

Memorandum

City of Tempe



Date: December 12, 2016

To: Mayor and City Council

Members of the Development Review Commission

Through: Chad Weaver, Community Development Director

From: Ryan Levesque, Deputy Community Development Director

Subject: Joint Meeting of the Mayor, City Council, and Development Review Commission (DRC)

Roles and Responsibilities

The Mayor and Council, Development Review Commission, Hearing Officer and Zoning Administrator all have a role to play in setting and implementing the design and land use vision of the City of Tempe established through the Zoning and Development Code (ZDC), the General Plan, Character Area Plans and Planned Area Development (PAD) Overlay Zoning. Parties mentioned above can play some or all of the following roles: review body, approval body and appeal body. See below for the Tempe Zoning and Development Code reference:

Section 1-311 City Council.

- A. City Council - Creation and Purpose. The City Council is created in accordance with the City Charter and Arizona Revised Statutes.
- B. City Council - Duties and Powers. For the purpose of this Code, the City Council will have the power to review and approve, continue, deny, or approve with conditions, the following:
 - 1. *Final Subdivision* plats and lot line adjustments pursuant to Section 6-307;
 - 2. General Plan amendments pursuant to Section 6-302;
 - 3. Code text and zoning map amendments (including *overlay districts*) pursuant to Section 6-304;
 - 4. Annexations pursuant to Section 2-106(B), and A.R.S. 9-471;
 - 5. When part of a zoning map amendment or planned area development overlay:
 - a. Major development plan review applications;
 - b. Major modification to a development plan review; or
 - c. Major modification to conditions of approved development plans pursuant to Sections 6-306 and 6-312;
 - 6. Major modifications to Planned Area Development Overlays or major modifications to conditions of approved Planned Area Development Overlays pursuant to Section 6-312;

7. Hear and decide appeals of decisions of the President of ASU, or a designated representative, for projects within the MU-Ed zoning district, and Development Review Commission, regarding *development plan review*, time extensions, preliminary subdivision plats, and use permits, pursuant to Part 6, Chapter 8, Appeals;
8. Hear and decide appeals of decisions of the Community Development Director, or designee, regarding lot splits and time extensions, pursuant to Part 6, Chapter 8, Appeals; and
9. Council may prescribe in connection with a request conditions as the Council deems necessary, in order to fully carry out the provisions and intent of the General Plan and this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violations of any City Council condition shall be a violation of this Code.

Section 1-312 Development Review Commission.

- A. Development Review Commission – Creation and Purpose. The Development Review Commission is created to hold public meetings and hearings, to provide analysis and recommendations to the City Council regarding general land use policies and applications where the Commission has recommendatory power, and to render final decisions on specified applications where the Commission has final decision-making power, including, but not limited to, all aspects of a proposed and future development. The Development Review Commission recognizes that the creation of a desirable environment throughout the city for residents, business, and industry is a prime requisite for the interdependence of land values, aesthetics, and good site planning, by promoting harmonious, safe, attractive and compatible development that is therefore considered to be in the best interest of public health, safety, and general welfare.
- B. Development Review Commission – Duties and Powers. The Development Review Commission shall have the duty to carry out the provisions and intent of the General Plan and this Code.
 1. Final Decision-making Powers. The Development Review Commission shall have the power to make final decisions and hold public meetings and public hearings to review and approve, continue, deny, or approve with conditions the following requests:
 - a. Preliminary Subdivision Plats pursuant to Section 6-307;
 - b. Major Development Plan Review applications pursuant to Section 6-306;
 - c. Major modification to a *development plan review* or major modification to conditions of approved *development plans* pursuant to Sections 6-306 and 6-312;
 - d. Appeals from the Hearing Officer, regarding use permits pursuant to Part 6, Chapter 8, Appeals;
 - e. Appeals from the Community Development Director, or designee, pursuant to Part 6, Chapter 8, Appeals, regarding the following:
 1. Minor modifications to approved Planned Area Development Overlays, or minor modifications to conditions of approved Planned Area Development Overlays;
 2. Shared parking applications;
 3. Minor *development plan review* applications pursuant to Part 6, Chapter 8, Appeals; and
 4. Minor modifications to approved *development plan review*, or minor modifications to conditions of approved *development plans*.

