



CITY OF SIERRA VISTA
PLANNING AND ZONING COMMISSION
NOVEMBER 19, 2024
CITY COUNCIL CHAMBERS
1011 N. CORONADO DRIVE

REGULAR MEETING.....5:00 PM

CALL TO ORDER

ROLL CALL

ACCEPTANCE OF AGENDA

ACCEPTANCE OF MINUTES

1. October 1, 2024

CHAIR COMMENTS

CALL TO THE PUBLIC

OLD BUSINESS

NEW BUSINESS

2. Resolution 1207
Development Code Text Amendments
Section 151.06.010, Accessory Dwelling Units
Article 151.31, Amendments
3. Discussion Item
Work Program 2024-2025
Potential Code Amendments

FUTURE DISCUSSION ITEMS, COMMISSION REQUESTS, AND ANNOUNCEMENTS

INFORMATION

Update on Projects

CITY COUNCIL LIAISON COMMENTS

Update on City Council Items

ADJOURNMENT

The doors to the City Council Chambers at City Hall will open at 4:30pm.

SIERRA VISTA PLANNING AND ZONING COMMISSION

October-1, 2024
City Council Chambers
Meeting Minutes

The regular meeting of the Sierra Vista Planning and Zoning Commission was called to order at 5:00 p.m. in the City Council Chambers.

Members Present: Brad Snyder, Chair
Randy Wilcox, Vice-Chair
Daman Malone
Tait Wilcox
Paul Cimino

Members Absent: None

Staff Present: Jeff Pregler, Senior Planner

Council Present: Mayor Pro Tem Umphrey

Others Present: Rick Coffman, Castle & Cooke Arizona
Marc Walston, Walston Homes

ACCEPTANCE OF THE AGENDA:

Commission member Malone made the motion to accept the agenda. Commission member Cimino seconded the motion.

VOTE: Approved by a vote of 5-0.

ACCEPTANCE OF THE MINUTES:

1. Commission member Cimino made the motion to accept the meeting minutes of July 23, 2024. Commission member Tait Wilcox seconded.

VOTE: Approved by a vote of 5-0.

CHAIR COMMENTS

None.

OLD BUSINESS:

None.

NEW BUSINESS:

PUBLIC HEARING

2. Resolution 1206
Estates II at Holiday Preliminary Plat, Lots 1-10

He stated that Castle & Cooke Arizona submitted the Estates II at Holiday plat for review and approval. The plat is the final subdivision within Holiday. The land use designation is High Density Residential as defined in the VISTA 2030 and the lot sizes range from 7,700 to 13,000 square feet. The zoning is Multi-Family Residence which is consistent with the land use designation. There will be 10 detached single-family homes in the subdivision it encompasses 4.50 acres, for an overall density of 2.2 homes per acre. There will only be one phase of the subdivision.

There will be a 24-foot front yard building setback, which includes the width of the 4-foot sidewalk which is located within the boundaries of the private lots. The interior side yard setback is 5 feet, the street side setback is 10 feet, and the rear setback is 15 feet.

Regarding access into the subdivision, access will be from Renee Place, which connects to Great Basin Lane. All roadways are private and will be maintained by the homeowner's association. All roadways will be 26 feet in width.

Lots 1 and 10, and the detention basin, are currently located within a FEMA floodplain. The affected lots will need to be removed from the floodplain prior to the construction of the homes.

Curb, gutter, and sidewalk will be constructed along all roadways. Sidewalk will also be extended along Great Basin Lane which will connect to multi-use paths along the wash, a neighborhood park, and a club house with additional recreational amenities.

The project is consistent with the following General Plan Goals and Strategies:

Goal 2-4 Strategy (3) – Design sites to provide access and connections to alternative transportation routes such as multi-use paths, sidewalks, and bus routes.

Goal 12-9 Strategy (1) – Promote physical design, building structure, lot layout relationships, and landscaping opportunities between existing and new housing construction to help the new developments complement the surrounding neighborhoods.

Mr. Cimino asked if the subdivision would have access to State Route 92. Mr. Pregler said that there would not be direct access to State Route 92.

Mr. Snyder asked if the design of the homes will be like the houses within Holiday. Mr. Walston said that the architectural design and landscaping would be like the Castle & Cooke homes. Mr. Coffman said that the floor plans will be similar to what was built within Estates I. Mr. Snyder followed up by asking if Castle & Cooke's floor plans will be used. Mr. Walston stated that three of the Castle & Cooke floor plans will be used.

