

# Staff Summary Report



Development Review Commission Date: 07/29/08

Agenda Item Number: \_\_\_\_

**SUBJECT:** Hold a public hearing for a Code Text Amendment for ZONING AND DEVELOPMENT CODE AMENDMENTS.

**DOCUMENT NAME:** DRCr\_ZDCamendments\_072908

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Request for **ZONING AND DEVELOPMENT CODE AMENDMENTS (PL080143)** (City of Tempe Development Services, applicant) consisting of changes within the Code providing reinvestment opportunities in our single-family residential neighborhoods relating to provisions for increased fence heights in the front yard, reduced rear yard building setbacks when adjacent to an alley, and time limitations for holding a required neighborhood meeting. The request includes the following:

**ZOA08001 – (Ordinance No. 2008.28)** Code Text Amendment for the Zoning and Development Code Sections 4-202, 4-706, 6-308, 6-401 and 6-402.

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)  
Ryan Levesque, Senior Planner (480-858-2393)

**REVIEWED BY:** Lisa Collins, Development Services Planning Director (480-350-8989)

A handwritten signature in black ink, appearing to be 'L. Collins', written over the printed name of Lisa Collins.

**LEGAL REVIEW BY:** Teresa Voss, Assistant City Attorney (480-350-8814)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval, subject to conditions

**ADDITIONAL INFO:** A neighborhood meeting is not required with this application. This amendment proposal was provided to the Neighborhood Advisory Commission on June 7, 2008. The Development Review Commission on July 8, 2008 continued this request.

- PAGES:**
1. List of Attachments
  - 2-3. Comments / Reason for Approval
  4. History & Facts / Reference

- ATTACHMENTS:**
- 1-4. Ordinance No. 2008.28
  5. Letter from Neighborhood Advisory Commission

**COMMENTS:**

Provided is a list of items proposed for amendments to the Zoning and Development Code. These items primarily pertain to promoting reinvestment within our single family neighborhoods by allowing greater flexibility in the Code regulations. These changes are consistent with previous approvals granted from past requests. Additionally there is a recommendation to place time limitations on how early a required neighborhood meeting may be set, including other clarifying amendments to this section. Below are the proposed amendments to the Code along with explanations:

**Sec. 4-706 (A)(1), Wall Heights**

The Code requires walls within the required front yard building setback to have a maximum height of 4'-0". Staff is recommending an allowance for additional wall height greater than 4'-0", subject to processing of a use permit (public hearing) with specific approval criteria. Staff has processed several requests for wall height increases in the front yard setback (see chart below), as well as undocumented customer inquiries to build taller fencing. Requests would be reviewed on a case-by-case basis in terms of its compatibility and could allow elements such as archways and fencing that would still allow visual surveillance of the surrounding area. Therefore, staff recommends allowing heights of a wall/fence to be up to eight (8) feet in height for single-family (10 feet in other areas) subject to a use permit process to determine the appropriateness of the request. See Attachment 2, Section 2 & Attachment 3, Section 5 of Ordinance change.

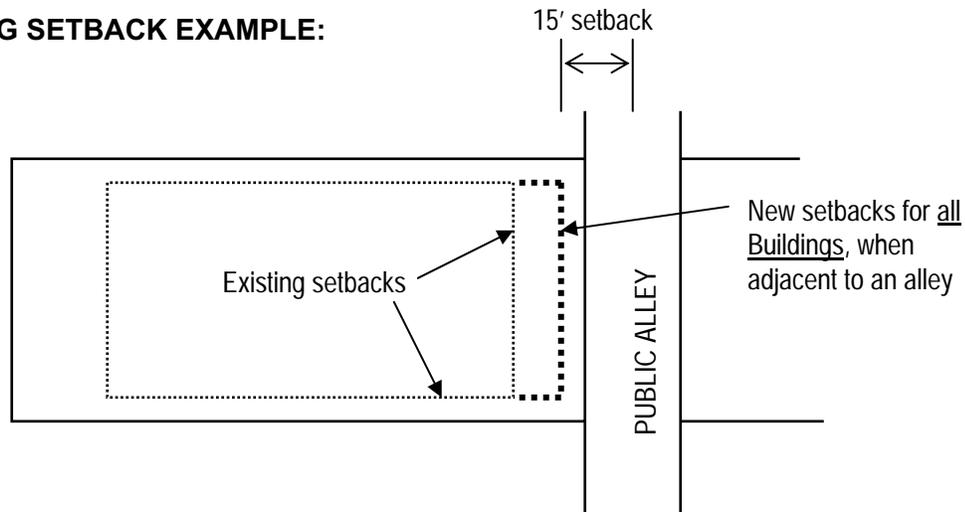
Requests 2003-2008	# of Requests	Approvals	Denials	Average Height	Range
Wall Height Variances	10	7	3	6'-4"	4'-0" to 8'-0"

