
**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

Meeting Date: 03/13/2018
Agenda Item: 15

ACTION: Request a Code Text Amendment for PAD/ZONING EXTENSIONS, consisting of changes within Sections 6-304, 6-305, and 6-901 of the Zoning and Development Code. The applicant is the City of Tempe.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Approve, subject to conditions

BACKGROUND INFORMATION: PAD/ZONING EXTENSIONS (PL180053) consists of changes to the existing regulations that require an administrative hearing with City Council before receiving a time extension for either a zoning map amendment or planned area development overlay. This proposed process allows an applicant to select from a pre-approved list of acceptable temporary site improvements or maintaining a majority of tenants (75%+) within existing buildings. If selecting from a list of temporary options is not preferred, an applicant may still seek an alternate extension through the current procedures with City Council. This item was prepared out of the City Manager's Vacant Buildings Working Group. On October 19, 2017, City Council provided direction to the Working Group to proceed with a proposed ordinance. A public stakeholders meeting was held on October 2, 2017. The request includes the following:

ZOA180001 Code Text Amendment consisting of changes to Zoning and Development Code changes Sections

ATTACHMENTS: Ordinance, Project File

STAFF CONTACT(S): Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Ryan Levesque, Deputy Community Development Director

Reviewed by: Suparna Dasgupta, Principal Planner

COMMENTS:

This is a code text amendment consisting of changes within the Zoning and Development Code, including Sections 6-304, 6-305, and 6-901. The intent of the ordinance amendment will allow and an administrative time extension process, fulfilling one of the described temporary options, from a pre-approved list described below.

The suitability of a “temporary option” for each category would be reviewed by staff and may differ on a case-by-case basis considering the site location, site size, and the duration of the time extension request. Furthermore, the temporary option will focus on removing blight, encouraging beautification and space activation, and enhancing surrounding property.

Vacant Sites:

- ☐ Provide in-ground or boxed planter street trees
- ☐ Temporary community garden * (requires processing for use permit)
- ☐ Public/Private art or sculpture garden
- ☐ Temporary plant nursery *
- ☐ Farmers market / food vending, on a re-occurring basis * (requires processing for use permit)
- ☐ Pop-up Park features *
- ☐ Street furniture (including benches, tables, chairs, etc.) *
- ☐ Any other reasonable alternate improvement, that may be evaluated and approved by the City

Abandoned Building/Improved sites:

- ☐ Demolition of undesirable buildings or access control restrictions to limit vandalism (health and welfare issue) Note: requires an additional checklist item and requires a Demo permit for removal of structures
- ☐ Public/Private art in vacant tenant windows, wall mural or on-site sculpture (excludes signs or advertising)
- ☐ Any other reasonable alternate improvement, that may be evaluated and approved by the City

Active Building Sites in Use:

- ☐ Retain/maintain tenants in building (75% or more occupancy)
- ☐ Public/Private art murals in vacant tenant windows

* Items marked with asterisks requires an indemnification of liability to hold the city harmless for any improvements that invite the public on the property.

PROCEDURES:

Step #1

Once an application is submitted, the City will conduct initial inspection of the property related to any code compliance or life safety matters (Inspection may include: Code Compliance, Building Safety, Police report and Fire Medical Rescue, if needed). Planning staff will evaluate the extension and request made for temporary improvement options.

Step #2

In cooperation with staff, (conditionally approved) temporary improvements selected by applicant are incorporated as part of their request for an extension approval letter (administratively approved). If staff and/or the applicant are not in agreement with the temporary options or an alternate request is desired, the extension request will instead be heard at the next available City Council meeting, for further feedback and direction.

Step #3

Approved time extensions with conditional temporary improvements are required to be completed within 60 calendar days of the extension approval. Penalty for not completing improvements will require an automatic administrative hearing of the extension request at the next available City Council meeting.

Note: the temporary improvements are intended to provide direct oversight by the assigned Planner to complete the process

and avoid additional process procedures that otherwise would be required for long term improvements.