Mr. Snyder asked about the timeline for build-out of the homes. Mr. Walston indicated that development will begin at the first of the year, with ultimate build-out within two years.

Mr. Randy Wilcox asked about the length of time to remove the lots from the floodplain. Mr. Walston and Mr. Coffman both indicated that the process is quick and should not be a lengthy process. Mr. Coffman also explained that Castle & Cooke went through a very similar process with some of the other lots in Holiday. Mr. Pregler clarified that the lots located within the floodplain will be unable construct homes until they are removed from the floodplain.

Mr. Snyder asked if the dirt mound on the property would be used to raise the lots. Mr. Coffman said the dirt will be used for this purpose.

Mr. Cimino asked about the flexibility of the driveway length in the front yard setback. Mr. Coffman and Mr. Walston stated that because of the large lots, there is some flexibility in adjusting the length of the driveways. Mayor Pro Tem Umphrey explained that the garages are no longer used for cars but for storage, which also prompted the need for longer driveways.

Mr. Snyder asked about the average size of the homes. Mr. Coffman stated the average will be about 2,500 square feet.

Mr. Randy Wilcox asked if they would be spec homes. Mr. Walston stated that the houses will start as spec homes.

Mr. Snyder opened the meeting to the public. There being no response, Mr. Snyder closed the meeting to the public.

VOTE: 5-0, unanimous to approve

FUTURE DISCUSSION ITEMS, COMMISSION REQUESTS, AND ANNOUNCEMENTS

Mr. Malone indicated that he will be presenting ideas to City Council and the Planning & Zoning Commission about pursuing a hummingbird statue in the community.

INFORMATION

Mr. Pregler updated the Commission on the Taco Bell project as well as the vacant pad adjacent to Taco Bell. The Commission was also updated on Project Summer, Popeye's, Circle K, the sewer project north of Target, and the ADOT highway improvement project.

Mr. Pregler updated the Commission on the annual work program and indicated that a discussion on future code amendments will take place either in October or November.

CITY COUNCIL LIAISON COMMENTS

Mayor Pro Tem Umphrey reminded the Commission that the General Plan is on the ballot.

ADJOURNMENT

The meeting was adjourned at approximately 5:45PM.

BRAD SNYDER
Chairperson
Planning & Zoning Commission

MATT MCLACHLAN, AICP
Executive Secretary
Planning & Zoning Commission

Jeff Pregler, AICP
Recording Secretary

STAFF MEMORANDUM

TO:	Planning and Zoning Commission
FROM:	Jeff Pregler AICP, Senior Planner
THRU:	Matt McLachlan, AICP, Community Development Director
MEETING DATE:	November 19, 2024
SUBJECT:	Proposed Text Amendments to Sierra Vista Development Code Relating to: Sections 151.06.010, Accessory Dwelling Units; Article 151.31, Amendments as required by Arizona Revised Statutes
REQUESTED ACTION:	I move that Resolution 1207, providing for text amendments to Section 151.06.010 and Article 151.31 of the Development Code, as shown in Exhibit A, be recommended for approval to the Mayor and City Council.

APPLICANT

City of Sierra Vista

BACKGROUND:

In 2022, the Arizona Department of Housing stated that there was a housing shortage of approximately 270,000 units in Arizona, a portion of which included affordable housing. As a way to address this concern, the Arizona state legislature passed two significant housing bills in 2024. One housing bill, H.B. 2720, requires cities with a population above 75,000 people to allow accessory dwelling units on lots containing single family residential homes. More significantly to Sierra Vista, the state law prohibits all jurisdictions from imposing certain regulations on accessory dwelling units. The second housing bill, S.B. 1162 requires all jurisdictions to provide review deadlines for residential rezonings. The intent is to expedite the review of residential rezonings and ultimately the residential development process. The deadline to approve the standards from both legislative bills is January 1, 2025.

ANALYSIS

Section 151.06.010, Accessory Dwelling units

As mentioned, the new state law, H.B. 2720 prohibits jurisdictions from regulating certain development standards for accessory dwelling units. Staff is proposing to amend Section 151.06.010 to comply with state law.