2. Recommendation Powers. The Development Review Commission shall have the power to recommend to the City Council and hold public meetings and hearings to review and approve, continue, deny, or approve with conditions the following requests:
 - a. General plan amendment and major amendment applications pursuant to Section 6-302;
 - b. Zoning map amendment (re-zoning) and overlay district applications pursuant to Sections 6-304 and 6-305;
 - c. Code text amendment applications pursuant to Section 6-304;
 - d. Historic Preservation applications pursuant to §14A-4 of the City Code;
 - e. Major modifications to approved Planned Area Development Overlays, or major modifications to conditions of approved Planned Area Development Overlays pursuant to Sections 6-312; and
 - f. Major development plan review applications pursuant to Section 6-306, when part of a zoning map amendment or planned area development overlay (PAD);
3. The Development Review Commission may prescribe in connection with any application such conditions as the Commission deems necessary in order to fully carry out the provisions and intent of this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violation of any Development Review Commission condition shall be a violation of this Code.

Section 1-305 Hearing Officer.

- A. Hearing Officer – Creation and Purpose. The Hearing Officer shall be appointed by the Community Development Director or designee. The Hearing Officer shall hold a public hearing or public meeting to review and approve, continue, deny, approve with conditions, or to the extent applicable, enter the appropriate order, the following:
- B. Hearing Officer – Duties and Powers. The Hearing Officer shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Hearing Officer shall have the power to hold a public hearing to review and approve, continue, deny, or approve with conditions, the following:
 1. Use permit applications pursuant to Section 6-308;
 2. Variance applications pursuant to Section 6-309; and
 3. Abatements pursuant to Chapter 21 of the Tempe City Code and Section 6-310.

The Hearing Officer may in connection with any application, impose conditions deemed necessary in order to fully carry out the provisions and intent of this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violation of any Hearing Officer condition shall be a violation of this Code.

Section 1-303 Zoning Administrator.

- A. Zoning Administrator – Creation and Purpose. The Zoning Administrator is the Community Development Director or designee. The Zoning Administrator is created to interpret the meaning and intent of the General Plan and this Code.

State law reference – A.R.S. 9-462.05 Enforcement. (Zoning Administrator creation)

- B. Zoning Administrator – Duties and Powers. The Zoning Administrator shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Zoning Administrator shall have the power to interpret and enforce this Code.
1. Interpretation of this Code includes, but is not limited to, clarification of intention, determination of zoning classifications of land uses not specified in this Code, the delegation of processing procedures and requirements, and enforcement of Code provisions. The Zoning Administrator shall keep a record of interpretations made pursuant to this section. The record of interpretations shall be available to the public;
 2. The Zoning Administrator may appoint representatives of the Community Development Department to enforce provisions of this Code; and
 3. Any land use that is unspecified in this Code and not classified by the Zoning Administrator is prohibited in any district.

Lobbyist Registration Program

In August of this year, the Tempe City Council established a Lobbyist Registration Program, effective January 1, 2017. Boards and Commission members and the Hearing Officer may be impacted by the Lobbyist Registration Program.

Beginning January 1, 2017, any person or organization who is compensated to communicate with any City of Tempe public official to influence official action must register as a lobbyist, prior to lobbying or within ten (10) calendar days after first lobbying. A public official is defined as a member of the Tempe City Council, a Board or Commission member, or a Hearing Officer. However, please note that lobbyist registration and expenditure reporting *is the responsibility of the lobbyist*, not City of Tempe public officials or employees. As such, City staff is unable to provide legal advice to an individual regarding registration and reporting; the individual needs to make that determination.

Attached with this memo is a Frequently Asked Questions (FAQ) sheet that provides basic information about the City of Tempe Lobbyist Registration Program. For detailed information about Program Registration and Reporting, please visit the website at: www.tempe.gov/lobbyist.