Staff recommends approval of the proposed code text amendment. The proposed changes will allow an applicant the option of an administrative approval extension with the public benefit of temporary site improvements; otherwise the applicant may seek an extension through the current hearing process.

CONDITIONS OF APPROVAL:

NONE

HISTORY & FACTS:

- | | |
|------------------|---|
| January 5, 2017 | City Council Work Study Session: New Working Group item introduced regarding Vacant Buildings as it relates to entitlement extensions. |
| October 2, 2017 | Public Outreach stakeholders meeting with prior applicants for concept feedback. Meeting held at City Council Chambers, 31 East 5 th Street at 4 pm. |
| October 19, 2017 | City Council Work Study Session, Working Group update. City Council provided review, feedback and direction on the proposed Zoning/PAD time extension. |
| March 13, 2018 | Scheduled Development Review Commission hearing for this request. |
| April 12, 2018 | Scheduled City Council Introduction and First Public Hearing for this request. |
| April 26, 2018 | Scheduled City Council Second and Final Public Hearing for this request. |
| May 27, 2018 | Potential effective date of ordinance. |

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendments and Code Text Amendments

ORDINANCE NO. 02018.xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,
AMENDING THE CITY OF TEMPE ZONING AND DEVELOPMENT CODE,
PART 6 – APPLICATIONS AND REVIEW PROCEDURES, SECTIONS 6-304, 6-
305, AND 6-901

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION 1. That Section 6-304 of the Zoning and Development Code, pertaining to Zoning Map Amendments, is hereby amended to read as follows:

Section 6-304 - Zoning Map Amendments (including Overlay Districts) and Code Text Amendments.

- A. **Purpose.** The regulations and boundaries of zoning districts set forth in this Code may be amended whenever deemed necessary to best serve the public interest, and the health, comfort, convenience, safety, and general welfare of the city.
- B. **Applicability.** Amendments to the text or zoning map of this Code shall not be made except through the adoption of an amending ordinance by the City Council and following the procedure prescribed in this Code.
- C. **Procedure.** An application for zoning map or code text amendment shall be made as a written request submitted to the Community Development Director, or designee. The written request shall specify the nature of the amendment with pertinent details to explain or support the request. Requests for zoning map or code text amendments shall be taken to the applicable decision-making body, by the owner or owners of real property situated in the city or by any officer, department, board or commission of the city, or by the City Council, under its own motion. In addition the following are required:
 - 1. A *development plan* review application shall be processed concurrently with a zoning map amendment, pursuant to Section 6-306.
 - 2. The applicable recommending body shall review the request and make a recommendation to City Council in a public hearing. The recommendation of approval of any amendment by the recommending body shall be based on a finding of consistency and conformance with the General Plan and may include conditions of approval.
 - 3. City Council Review and Approval Criteria. The City Council shall conduct at least one (1) public hearing for zoning map and code text amendments. Approval by the City Council of an amendment shall be based on a finding that the zoning amendment is in the public interest and is consistent and conforms with the General Plan. Any approval may be subject to such conditions as the council deems applicable in order to fully carry out the provisions and intent of this Code. Zoning map amendments are subject to legal protest, pursuant to procedures in Section 6-502.

D. REVERSION. A COMPLETE BUILDING PERMIT APPLICATION SHALL BE MADE ON OR BEFORE TWO (2) YEARS FROM THE DATE OF CITY COUNCIL APPROVAL, OR WITHIN A TIME STIPULATED AS A CONDITION OF APPROVAL. IF THIS CONDITION IS NOT MET, THE APPLICANT SHALL BE REQUIRED TO APPEAR AT A HEARING BEFORE THE CITY COUNCIL TO DETERMINE BY COUNCIL VOTE WHETHER THE ZONING SHOULD REVERT TO THAT IN PLACE AT THE TIME OF APPLICATION, OR WHETHER TO EXTEND, REMOVE OR DETERMINE COMPLIANCE WITH THE SCHEDULE.