The first amendment to this section removes the architectural requirement that accessory dwelling units be designed to be consistent with the principal structure. Under the new state law, municipalities shall not *“require that an accessory dwelling unit match the exterior design, roof pitch or finishing materials of the single-family dwelling that is located on the same lot as the accessory dwelling unit.”*

The maximum height requirement for accessory dwelling units is amended from 15 feet to 28 feet. The current height limit was set to be consistent with the maximum height of other accessory structures. However, under the new state law, a municipality may not *“set restrictions for accessory dwelling units that are more restrictive than those for single-family dwellings within the same zoning area with regard to height, setbacks, lot size or coverage or building frontage.”* The proposed 28-foot maximum building height for accessory dwelling units matches the maximum building height for single family residential homes, making the standard consistent with state law.

Article 151.31, Amendments

S.B. 1162 requires municipalities to include review deadlines for residential rezonings. Per the state law, the City will need to determine if a rezoning application is administratively complete within thirty days after initial submittal. The review timeline is suspended until the applicant resubmits a complete application. The City shall have fifteen days to determine administrative completeness on additional submittals. Once the City deems the application administratively complete, the City will have 180 days to either approve or deny the application. Currently, the Development Code does not have any review timelines for rezonings. Adding this language will bring the Development Code into compliance with state law.

The City is also proposing to amend language related to the public protest process for rezonings. The state law relating to rezoning protests was changed a few years ago. The proposed amendment brings this section of the Code into compliance with Arizona Revised Statutes.

Attachments: Exhibit A

RESOLUTION 1207

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; BY RECOMMENDING APPROVAL OF AMENDMENTS TO CHAPTER 151 OF THE CITY CODE OF ORDINANCES, THE DEVELOPMENT CODE, AS SHOWN ON EXHIBIT A; AND DIRECTING THE EXECUTIVE SECRETARY TO TRANSMIT THE PLANNING AND ZONING COMMISSION'S RECOMMENDATION AND COMMENTS TO THE CITY COUNCIL.

WHEREAS, the provisions of A.R.S. 9-462.04 and Chapter 151, Development Code, of the City Code of Ordinances, allow text amendments to be granted by the City; and

WHEREAS, in accordance with the provisions of Article 151.31 of the Development Code and established policy, the City of Sierra Vista, has proposed text amendments to the following: Section 151.06.010 (Accessory Dwelling Units) and Article 151.31 (Amendments); and

WHEREAS, Article 151.31 of the Development Code requires that the Planning and Zoning Commission review all applications for text amendments, and to forward recommendation on the application to the City Council; and

WHEREAS, as required by Article 151.31 of the Development Code, the Planning & Zoning Commission held a public hearing on the application, after proper notice had been given; and

WHEREAS, the Planning and Zoning Commission considered all the facts of the application and the comments of the citizens at a public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1

The Planning and Zoning Commission reaffirms settled policy for recommending Development Code text amendments to City Council.

SECTION 2

That text amendments to Chapter 151 of the City Code of Ordinances, the Development Code, as shown on Exhibit "A" are hereby recommended to the Mayor and City Council.

SECTION 3

That the Executive Secretary be, and hereby is, directed to transmit the Planning and Zoning Commission's recommendation and comments to the City Council.

RECOMMENDED FOR APPROVAL BY THE CHAIRPERSON AND MEMBERS OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SIERRA VISTA, ARIZONA THIS 19TH DAY OF NOVEMBER 2024.

BRAD SNYDER
Chairperson

APPROVED AS TO FORM:

ATTEST:

NATHAN WILLIAMS
City Attorney

JILL ADAMS
City Clerk

PREPARED BY:
Jeff Pregler, AICP,

Section 151.06.010 Accessory Dwelling Units

A. Location. The accessory dwelling unit may be added to or included within the principal dwelling unit or located in a detached structure. Detached accessory dwelling units shall be entirely located behind the front face of the principal structure.

B. Approval Process. One accessory dwelling unit is permitted per lot provided the Community Development Director or his or her designee first approves the proposed accessory dwelling unit and a standard building permit is issued.

C. Application Requirements. Requests shall be made using an application form provided by the Department of Community Development. A plot plan ~~and architectural elevations~~ illustrating conformance with the development standards shall be included with the submittal.

