a conditional use and standards were enacted to address location, hours, noise and light. This change was pursued due to compatibility issues with adjacent residential uses and poor experiences with a couple of existing outdoor dining facilities. Twenty outdoor dining cases have been processed as conditional uses since the text amendment took effect. Of those, two were within 200 feet of residential property and none were denied. The two within 200-feet of residential property generated some interest from the nearby property owners. The property owners did not object to the proposals when it was shown that adequate protection was put in place.
5. Because the vast majority of outdoor dining requests have not been adjacent to or nearby residential uses, mandating all outdoor dining requests as conditional uses is unnecessarily arduous in most circumstances. The proposed amendment allows outdoor dining as a permitted use unless it is within 200-feet of residential zoned property. In those cases, it is a conditional use. Whether reviewed as a permitted use or a conditional use, use standards limiting the location and design of the outdoor dining remain in place. Outdoor dining reviewed as conditional uses are also subject to hours of operation, noise, light and screening standards.

Gas Stations

6. Recent experience has shown that additional gas station development standards are needed to ensure compatibility with adjacent uses. Additionally, the standards intend to mitigate negative impacts arising from gas station equipment

and proximity to other gas stations. Specifically, the following standards are proposed:

7. Gas stations are prohibited within 200-feet of residential zoned property. This is comparable to the standards utilized by other communities and is a sufficient distance to prevent light, noise, odor and other impacts from affecting residential property. Additionally, intervening buildings, landscaping, walls and parking areas will diminish the intensity of any impacts to a level well within the accepted community standards.
8. Gas stations must be at least 500-feet apart when located on the same side of the street. The intent of this code is to cause gas stations to locate on opposite sides of intersections and streets. Without this standard, multiple gas stations could locate on the same side of the street which is poor allocation of land use and a potential traffic/safety issue. This standard is designed to allow gas stations to locate on opposite corners of arterials and the opposite sides of arterials so that vehicles traveling from all directions may be adequately serviced.
9. Canopy lighting shall be flush with the canopy ceiling. Flush mounted lighting is designed so that lighting is directed downward rather than outward. Lighting which is directed in all directions contributes to light pollution, light trespass, and glare issues.
10. Fuel tanks larger than 1,000 gallons must be underground. Many gas stations in the northwest valley also retail bulk propane. Propane is also a viable alternative fuel and it is probable that more gas stations will consider propane sales as alternative fuel vehicles become more common.

The proposed standard requires that tanks larger than 1,000 gallons are located underground. Smaller above ground tanks will be required to be horizontally mounted and at least 25-feet from any public street so that they are made inconspicuous and not used as attention-getting devices.

Drive-Through Restaurants

11. Drive-through restaurants are permitted uses. There are also limited performance and development standards in the Zoning Code to address the unique characteristics of this use. Through review of other municipal development codes and examination of recent cases, a number of development standards are proposed to improve the compatibility with adjacent uses, improve the aesthetics of drive-through facilities and mitigate impacts on nearby residential uses.
12. Drive-through facilities within 200-feet of residential zoned property will be conditional uses; those beyond 200-feet are permitted uses.

13. A landscaping island, striping or other type of delineation will be required to separate the drive-through lane from drive aisles and parking lot. This improves safety of pedestrians and predictability of traffic movements.
14. Drive-through aisles, menu boards, order boxes, and pick-up windows will be at least 50 feet from residential uses. A 30-foot wide residential landscape buffer is required in addition to the 50-foot separation requirement. Together, the extra separation and buffering will reduce the impacts of light, noise, and odor on nearby residential properties.
15. Certain drive-through restaurants have intense drive-through traffic volumes. As conditional uses, the Planning and Zoning Commission can stipulate drive-through lane design and length requirements.
16. Lastly, restriction of operating hours; light, noise, visual, and odor mitigation; and other conditions may be imposed by the Planning and Zoning Commission to mitigate impacts generated by the use.

Tavern, Bars, and Lounges

17. Much like gas stations, recent case experience has shown that additional land use standards are necessary to ensure the use does not negatively impact residential zoned property. Therefore, the use will be prohibited within 200-feet of residential property. Additional controls related to operating hours, screening, outdoor patio area, live entertainment and other impacts will be required as relevant to the circumstances.
18. Currently, five taverns, bars and lounges are within 200-feet of residential zoned property. The existing taverns, bars, and lounges which are within 200-feet of residential zoned property will become legal non-conforming uses and will be permitted to continue operating.

Electric Vehicle Charging Equipment

19. To promote alternative fuel vehicles and sustainable practices, "Parking Spaces with Electric Vehicle Charging Equipment" is allowed as an accessory use in all non-residential districts.