1. A REVERSION, IF DIRECTED BY CITY COUNCIL AT THE ADMINISTRATIVE HEARING, IS SUBJECT TO THE SAME PUBLIC HEARING PROCESS AS A ZONING MAP AMENDMENT.

2. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, MAY GRANT A ONE (1) YEAR EXTENSION OF A ZONING MAP AMENDMENT OR OVERLAY DISTRICT DECISION THROUGH THE FOLLOWING PROCESS:

A. FOR SITES WITH AN EXISTING BUILDING THAT IS 75% OR MORE OCCUPIED, THE OWNER/DEVELOPER MAY FILE AN EXTENSION APPLICATION WITH THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, THAT ATTACHES DOCUMENTATION IDENTIFYING EXISTING TENANTS AND VACANCIES. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, RESERVES THE RIGHT TO CONDUCT A SITE INSPECTION TO VERIFY OCCUPANCY. IF THE BUILDING HAS 75% OR MORE OF THE TENANT SPACES OCCUPIED WITH RESIDENTS (FOR RESIDENTIAL PROPERTIES) OR ACTIVE BUSINESSES (FOR COMMERCIAL PROPERTIES) THEN THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL GRANT A ONE (1) YEAR EXTENSION TO A ZONING MAP AMENDMENT OR OVERLAY DISTRICT. THIS PROCESS MAY BE REPEATED FOR ADDITIONAL ONE (1) YEAR EXTENSION REQUESTS.

B. FOR VACANT SITES OR FOR SITES WITH AN EXISTING BUILDING THAT IS LESS THAN 75% OCCUPIED, THE OWNER/DEVELOPER MAY FILE AN EXTENSION APPLICATION WITH THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, THAT IDENTIFIES WHICH SITE IMPROVEMENT(S) FROM THE COMMUNITY DEVELOPMENT DEPARTMENT'S LIST OF ACCEPTABLE SITE PLAN IMPROVEMENTS THE OWNER/DEVELOPER AGREES TO PLACE ON THE PROPERTY TO ENHANCE ITS AESTHETIC VALUE FOR COMMUNITY BENEFIT. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL DETERMINE WHETHER THE SITE IMPROVEMENTS THE OWNER/DEVELOPER SELECTED ARE REASONABLE. IN DETERMINING REASONABLENESS, THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, WILL CONSIDER THE LOCATION AND SIZE OF THE PARCEL. IF THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, DETERMINES THAT THE SELECTED SITE IMPROVEMENTS ARE REASONABLE, THEN THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL GRANT A ONE (1) YEAR EXTENSION TO A ZONING MAP AMENDMENT; OTHERWISE, THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL DENY THE APPLICATION. THIS PROCESS MAY BE REPEATED FOR ADDITIONAL ONE (1) YEAR EXTENSION REQUESTS. IF THE OWNER/DEVELOPER CONTINUES TO MAINTAIN THE ORIGINALLY-APPROVED TEMPORARY IMPROVEMENTS UPON RECEIVING AN EXTENSION, THEN SUCH IMPROVEMENTS SHALL SERVE TO MEET THE REQUIREMENTS FOR AN ADDITIONAL TIME EXTENSION SO LONG AS THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, DETERMINES THAT SUCH SITE

IMPROVEMENTS ARE REASONABLE.

3. THE OWNER/DEVELOPER MAY FOREGO AN EXTENSION TO THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, FOR ANY PROPERTY AND INSTEAD REQUEST AN EXTENSION DIRECTLY FROM THE CITY COUNCIL AT THE NEXT REASONABLY SCHEDULED HEARING DATE, PURSUANT TO SECTION 6-305(F) ABOVE.