~~D. Public Comment. No less than thirty (30) days prior to a building permit is issued, the City shall provide written notice by first class mail to each of the directly adjacent property owners to the applicant's property as documented in the Cochise County Recorder's Office records. The notice shall include the plot plan, architectural elevations of the proposed accessory dwelling unit, a description of the applicable development review standards, and the procedure for providing comment on the application. Comments received indicating non-compliance with the development standards shall be reviewed by the Director of Community Development or designee and may require a revision to the original submittal.~~

~~D.E. Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.~~

~~E.F. Number of Occupants. The number of adult occupants who may reside in an accessory dwelling unit shall not exceed two.~~

~~E.G. Basic Development Standards.~~

~~1. Additions to an existing structure or newly detached accessory dwelling unit shall be designed consistent with the existing roof pitch, siding and windows of the principal dwelling unit.~~

~~1.2. The maximum building height ~~of detached accessory dwelling units~~ shall not exceed 28 ~~fifteen (15)~~ feet.~~

~~2.3. The orientation of the proposed accessory dwelling unit shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the physical characteristics surrounding the accessory dwelling unit, including landscape screening, fencing, and window and door placement.~~

~~3.4. Detached accessory dwelling units shall be a minimum of 5 (five) feet from the side and rear property lines.~~

~~4.5. There shall be at least five (5) feet of separation between a detached accessory structure and any other building on the property.~~

~~5.6. The habitable floor area of the accessory dwelling unit shall not exceed fifty (50) percent of the gross floor area of the principal dwelling unit or eight hundred (800) square feet, whichever is less.~~

6.7. The accessory dwelling unit shall not contain more than one bedroom.

ARTICLE 151.31 AMENDMENTS

Sections:

151.31.001	Amendments
151.31.002	Types of Amendments; Initiation of Same
151.31.003	Application for Amendment
151.31.004	Approval of Residential Zoning Applications
151.31.00 4 5	Notice of Public Hearing
151.31.00 5 6	Commission Hearings and Recommendation
151.31.00 6 7	Council Hearings and Decision
151.31.00 7 8	Protest Against Amendments
151.31.00 8 9	Reconsideration of Denied Zoning District Map Amendments
151.31.00 9 10	Fees

Section 151.31.001 Amendments

The Council may from time to time, upon recommendation of the Commission, amend, supplement, change or repeal the regulations, restrictions and district boundaries herein established. All amendments to this Code and the Zoning District Map shall be consistent with the adopted General Plan, as amended, and shall be a reflection of the City's land use planning goals. Requests to amend this Code may be initiated by the Council or the Commission on their own motions, or by petition from property owners as hereinafter set forth.

Section 151.31.002 Type of Amendments; Initiation of Same

A. Text Amendment. The application for an amendment to the text of this Code shall state in particular the article, section, subsection, and paragraph sought to be amended. The application for amendment shall contain the language of the proposed amendment and shall recite the reasons for the proposed change in the text.

B. Map Amendment. An application which seeks to change or modify the zoning classification imposed upon a particular piece of property by the district map.

C. The initiation of a change to the text and/or Zoning District Map may be accomplished by one of the following methods:

1. A majority of the property owners in the area of proposed change or their authorized agents; or
2. A majority vote of the Council; or
3. A majority vote of the Commission.

Section 151.31.003 Application for Amendment

A. Application Form for Text Amendment. Application for a text amendment shall be made to the City and include the required information and documentation specified on the form. The Department of Community Development shall review each application for technical compliance with established application requirements and shall formally accept or reject the application within three working days. The application submittal, at a minimum shall include:

1. The applicant's name, address, and interest in the amendment; and
2. The language of the proposed amendment to the Code; and
3. Statements in support of the application, including a list of the present conditions justifying the proposed amendment.

B. Application for Zoning District Map Amendment. An application for an amendment to the Zoning District Map shall be made to the City and include the required documentation as specified on the form. The application submittal, at a minimum, shall include the following:

1. Name and address of the applicant. If the applicant is not the owner of the property, the name and address of the owner shall be supplied along with the authorization that the applicant is the agent of the owner and may apply for the permit. Proof of ownership must be submitted with the application. The ownership information shall be as documented in the Cochise County Recorder's Office records.
2. A preliminary site plan of the property showing the use(s) proposed for the site, showing setbacks, heights, parking areas, landscaping, and other information to assist in the evaluation of the request.
3. A map drawn to scale showing the existing and proposed district boundaries and an accurate legal description of the area being proposed for the amendment. If the legal description of the property is less than the entirety of the lot, block or parcel described in a recorded subdivision, a legal description and map shall be prepared and certified by a registered surveyor licensed by the State of Arizona.
4. Appropriate public service and utility information, including how the project will be served by water, sewer, gas, electricity, telephone, and other utilities.
5. Statements reflecting the present conditions justifying the proposed amendment; statements showing that the parcel fulfills the criteria for establishment of the proposed zoning district or, in the absence of the ability to comply, statements as to why the

presumption against the rezoning should be overcome; and any other factors or reasons in support of the proposed amendments.

