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**PLANNING DEPARTMENT**

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**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE  
REGARDING PROCEDURES, AMENDING CHAPTER 4**

**FILE NUMBER:** LDC:14-07

**APPLICANT:** City of Phoenix

**STAFF REPORT:** Available April 15, 2014 at the City of Phoenix, 112 W. 2<sup>nd</sup> Street (M-F, 8:00 a.m. to 5:00 p.m.) or on the website ([www.phoenixoregon.net](http://www.phoenixoregon.net)). For more information, call City of Phoenix, Planning Office, 541-535-2050

**DATE OF PLANNING COMMISSION HEARING:** May 12, 2014

**PROJECT INFORMATION:** In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) Eliminate requirements for pre-application for Type II applications; 2.) Change procedures to meet State law; and 3.) Add requirements to meet Trip Budget Overlay Zone requirements.

**I. PROPOSED AMENDMENTS:** The proposed amendments are:

## **4.1 Types of Applications and Review Procedures**

### **4.1.4 - Type II Procedure (Administrative)**

**A. Pre-Application.** A pre-application conference is ~~required~~ *recommended* for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

### **4.1.6 – Type IV Procedure (Legislative)**

#### **A. Pre-Application Conference**

**B. Timing of requests.** The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. *Legislative requests are not subject to the 120-day review under ORS 227.178.*

#### **C. Application requirements**

#### D. Notice of hearing

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
  - a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).
  - b. At least 20 days, but not more than 40 days.
  - c. At least 10 days before scheduled City Council public hearing, public notices shall be published on the City of Phoenix website.
  - d. The Planning Department shall file an affidavit of mailing or public notice in record as provided in Subsection a. and b.
  - ~~b. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.~~
  - e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).

## Chapter 4.2 - Development Review and Site Plan Review

### 4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

- A. General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with Subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.
- B. Site Design Review Information.** An application for Site Design Review shall include the following information: (not shown are the items 1 through 9)
- C. Site Design Review Additional Information for Overlay Zones.** An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).*

## Chapter 4.4 – Conditional Use Permits

### 4.4.5 – Additional Development Standards for Conditional Use Types

- A. General Submission Requirements.
- B. Site Design Review Information.
- C. **Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.*

## 4.7 – Land Use District Map and Text Amendments

### 4.7.2 Legislative Amendments

*Legislative Amendments.* Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to *the criteria listed in 4.7.2.B and to* Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

*A. Criteria for Legislative Amendments.*

1. *The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:*
  - (a.) The proposed amendment is consistent with the purpose of the subject section and article.*
  - (b.) The proposed amendment is consistent with other Provisions of this Code.*
  - (c.) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.*

### 4.7.3 – Quasi-Judicial Amendments

**4.7.3 – Quasi-Judicial Amendments.** Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application ~~or Code revision~~. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 –

Type III Procedure (Quasi-Judicial), using standards of approval in Subsection “B” below. The approval authority shall be as follows:

- 1.
- 2.
- 3.

**II. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:** Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2

**FINDING:** This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

**FINDING:** The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

**FINDING:** A copy of all notification is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

**FINDING:** The changes to the Type II Procedure with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.” The change will eliminate a step that is unnecessary and expensive when the proposal is simple.

**FINDING:** The changes to the notice of the State are in compliance with Comprehensive Plan policies as they will put the City in compliance with current State law.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

**FINDING:** The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or the Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, if applicable.

**FINDING:** The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

**FINDING:** The changes to the Site Design Review and Conditional Use Permit to review submissions will correct an error in the Development Code (sections 4.2.5 and 4.4.5) which did not link the adoption of a Trip Budget Overlay Zone to requirements of development.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

**FINDING:** The changes to the process will have no transportation impact to the City transportation facility.

**FINDING:** The changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of a State facility.

**FINDING:** The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

- III. RECOMMENDATION:** Staff recommends that the Planning Commission review the amendments to Chapter 4 of the Phoenix Development Code and the Phoenix Municipal Code, take testimony and direct Staff on a recommendation to City Council.