(Ord. No. 2005.83, 1-5-2006; Ord. No. 2006.82, 1-4-2007; Ord. No. O2014.72, 12-4-2014)

State Law reference— A.R.S. § 9-462.01, § 9-462.03, § 9-462.04, Zoning amendments, procedures.

SECTION 2. That Section 6-305 of the Zoning and Development Code, pertaining to Planned Area Development Overlay Districts, is hereby amended to read as follows:

Section 6-305 - Planned Area Development Overlay Districts.

- A. **Purpose.** The purpose of *Planned Area Development Overlay Districts* is to accommodate, encourage and promote innovatively designed *developments* involving residential and/or non-residential land uses, which form an attractive and harmonious unit of the community. Such a planned *development* may be designed as a large-scale separate entity, able to function as an individual community, neighborhood, or *mixed-use development*; as a small-scale project which requires flexibility because of unique circumstances or design characteristics; or as a transitional area between dissimilar land uses.

This zoning designation recognizes that adherence to a traditional pattern of *development* standards, (i.e. height, *setback*, *lot coverage*) space, bulk and use specifications contained elsewhere in this Code would preclude the application of the PAD concept. Therefore, where PAD zoning is deemed appropriate or necessary, traditional zoning regulations are replaced by performance considerations to fulfill the objectives of the General Plan. The PAD *overlay district* may be tailored to meet the specific *development* representations of an application. Hence one (1) PAD overlay may vary considerably from another overlay.

- B. **Applicability.** PAD Overlays may be applied to any zoning district in the City of Tempe and shall be processed as a zoning map amendment. A PAD Overlay District may not be used for an individual detached single-*family dwelling*.

C. **Procedure.**

1. PAD Overlay Districts shall be processed to the Development Review Commission or Joint Review Committee, as applicable, using the public hearing procedure. PAD Overlay Districts shall also be processed to the City Council, using the public hearing procedure, after review and recommendation by the recommending body;
2. **Modifications.** Once a PAD Overlay District request has been approved, it can be modified or amended per Section 6-312. Questions as to procedure for modifications to existing PADs shall be determined by the Zoning Administrator; and
3. **Development Plan Review.** A *Development Plan Review* application shall be processed concurrently with a PAD Overlay District, pursuant to Section 6-306.

- D. **Approval Criteria.** PAD Overlay District approval shall be based on consideration of the following criteria:

1. The development fulfills certain goals and objectives in the General Plan, and the principles and guidelines of other area policy plans. Performance considerations are established to fulfill those objectives;
 2. Standards requested through the PAD Overlay District shall take into consideration the location and context for the site for which the project is proposed;
 3. The development appropriately mitigates transitional impacts on the immediate surroundings.
- E. **Property Owners Associations.** If a property owners association(s) is required, the covenants, conditions and restrictions shall include all applicable requirements under the Tempe City Code, and shall be reviewed by the City Attorney and Community Development Director, or designee, to determine if the association will remain responsible for maintaining common areas within the *development*. Such covenants, conditions and restrictions shall be recorded with the Maricopa County Recorder.
- F. **Reversion.** A complete building permit application shall be made on or before two (2) years from the date of City Council approval, or within a time stipulated as a condition of approval. If this condition is not met, the applicant shall be required to appear at a hearing before the City Council to determine by Council vote whether the zoning should revert to that in place at the time of application, or whether to extend, remove or determine compliance with the schedule.
1. A REVERSION, IF DIRECTED BY CITY COUNCIL AT THE ADMINISTRATIVE HEARING, IS SUBJECT TO THE SAME PUBLIC HEARING PROCESS AS A ZONING MAP AMENDMENT.
 2. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, MAY GRANT A ONE (1) YEAR EXTENSION OF A PAD OVERLAY DISTRICT DECISION THROUGH THE FOLLOWING PROCESS:
 - C. FOR SITES WITH AN EXISTING BUILDING THAT IS 75% OR MORE OCCUPIED, THE OWNER/DEVELOPER MAY FILE AN EXTENSION APPLICATION WITH THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, THAT ATTACHES DOCUMENTATION IDENTIFYING EXISTING TENANTS AND VACANCIES. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, RESERVES THE RIGHT TO CONDUCT A SITE INSPECTION TO VERIFY OCCUPANCY. IF THE BUILDING HAS 75% OR MORE OF THE TENANT SPACES OCCUPIED WITH RESIDENTS (FOR RESIDENTIAL PROPERTIES) OR ACTIVE BUSINESSES (FOR COMMERCIAL PROPERTIES) THEN THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL GRANT A ONE (1) YEAR EXTENSION TO A PAD OVERLAY DISTRICT. THIS PROCESS MAY BE REPEATED FOR ADDITIONAL ONE (1) YEAR EXTENSION REQUESTS.
 - D. FOR VACANT SITES OR FOR SITES WITH AN EXISTING BUILDING THAT IS LESS THAN 75% OCCUPIED, THE OWNER/DEVELOPER MAY FILE AN EXTENSION APPLICATION WITH THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, THAT IDENTIFIES WHICH SITE IMPROVEMENT(S) FROM THE COMMUNITY DEVELOPMENT DEPARTMENT'S LIST OF ACCEPTABLE SITE PLAN IMPROVEMENTS THE OWNER/DEVELOPER AGREES TO PLACE ON THE PROPERTY TO ENHANCE ITS AESTHETIC VALUE FOR COMMUNITY BENEFIT. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL DETERMINE WHETHER THE SITE IMPROVEMENTS THE OWNER/DEVELOPER SELECTED ARE REASONABLE. IN DETERMINING