**Sec. 4-202, Rear Yard Building Setbacks**

Last year a Code amendment was adopted that allowed "accessory buildings" to be located closer to the rear yard property line when adjacent to a public alley; the setback modification allowed for the rear yard to be measured from the centerline of the alley. Staff recommends including this provision as well for the "rear yard building" setbacks in a single-family zoning district. Staff has processed nine requests for rear yard setback reductions in the past five years (See chart below). Staff is recommending relief in the rear yard setback when adjacent to a public alley. Based on a typical alley (20 feet), a property would measure a distance of ten feet from the center of the alley, for the purpose of a building setback. This change would grant a setback five feet from the property wall, if any (see example below). The rationale behind the recommended change is that rear yard setbacks are intended to provide adequate separation from adjoining properties in a single-family neighborhood, while still maintaining a private yard for the personal enjoyment of the neighboring residents. If an alley exists, there is perceived to be less imposition on the properties to the rear. See Attachment 1, Section 1 of Ordinance change.

Requests 2003-2008	# of Requests	Approvals	Denials	Average Setback	Range
Rear Yard Setback Variances	9	6	3	7'-6"	15'-0" to 1'-0"

**R1-6 ZONING SETBACK EXAMPLE:**



### **Sec. 6-402, Neighborhood Meetings**

Recommend defining a time limitation for scheduling the required neighborhood meeting for a project. This change is in response to concerns raised by the Development Review Commission on a previous project that had complied with the requirements of a neighborhood meeting, but did not hold its first public hearing until well after the initial neighborhood meeting. Because of the potential for a large gap in time from the initial neighborhood meeting to the first public hearing, staff recommends a maximum of one (1) year from a neighborhood meeting to the first public hearing. This would allow a project to garner preliminary feedback and respond to any suggested changes before submitting a formal application, with subsequent hearings scheduled in accordance with the City's procedures. If a project's first public hearing for a request extended beyond one year from the date of a neighborhood meeting, the request will be required to hold another neighborhood meeting, consistent with the requirements of the Code and no earlier than fifteen days before the first public hearing, as currently required.

Staff also recommends providing a consistent notification period requirement for all notices. The notification time period on the neighborhood meeting would be consistent with all other public hearing notices, fifteen (15) days rather than fourteen (14) days. In addition, staff recommends adding requirements to the 16 square foot neighborhood meeting signs to also include future corresponding hearing dates. This is a current practice of the Development Services Department, working with the applicant to supply accurate information on the signs that are all inclusive of the scheduled meetings. These type of requests are typically for the major development projects that have an extended process time period with multiple hearing dates. See Attachment 2-3, Section 3-4 of Ordinance change.

### **Public Input**

On June 7, 2008 the Neighborhood Advisory Commission recommended support of the proposed changes in the Zoning and Development Code. One comment from the Neighborhood Advisory Commission suggested providing illustrations in the Code, demonstrating the type of acceptable wall height allowances. Staff recommends at this time not to include any illustrations because the requested height is subject to a use permit approval process. This will avoid potential confusion from customers that by simply following the illustration the additional wall height would automatically be granted. The request needs to be evaluated on a case by case basis for the context of the area, any public feedback, as well as maintaining acceptable visual surveillance.

**On July 7, 2008 staff received an inquiry from a resident on the proposed code text amendments, requesting additional review time. Based on the continuance granted staff hopes to address any questions/concerns the resident may have.**

### **REASONS FOR APPROVAL:**

1. The proposed amendments meet the goals and objectives of the General Plan.
2. The setback reductions for buildings implements the General Plans Neighborhood Element by encouraging reinvestment and redevelopment appropriate to each neighborhood, by promoting neighborhood preservation and enhancement within the neighborhoods.
3. The neighborhood meeting time limitation ensures current residents of an area an opportunity to voice their comments.