6. Public service information, including how the project will impact local services such as schools, police, parks, fire service, sanitary pick-up, and other similar services. Included shall be how the developer will provide public paved roads, provisions of parks and playgrounds for residential development, and other services required by the project as applicable.

7. A neighborhood meeting shall be required for all Zoning District Map amendments. Neighborhood meetings shall be held no later than seven days prior to the Commission public hearing. The applicant is responsible for organizing, scheduling, and supplying all materials for the neighborhood meeting. All property owners within 500 feet of the exterior boundaries of the property shall be notified. The applicant will provide the City with information on the meeting date, time, location, and purpose of the meeting. The applicant shall also provide a copy of the letter sent to the adjacent property owners notifying them of the meeting, and a written summary of the meeting to the City.

Section 151.31.004 Approval of Residential Zoning Applications

A. Administrative completeness review time frame. For each residential zoning application, the Community Development Director shall designate a staff member to review the application. The designated City staff member shall determine whether the application is administratively complete within thirty (30) days after receiving the application. If the application is deemed administratively incomplete, the staff member will provide the applicant with a written notice that includes a comprehensive list of the specific deficiencies. Upon issuance of the written notice, the administrative completeness review time frame and overall time frame contained in this Section are suspended until the staff member receives the resubmitted application. The staff member shall have fifteen (15) days to review the resubmitted application and determine whether every deficiency has been resolved for administrative completeness.

B. Approval or Denial of Residential Zoning Applications. After determining that a residential zoning application is administratively complete, the City Council shall approve or deny the application within one hundred eighty (180) days . The City may extend the time frame to approve or deny beyond one hundred eighty (180) days as follows:

(1) staff may grant a one-time extension of not more than thirty (30) days for extenuating circumstances; or

(2) staff may grant extensions in thirty (30) days increments at the request of the applicant.

Section 151.31.0045. Notice of Public Hearing

A. Public Notice Requirements. Notice of the time, date, and place of the public hearing, including a general explanation of the text or map amendment will be given at least 15 days before the hearing in the following manner:

1. Each notice of public hearing for text or map amendments shall be published at least once in a newspaper of general circulation published and posted at locations identified as posting areas by the City Clerk.
2. Notice of the time, date and place of the hearing on Zoning District Map amendments shall be posted on the affected property. A posted notice shall be printed so that the following are visible from a distance of 100 feet: the word "zoning," the present district classification, the proposed zoning district classification and the date and time of the hearing.
3. Notice of the time, date and place of the hearing for a text or map amendment shall be mailed by certified mail to the owner and applicant or their agent.
4. Notice of the time, date and place of hearings on Zoning District Map Amendments shall be sent to all owners of property within 500 feet of the exterior boundaries of the property. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice. In addition to persons whom receive notice as required by the matter under the consideration, the City may provide notice to others if it has reason to believe that they are affected or otherwise represent an interest that may be affected by the proposed development.
5. In proceedings involving Zoning District Map Amendments for land that abuts other municipalities or un-incorporated areas of the County or a combination thereof, copies of the notice of public hearing shall be sent to the planning agency of such governmental unit controlling such abutting land.
6. In proceedings involving Zoning District Map Amendments that has land located within the territory in the vicinity of a military airport or ancillary military facility as defined in section A.R.S. 28-8461, a copy of the notice of public hearing shall be sent by first class mail to the Fort Huachuca Encroachment Board.
7. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed in paragraph 8 of this Section:
 - a. A 10 percent or more increase or decrease in the number of square feet or units that may be developed.
 - b. A 10 percent or more increase or reduction in the allowable height of buildings.
 - c. An increase or reduction in the allowable number of stories of buildings.
 - d. A 10 percent or more increase or decrease in setback or open space requirements.

e. An increase or reduction in permitted uses.