REASONABLENESS. THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, WILL CONSIDER THE LOCATION AND SIZE OF THE PARCEL. IF THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, DETERMINES THAT THE SELECTED SITE IMPROVEMENTS ARE REASONABLE, THEN THE COMMUNITY DEVELOPMENT DIRECTOR OR DESIGNEE SHALL GRANT A ONE (1) YEAR EXTENSION TO A PAD OVERLAY DISTRICT; OTHERWISE, THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, SHALL DENY THE APPLICATION. THIS PROCESS MAY BE REPEATED FOR ADDITIONAL ONE (1) YEAR EXTENSION REQUESTS. IF THE OWNER/DEVELOPER CONTINUES TO MAINTAIN THE ORIGINALLY-APPROVED TEMPORARY IMPROVEMENTS UPON RECEIVING AN EXTENSION, THEN SUCH IMPROVEMENTS SHALL SERVE TO MEET THE REQUIREMENTS FOR AN ADDITIONAL TIME EXTENSION SO LONG AS THE COMMUNITY DEVELOPMENT DIRECTOR OR DESIGNEE DETERMINES THAT SUCH SITE IMPROVEMENTS ARE REASONABLE.

3. THE OWNER/DEVELOPER MAY FOREGO AN EXTENSION TO THE COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE, FOR ANY PROPERTY AND INSTEAD REQUEST AN EXTENSION DIRECTLY FROM THE CITY COUNCIL AT THE NEXT REASONABLY SCHEDULED HEARING DATE, PURSUANT TO SECTION 6-305(F) ABOVE.

(Ord. No. 2005.83, 1-5-2006; Ord. No. 2007.74, 12-13-2007; Ord. No. O2014.72, 12-4-2014)

SECTION 3. That Section 6-901 of the Zoning and Development Code, pertaining to time extensions, is hereby amended to read as follows:

Section 6-901 - Time Extension.