### **CONDITIONS OF APPROVAL:**

NONE PROPOSED

**HISTORY & FACTS:**

- May 27, 2008            Development Review Commission reviewed at a study session a memorandum of proposed Zoning and Development Code Text Amendments regarding wall height, rear yard building setbacks and neighborhood meetings. Questions were provided by the Commission at the meeting.
- June 7, 2008            Neighborhood Advisory Commission reviewed a memorandum of proposed Zoning and Development Code Text Amendments regarding wall height, rear yard building setbacks and neighborhood meetings. The Commission recommended approval of the proposed changes.
- July 8, 2008            At the request of staff, the Development Review Commission continued the request for Zoning and Development Code Text Amendments included in this report, to July 29, 2008.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

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

**ORDINANCE NO. 2008.28**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 4 – DEVELOPMENT STANDARDS, SECTIONS 4-202 AND 4-706; PART 6 – APPLICATIONS AND REVIEW PROCEDURES, SECTIONS 6-308 AND 6-402.**

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

**Section 1.** That a portion of Table 4-202A of Section 4-202 of the Zoning and Development Code, pertaining to rear setbacks, is hereby amended to read as follows:

<b>Table 4-202A – Development Standards in Agricultural and Single-Family Districts(1)</b>										
<b>Standard</b>	<b>AG</b>	<b>R1-15</b>	<b>R1-10</b>	<b>R1-8</b>	<b>R1-7</b>	<b>R1-6</b>	<b>R1-5</b>	<b>R1-4</b>	<b>R1-PAD</b>	<b>Use Permit Standard</b>
Density (DU/Acre)	1	2.40	2.80	3.35	3.75	4	6	8	NS	NA
Minimum Net Site Area (square feet) per Dwelling	43,560 sf	15,000 sf	10,000 sf	8,000 sf	7,000 sf	6,000 sf	5,000 sf	4,000 sf except 3,000 sf for common wall	NS	NA
Minimum Lot Width (feet)	115 ft	115 ft	90 ft	80 ft	70 ft	60 ft	NS	NS	NS	10%
Minimum Lot Length (feet)	150 ft	120 ft	100 ft	100 ft	100 ft	100 ft	NS	NS	NS	10%
Maximum Height (feet) (e) [Exceptions, see Section 4-205(A)]	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	35 ft	NS	10%
Maximum Lot Coverage (% of net site area)	25%	45%	45%	45%	45%	45%	NS	NS	NS	10%
Setback (feet) (c): [Exceptions, see Section 4-205(B)]										
Front - Building	40 ft	35 ft	30 ft	20 ft	20 ft	20 ft	20 ft	15 ft except 20 ft for garage	NS	20%
Front - Open Structures (e.g. porch, trellis, patio wall)	35 ft	30 ft	25 ft	15 ft	15 ft	15 ft	15 ft	10 ft	NS	20%
Side	20 ft	15 ft	10 ft	7 ft	7 ft	5 ft (d)	5 ft (d)	5 ft (a)(d)	NS	20%
Rear (F)	35 ft	30 ft	25 ft	20 ft	15 ft	15 ft	15 ft	15 ft	NS	20%
Street Side (b)	25 ft	20 ft	15 ft	10 ft	10 ft	10 ft	10 ft	10 ft	NS	20%

NS = No Standard. NA = Not Applicable.

- (1) An *overlay district* may modify the above standards. See Part 5.
- (a) 0 feet for *common wall*.
- (b) *Street side yard setback* for *corner lots* adjacent to *key lots* shall be increased by 10 additional feet.
- (c) See also, Section 3-401 for *setbacks* applying to *accessory structures* and *buildings*.
- (d) Use Permit standard does not apply.
- (e) Second Story Addition or Rebuild, See Section 3-420.
- (F) IF ADJACENT TO A DEDICATED PUBLIC ALLEY, SETBACK SHALL BE MEASURED FROM THE MIDPOINT OF THE ALLEY.

**Section 2.** That Section 4-706(A) of the Zoning and Development Code, pertaining to wall heights, is hereby amended to read as follows:

**A. General Fence and Wall Height Standards.**

1. The maximum height of any freestanding wall or fence shall be measured from the highest adjacent finished surface of the ground, paving, or sidewalk within twenty (20) feet, unless otherwise noted. Walls or fences in a required front *yard building setback* shall be four (4) feet maximum height, including single-family residential *yards* USES. AN INCREASE IN HEIGHT TO THE MAXIMUM ALLOWED FOR SIDE AND REAR WALLS MAY BE PERMITTED SUBJECT TO A USE PERMIT;
2. In areas behind a required front *yard building setback* and within the required rear and side *yards*, the maximum height of walls shall be ten (10) feet, except where a taller wall is necessary to screen *service* areas under Section 4-706(G). For single-family uses, the maximum height shall be eight (8) feet;
3. The Clear Vision Requirements, Section 4-702(G), shall apply to fences and walls; AND
4. All fences and walls shall be subject to city review and approval through *development plan* review, or by approval of the Development Services Manager, or designee. Any wall in excess of six (6) feet shall require a building permit, as required by Building Code.