8. In proceedings governed by this Section, the City shall provide notice to real property owners pursuant to at least one of the following notification procedures 15 days before the hearing in the following manner:

a. Notice shall be sent by first class mail to each real property owner, as shown on the last assessment from the County Assessor's records, whose real property is directly governed by the changes.

b. The City shall include notice of such changes with utility bills or other mailings.

c. The City shall publish such changes prior to the first hearing on such changes in a newspaper or general circulation in the City. The changes shall be published in a display ad covering not less than 1/8 of full page.

9. If notice is provided pursuant to Subsections b or c of Paragraph 7, the City shall also send notice by first-class mail to persons who register their names and addresses with the City as being interested in receiving such notice.

10. If the matter to be considered applies to territory in a high noise or accident potential zone as defined in A.R.S. 28-8461, the notice pursuant to Paragraph 7 on this Section, shall include a general statement that the matter applies to property located in the high noise or accident potential zone.

11. Notwithstanding the notice requirements set forth in Subsection A of this Section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

Section 151.31.0056. Commission Hearings and recommendation

Every application for amendment of this Code shall be considered by the Commission at a public hearing.

A. Burden of Proof. The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal, the greater is the burden upon the proponent. The proposal must be supported by proof that it conforms to the applicable elements of the General Plan and to applicable provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.

B. Order of Proceedings

1. The presiding officer will state the case and call the public hearing to order. The presiding officer may establish the time allowed for the presentation of information.

2. Any objections or jurisdictional grounds shall be noted in the record.

3. Any abstentions or disqualification shall be determined. Members shall announce all conflicts of interest.

4. Presentation of staff report. City staff may also present additional information, whenever allowed by the presiding officer, during the proceedings.

5. The Commission and Council may view the area in dispute for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.

6. Presentation of information by the applicant or those representing the applicant.

7. Presentation of evidence or inquiries by those persons who support the proposal.

8. Presentation of evidence or inquiries by those persons who oppose the proposal.

9. Presentation of evidence or inquiries by those persons who do not necessarily support or oppose the proposal.

10. Rebuttal testimony may be presented by persons who have testified supporting or opposing the proposed change. The scope of material presented during rebuttal shall be limited to matters that were brought up during the course of the hearing. Rebuttal shall be first presented by the applicant or his representative and then by those opposed to the proposed change. The presiding officer shall limit rebuttal to avoid repetition and redundancy.

11. At the close of presentation of information, rebuttal, and written argument, the presiding officer shall declare that the hearing is closed unless there is a motion to continue the public hearing. Additional written argument may be permitted at the discretion of the Commission and Council.

12. Once a hearing has been closed, it shall be reopened only upon a majority vote of the Commission and Council and only after a reasonable showing that:

a. There is evidence which was not reasonably available at the time of the hearing; and

b. The evidence is now available to the person seeking to reopen the hearing; and

c. The evidence is factual, substantial, and material. If the hearing is closed, no further evidence shall be received except in response to specific questions directed to staff or one of the parties to clarify earlier evidence. The opportunity for brief rebuttal shall also be afforded to adverse parties.

C. Rules of Procedure

1. Formal rules of evidence shall not apply.

2. Written exhibits, visual aids, affidavits, maps, and the like may be submitted as part of the evidence. Any correspondence presented to or received by any member of the Commission and/or Council, or by any other City agency or official outside the public hearing, may be received as argument and placed in the record, but will not be considered as part of the information, except that correspondence received prior to the closing of the public hearing shall be included as part of the information in that hearing. Unless the

Commission or Council specifically allows later filing of argument, no correspondence received after the close of the hearing will be considered as argument.

3. All information received by the Commission and Council shall be retained and preserved and shall be sent to an appellate body in the event an appeal is filed in accordance with Section 151.31.006. True, certified, or recorded copies of original information may be substituted for original documents.

4. All evidence and argument shall be as brief as possible, consistent with full presentation.

5. Redundancy shall be avoided.

6. Each person presenting information or argument shall be permitted to complete his presentation without interruption, except by the presiding officer, to enforce this Code.

7. Discussion of personalities shall be avoided to the extent possible in making a complete presentation.

8. No person present shall engage in applause, cheers, or other vocal or outward expressions of approval or disapproval, agreement or disagreement. If any person persists in such conduct after warning by the presiding officer, such person may be expelled from the hearing.