- A. **Request for Extension.** If an extension is desired, the holder of the approval or permit must file an application for an extension prior to expiration of the approval or permit.
- B. **Procedure and Approval Criteria.** Extension requests shall be processed by the Community Development Director, or designee, as an administrative review decision. The Community Development Director, or designee, may refer the request to the original decision-making body that issued the original approval if different than the Community Development Director, or designee. An extension may be granted for a maximum of one (1) year from the original date of expiration, and may be less than one (1) year if the Community Development Director, or designee, or the original decision-making body deems that a shorter timeframe is warranted. Extensions shall be granted only upon findings that:
1. The use or *development* could not reasonably commence for reasons beyond the control of the permit holder;
 2. The request for extension is not sought for purposes of avoiding the requirements or standards of this Code or the permit;
 3. There has been no change in city standards or other circumstances likely to necessitate significant modification of the *development* approval or conditions of approval; and

4. The use of property, if any, conforms to applicable city codes. The city may deny an extension request if there is an existing Code violation, or impose conditions to facilitate compliance.

C. EXCEPTION. FOR TIME EXTENSIONS PERTAINING TO ZONING MAP AMENDMENTS AND OVERLAYS, REFER TO PROCEDURES PURSUANT TO SECTION 6-304(D) AND SECTION 6-305(F).

(Ord. No. 2009.15, 10-22-2009; Ord. No. 2009.40, 11-5-2009)

SECTION 4. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2018.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney



PROJECT FILE
for
PAD/ZONING TIME EXTENSIONS
(PL180053)

ATTACHMENTS:

- 1-2. Draft Procedures & Pre-Approved Temporary Improvements List
- 3-6. October 19, 2017 City Council, Work Study Memo

Date: February 12, 2018

RE: Zoning/PAD Overlay Time Extension Requests

A time extension request for an approved Zoning Map Amendment and/or Planned Area Development Overlay (PAD), requires filing of an administrative application with the Community Development Department, Planning Division. Reference ZDC Sec. 6-304 and 6-305, as amended.

The application shall include the following items:

- Completed project submittal form**
- Applicable fee**
- Extension letter request/explanation**
- Commitment to at least one of the temporary options listed below...**

The suitability of a “temporary option” for each category would be reviewed by staff and may differ on a case-by-case basis considering the site location, site size, and the duration of the time extension request. Furthermore, the temporary option will focus on removing blight, encouraging beautification and space activation, and enhancing surrounding property.

Vacant Sites:

- ✓ Provide in-ground or boxed planter street trees
- ✓ Temporary community garden * (requires processing for use permit)
- ✓ Public/Private art or sculpture garden
- ✓ Temporary plant nursery *
- ✓ Farmers market / food vending, on a re-occurring basis * (requires processing for use permit)
- ✓ Pop-up Park features *
- ✓ Street furniture (including benches, tables, chairs, etc.) *
- ✓ Any other reasonable alternate improvement, that may be evaluated and approved by the City

Abandoned Building/Improved sites:

- ✓ Demolition of undesirable buildings or access control restrictions to limit vandalism (health and welfare issue) *Note: requires an additional checklist item and requires a Demo permit for removal of structures*
- ✓ Public/Private art in vacant tenant windows, wall mural or on-site sculpture
- ✓ Any other reasonable alternate improvement, that may be evaluated and approved by the City

Active Building Sites in Use:

- ✓ Retain/maintain tenants in building (75% or more occupancy)
- ✓ Public/Private art murals in vacant tenant windows

** Items marked with asterisks requires an indemnification of liability to hold the city harmless for any improvements that invite the public on the property.*

PROCEDURES:

Step #1

Once an application is submitted, the City will conduct initial inspection of the property related to any code compliance or life safety matters (*Inspection may include: Code Compliance, Building Safety, Police report and Fire Medical Rescue, if needed*). Planning staff will evaluate the extension and request made for temporary improvement options.

Step #2

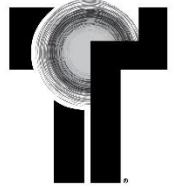
In cooperation with staff, (conditionally approved) temporary improvements selected by applicant are incorporated as part of their request for an extension approval letter (administratively approved). If staff and/or the applicant are not in agreement with the temporary options or an alternate request is desired, the extension request will instead be heard at the next available City Council meeting, for further feedback and direction.