**Section 3.** That Section 6-401(C) of the Zoning and Development Code, regarding general provisions, is hereby added to read as follows:

**C. COMPUTATION OF TIME. ALL TIME REQUIRED ACTIONS SHALL BE CONSISTENT WITH "COMPUTATION OF TIME" AS DEFINED IN THE TEMPE CITY CODE, SEC. 1-2, DEFINITIONS AND RULES OF CONSTRUCTION.**

**Section 4.** That Section 6-402(C) of the Zoning and Development Code, pertaining to Neighborhood Meetings, is hereby amended to read as follows:

**C. Meeting Schedule.** The applicant is required to hold one (1) meeting, prior to the first public hearing on an application for a specific site, but may hold more if desired. The required meeting shall be held NO MORE THAN ONE YEAR (365 DAYS) BUT NO EARLIER THAN ~~at least~~ fifteen (15) calendar days before the first public hearing on the application.

**E. Notification Requirements.** Notice of the meeting shall be provided by the applicant as follows:

1. The development site shall be posted with public notice about the meeting not less than ~~fourteen (14)~~ FIFTEEN (15) calendar days prior to the date of neighborhood meeting, a notice of the date, time and place and a summary of the request. Such notice shall be clearly legible and wherever possible, placed adjacent to the right-of-way of a *public street* or road. It shall be the responsibility of the applicant to use reasonable efforts to maintain the notice once it has been placed on the subject property. ~~The Development Services Department will supply the sign(s) that shall be no smaller than six (6) square feet at a cost to the applicant.~~ It is the responsibility of the applicant to post the notice affiliated with items identified in Section 6-402(B)(2-5), with a *sign* having a minimum *sign* area of sixteen (16) square feet, WHICH SHALL INCLUDE INFORMATION ON FUTURE PUBLIC HEARINGS, PURSUANT TO SECTION 6-404(C)(2). FOR ALL OTHER APPLICATIONS THE NEIGHBORHOOD MEETING SIGN(S) SHALL BE NO SMALLER THAN SIX (6) SQUARE FEET IN AREA.
2. Mailing a notice not less than ~~fourteen (14)~~ FIFTEEN (15) calendar days prior to the date of the neighborhood meeting to:
  - a. All property owners of record within three hundred (300) feet of the subject property which are included on the mailing list submitted by the applicant;
  - b. The chairperson of the registered neighborhood association(s) and home owners association(s) within six hundred (600) feet of the subject property; and
  - c. All tenants, within the boundary of the subject property(ies).

**City code reference**—See TCC §14A, Historic Preservation Ordinance.

**Section 5.** That Section 6-308(E) of the Zoning and Development Code, pertaining to use permit approval criteria, is hereby amended to read as follows:

**E. Approval Criteria.**

1. A *use permit* shall be granted only upon a finding by the decision-making body, that the use covered by the permit, the manner of its conduct, and any *building* which is involved, will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirements, or standards prescribed therefore by this Code.
2. In arriving at the above determination, the following factors shall be considered, but not be limited to:
  - a. Any significant increase in vehicular or pedestrian traffic;
  - b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which, is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;

- d. Compatibility with existing surrounding *structures* and uses; and
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.

F. IF THE USE PERMIT IS FOR AN INCREASE IN FENCE AND WALL HEIGHT, DESIGN SHALL MAINTAIN NATURAL SURVEILLANCE TO THE STREET EITHER BY INCORPORATING OPENINGS, TRANSPARENT MATERIALS SUCH AS WROUGHT IRON OR VARYING WALL HEIGHTS.

**Section 6.** 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 \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

# Memorandum

City of Tempe



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Date: June 12, 2008

To: Development Review Commission  
Ryan Levesque, Senior Planner

From: Shauna Warner, Neighborhood Services Director

Subject: Proposed Zoning and Development Code Amendments

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At the June 7, 2008 meeting of the Neighborhood Advisory Commission (NAC), a 21-member commission advising Mayor and Council on issues effecting neighborhoods, Commissioners reviewed proposed Zoning and Development Code amendments pertaining to Sec. 4-706 wall height, Sec. 4-202 building setback and Sec. 6-402 neighborhood meetings.

At the meeting, members unanimously passed a motion to support the amendments to the Zoning and Development Code.