Retail Liquor Store

20. The existing definition inadvertently defines any business which holds a Series 9 liquor license (packaged items) as a "retail liquor store." As a result, pharmacies, gas stations, grocery stores, and other retail stores are required to obtain a conditional use permit to receive a Series 9 license. Alcohol sales make up a minor portion of the total sales for these uses unlike a liquor store in which alcohol sales are the majority of sales. The proposed modification will exempt the noted types of businesses from the definition so that only retail liquor stores are subject to the conditional use permit and relevant use standards.

Charter Schools

21. To comply with recent state legislation, a very minor amendment to "Public/Private Schools, College and University Facilities, excluding Colleges and University Campuses" is proposed to add "Charter Schools".

FINDINGS AND RECOMMENDATION

22. Based on the following findings:

- The proposed amendments are consistent with the goals, objectives and policies of the Land Use element of the General Plan which promote compatibility between differing uses and promote high-quality architectural and site development;
- The proposed amendments promote economic development by refining when Commission review is necessary for certain uses and providing guidance for compatible development practices;
- Upon review of the application, the Planning Manager has determined that a Proposition 207 waiver is not required for this application.

It is recommended that the Planning and Zoning Commission take the following action:
Recommend approval to the City Council Case TA 10-0101.

ATTACHMENTS:

Exhibit A Proposed Amendments, legislative format

Prepared by: Edward Boik
 Planner

ARTICLE 14-9-5 LIMITATIONS ON USE

A. *Automobile Related*

5. Gas Service Stations shall be subject to all of the following additional requirements: (Ord. No. 03-171)
 - a. Minimum frontage of one hundred-eighty (180) feet on one arterial street is required.
 - b. No part of any building, canopy, fuel dispenser, or accessory equipment shall be within 200 feet of any residentially zoned property.
 - c. A minimum of 500 feet separation is required between gas service stations located on the same side of the street. Gas Service Stations separated by arterial streets are not subject to this requirement.
 - b-d All of the following development standards shall apply:
 - 1) The minimum side and rear building setback including canopies, from a property line abutting a residential zoning district: ~~twenty-five~~thirty (2530) feet.
 - 2) The minimum side and rear building setbacks including canopies, from a property line abutting a non-residential zoning district: ten (10) feet.
 - 3) The minimum street setback for buildings, ~~including fuel dispensers, accessory equipment, and~~ canopies: twenty-five (25) feet.
 - 4) All fuel pump mechanism and any accessory equipment dispensing fuel shall be covered by canopies.
 - 5) Under canopy mounted lights shall be flush with the underside of the canopy.
 - 6) Fuel tanks larger than 1,000 gallons must be located underground. Above ground tanks shall be screened from street view, shall not exceed 6-feet in height and shall be setback at least 25-feet from any public street.

B. *Eating & Drinking Establishments*

2. Restaurants with Drive-Throughs:

- a. All drive through lanes, menu boards, speaker box, and other related elements shall be located at least 50 feet from any residential property or use. Speakers at drive-throughs shall not be audible from residential zoned property. Sound shall be mitigated by the use of sound attenuation walls, landscaping or other measures.
- b. The drive-through lane shall be separated from parking areas and driving lanes by a minimum 5-foot wide landscaping island or other alternative as approved by the Planning Manager.
- c. Drive-through canopies and other appurtenances shall be architectural compatible with the main building architecture.
- d. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but are not limited to, a restriction on operating hours, additional screening, relocation of the drive through, modification of the minimum drive-through stacking requirements, noise and visual mitigation and other measures appropriate to the relevant circumstances.

23. Outdoor Dining and Seating AreasPatios: (Ord. No. 06-07)

- a. Such areas shall be located immediately adjacent to the restaurant or establishment to which it is an accessory use.
- b. The use shall not interfere with pedestrian access, fire lanes, driveways, or traffic visibility at driveways or street intersections.
- ~~c. Such areas shall not exceed 25% of the gross floor area (GFA) of the establishment. The Planning and Zoning Commission may waive this requirement if it is found that sufficient mitigation measures are provided to eliminate potential adverse impacts on adjacent properties.~~
- dc. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but ~~is~~ are not limited to, a restriction on operating hours, additional screening, re-location of the outdoor ~~dining and seating~~ patio area, noise and visual mitigation and other measures appropriate to the relevant circumstances.

3.4. Tavern, Bar, or Lounge:

- a. The exterior building wall shall not be located within one-thousand (1000) feet of the property lines of a state designated Local Alcohol Reception Center.
- b. The exterior building walls of the use shall be located at least two-hundred (200) feet from the property lines of a residentially zoned property;
- c. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but are not limited to, a restriction on operating hours, additional screening, relocation of any outdoor patio areas, live entertainment standards, noise and visual mitigation and other measures appropriate to the relevant circumstances.

~~Tavern, Bar, Lounge or establishment that sells beer or intoxicating liquor on the premises for consumption on premises shall be subject to the following additional requirement:~~

~~—The exterior building wall shall not be located within one thousand (1000) feet of the exterior property lines of a state designated Local Alcohol Reception Center.~~