Step #3

Approved time extensions with conditional temporary improvements are required to be completed within 60 calendar days of the extension approval. Penalty for not completing improvements will require an automatic administrative hearing of the extension request at the next available City Council meeting.

Note: the temporary improvements are intended to provide direct oversight by the assigned Planner to complete the process and avoid additional process procedures that otherwise would be required for long term improvements.

MEMORANDUM



TO: Mayor and Council

FROM: PAD Extension/Vacant Building Working Group

DATE: October 19, 2017

SUBJECT: Policy Analysis and Recommendations

Introduction

Councilmembers Granville and Keating formed a Committee of the Whole (COW) working group to review a potential policy change affecting all new development agreements (“DA”) and Planned Area Developments (“PAD”) overlays.

Under the new policy, as a conditional obligation of any new DA or PAD, language would be included that states if a future extension is requested from Council, the developer/applicant must meet with staff to develop a temporary enhancement proposal for the site. The type of enhancements would depend on the condition of the property (vacant site, existing buildings with no tenants, or occupied buildings). Additionally, if the developer does not ever want the PAD/DA to expire they can complete and maintain the enhancements as part of their initial DA/PAD request.

The site enhancements would be evaluated based on appropriateness for the site location and size and should be completed in a timely manner. This policy would not apply to any of the existing DA/PAD properties, only new DA/PAD’s requested in the future.

This proposal has been brought to and/or emailed to a public stakeholders group, the Tempe Chamber of Commerce, local zoning attorneys, and the Downtown Transit Authority. Changes based on stakeholder feedback were incorporated.

Upon extensive review with development staff, legal, and stakeholders, Councilmember’s Granville and Keating put forward the following recommendations for Council review. If Council agrees with these recommendations, the subcommittee will work with staff to draft appropriate implementation language to bring back to a formal council agenda in the future.

Recommendations

For each property, there are two paths which may be followed depending on if the property is (1) occupied by a tenant or is an (2) unoccupied/vacant parcel.

Occupied by Tenant

1. When the property owner/developer is ready to redevelop an occupied property, they often apply for a DA and/or PAD prior to development. DA’s and PAD’s, per prior Council policy, are subject to potential reversion after two years. This remains unchanged under the new policy. However, as part of the DA or PAD “condition of approval”, staff will add the following additional language.

- a. The owner/developer may register with the city to report tenant vacancies at the time of application and re-report occupancy every six months via affidavit.
 - i. If the owner/developer does register the property to report tenant vacancies and timely reports 80% or greater tenant occupancy¹ via affidavit, the two-year reversion clock never starts on the approved DA/PAD. Accordingly, the DA/PAD is not subject to the current reversion process.
 - ii. However, if the owner/developer does not register with the city to report tenant vacancies, or if reported tenant occupancy falls below 80%, or if the owner/developer fails to timely report occupancy rates every six months, the two-year DA/PAD expiration clocks starts and cannot be stopped.
2. Once the two-year time period of the initial DA/PAD is ready to expire the owner/developer may choose to not oppose the reversion process and allow the DA/PAD to expire.
3. If the owner/developer wants to request a time extension from Council, they must first meet with development staff. Development staff will work with the owner/developer to create a temporary enhancement site plan and submit the approved plan along with owner/developer's DA/PAD extension request.
 - a. The enhancement plan will be appropriate to the location and size of the parcel, taking into account its location in the downtown area, arterial streets, and access. The enhancement plan should be reasonable and proportional to the owner/developer's request, relative to the site-specific information and extension time period.
 - b. Staff will provide a simple list of pre-approved (sushi style) menu of site enhancements that do not require an architect or site designer, and do not require a level of specialization to create. ie, approved benches, box trees, ground cover, etc.
 - i. If the owner/developer selects from the menu, the items are administratively approved without a larger review process.
 - ii. If the owner/developer does not want to work from the pre-approved list, staff may determine additional staff review are necessary.
 - c. The owner/developer does not have invite to the public onto their property as part of the enhancement plan. For example, the property owner may do vinyl window artwork, interior artwork displays viewable to the public walking by, artwork on exterior fencing, or public wifi hotspots, among other options.
4. After the owner/developer has the enhancement plan approval from staff, they may submit the completed plan, along with the any other necessary paperwork, to request an additional time extension on their existing DA/PAD from Council.
5. The above process will repeat if the owner/developer later seeks a 2nd DA/PAD extension. The existing enhancement plan, if maintained, at the discretion of staff, may serve to meet the requirements in requesting additional time extensions.
6. If the owner/developer prefers, they may voluntarily submit an enhancement plan along with their initial DA/PAD. Under this voluntary scenario, the initial DA/PAD does not have a two-year time period for expiration. However, if the site