9. The presiding officer has complete authority to enforce these provisions to assure that a fair hearing is held, including the authority to expel from the public hearing and to bar from further appearance at the public hearing any person who willfully violates any one or more of these provisions.

B. Findings. The Commission shall recommend approval, approval with conditions, or denial of the request based on compliance with the following findings.

1. Findings for Map Amendments:

a. The change is consistent with the General Plan goals and policies;

b. The change is consistent with the purpose of the Development Code to promote the growth of the City in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare;

c. The change is necessary to achieve the balance of land uses desired by the City and to provide sites for needed housing or employment-generating uses; and to increase the inventory of land within a given zoning district to meet market demand.

2. Findings for Text Amendments:

a. Demonstrates the need and justification for the change; and,

b. Demonstrates the relationship of the proposed amendment to the City's General Plan with appropriate consideration as to whether the proposed change will further the purposes of this Code and other City ordinances and regulations; and

c. Consistent with the purposes of the Development Code to promote the growth of the City in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general public welfare and does not constitute a granting of special privileges to an individual owner.

C. After the hearing, the Commission shall render a decision in the form of a written recommendation to the Council and to the applicant. The recommendation shall include the reasons for the recommendation and be transmitted to the Council and the applicant by the Director of Community Development.

Section 151.31.0067. Council Hearings and Decision

A. If the Commission has held a public hearing, the Council may adopt the recommendations of the Commission without holding a second public hearing if there is no objection, request for public hearing, or other protest.

B. If an objection, request for public hearing, or other protest is formally submitted, a public hearing shall be required before the Council. The public hearing shall be advertised and meet the public notice requirements as stated 151.31.004. Requests for public hearing, objections, or protests, shall be submitted no more than seven days after the Commission has rendered their decision.

a. The Council shall act to approve, approve with conditions, or deny the request. Any decision must include a determination on whether the request is compliant with findings as stated in 151.31.005.(B). The Director of Community Development shall notify the applicant of the action.

C. The Council shall hold a public hearing should the Fort Huachuca Encroachment Board provide comments or analysis concerning the compatibility of the proposed Zoning District Map Amendment within the high noise or accident potential generated by the military airport or ancillary military facility operations, that may have an adverse impact on public health and safety. The Council shall consider and analyze the comments or analysis before making a final determination.

Section 151.31.0078. Protests Against Amendments

~~If the owners of 20 percent or more, (1) either of the area of lots included in a proposed change or (2) of those immediately adjacent in the rear or any side extending 150 feet, or (3) of those directly opposite extending 150 feet from the street frontage of the opposite lots, file a written protest against a proposed amendment, it shall not become effective except by the favorable vote of 3/4 of all members of the Council. If any members of the Council are unable to vote on such a question because of a conflict of interest, then, the required number of votes for passage of the question shall be 3/4 of the remaining membership of the Council, provided that such required number of votes for passage shall, in no event, be less than a majority (4) of the full membership of the Council.~~

If the owners of twenty percent or more of the property by area and number of lots, tracts and condominium units within the zoning area of the affected property, excluding government owned property, file a protest in writing against a proposed amendment, the

change shall not become effective except by the favorable vote of three-fourths of all members of the City Council. If any members of the City Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the City Council, provided that such required number of votes shall not be less than a majority of the full membership of the legally established City Council. For the purposes of this subsection, the vote shall be rounded to the nearest whole number. A protest filed pursuant to this subsection shall be signed by the property owners, excluding government owned property, opposing the proposed amendment and filed in the office of the clerk of the municipality not later than 12:00 noon one business day before the date on which the City Council will vote on the proposed amendment or on an earlier time and date established by the City Council.

Section 151.31.00~~8~~9. Reconsideration of Denied Zoning District Map Amendments

In the event that an application for a Zoning District Map Amendment is denied by the Council or is withdrawn after the Commission hearing, the Commission shall not reconsider the application nor consider another application for the same map amendment of this Code as it applies to the same property described in the original application, or any part thereof, for a period of not less than one year from the date of such denial action.

Section 151.31.00~~9~~10. Fees

A filing fee shall accompany each application for amendment to the map or text of this Code, and no part of such fee shall be refundable. Such fees shall be determined according to a schedule established by resolution of the Council and posted in the office of the City Clerk. In addition, the applicant must pay all required publishing costs associated with the appeal.