¹ Or another % based on site specific situations, such as property with very few tenant locations.

enhancements are not maintained, the DA/PAD expires in two years from the point of notice of lack of maintenance.

Unoccupied/Vacant Parcel

1. When the property owner/developer is ready to redevelop an unoccupied property or vacant parcel, they often apply for a DA and/or PAD prior to development. DA's and PAD's, per prior Council policy, are subject to potential reversion after two years. This remains unchanged under the new policy. However, as part of the DA or PAD "condition of approval", staff will add the following additional language.
2. Once the two-year time period of the initial DA/PAD is ready to expire, the owner/developer may choose to not oppose the reversion process and allow the DA/PAD to expire.
3. If the owner/developer wants to request a time extension from Council, they must first meet with development staff. Development staff will work with the owner/developer to put together to create a temporary enhancement site plan and submit the approved enhancement plan along with the owner/developer's DA/PAD extension request.
 - a. The enhancement plan will be appropriate to the location and size of the parcel, taking into account its location in the downtown area, arterial streets, and access. The enhancement plan should be reasonable and proportional to the owner/developer's request, relative to the site-specific information and extension time period.
 - b. Staff will provide a list of pre-approved (sushi style) menu list of site enhancements that do not require an architect or site designer, and do not require a level of specialization to create. ie, approved benches, box trees, ground cover, etc.
 - i. If the owner/developer selects from the menu, the items are administratively approved without a larger review process.
 - ii. If the owner/developer does not want to work from the pre-approved list, staff may determine additional staff review is necessary.
 - c. The owner/developer does not have invite to the public onto their property as part of the site plan. For example, the property owner may do vinyl window artwork, interior artwork displays viewable to the public walking by, artwork on exterior fencing, or public Wifi hotspots, among other options.
4. After the owner/developer has the enhancement plan approval from staff, they may submit the completed plan, along with the any other necessary paperwork, to request an additional time extension on their existing DA/PAD from Council.
5. The above process will repeat if the owner/developer later seeks a 2nd DA/PAD extension. The existing enhancement plan, if maintained, at the discretion of staff, may serve to meet the requirements in requesting additional time extensions.
6. If the owner/developer prefers, they may voluntarily submit an enhancement plan along with their initial DA/PAD. Under this voluntary scenario, the initial DA/PAD does not have a two-year time period for expiration. However, if the site enhancements are not maintained, the DA/PAD expires in two years from the point of notice of lack of maintenance.

DIRECTION:

Request Council direction to move forward with adopting PAD and Vacant Building policy recommendations in the form of new departmental guidelines and amendments to the city's zoning ordinance.

WORKING GROUP MEMBERS:

Councilmember Granville
Councilmember Keating

STAFF ASSISTING THE WORKING GROUP MEMBERS:

Chad Weaver, Director of Community Development
Ryan Levesque, Deputy Director of Community Development
Donna Kennedy, Director of Economic Development
Sonia Blain, Deputy City Attorney
Brenda Abney, History Museum Manager - Arts and Culture
Elizabeth Higgins, Chief of Staff to Mayor and Council
Parrish Spisz, Council Aide