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Legal Action Report – Meeting Minutes Design Review Board (DRB)

Members of the Design Review Board (DRB) held a meeting, which was open to the public on:

Date and Time: Friday, February 7, 2025, 7:30 a.m.

Location: Meeting was held virtually using Microsoft Teams

1. Call to Order / Roll Call 7:32 AM

Paige Anthony	Present
Caryl Clement	Present
Cade Hayes	Present
Grace Schau	Present
Chris Stebe, Chair	Present

A quorum was established.

2. Review and Approval of 1/24/2025 Draft LAR and Meeting Minutes

Action Taken

The motion was made by DRB Chair Stebe to approve the LAR and draft minutes of January 24, 2025. The motion was duly seconded by DRB member Schau. All in favor. Motion passed 4-0.

3. Discussion and Amendment of DRB Rules Procedures - Timeliness (Sections 2.B.4 & 5 of [The Design Review Board Rules of Procedure](#))

Study Session

DRB Members expressed their concern about the length in time for reviews by the DRB meetings, and identified the following to be more efficient:

- DRB Members to review meeting materials thoroughly prior to DRB meeting;
- PSDS Staff to set an expected timeframe for applicant presentations and DRB discussions;
- DRB Members to stick to discussion regarding the DRB's purview;
- In the Design Package, applicants to provide responses in writing addressing each applicable UDC requirement (for RNA, DDO, Variance reviews);
- Staff to provide reminders if DRB discussions get off track.

4. Discussion and Amendment of DRB Rules Procedures - Meeting Time and Place (Sections 2.B.1 & 2 of [The Design Review Board Rules of Procedure](#))

Action Taken

The motion was made by DRB Chair Stebe to change the DRB meeting time from 7:30 AM to 8:30 AM. The motion was duly seconded by DRB member Hayes. All in favor. Motion passed 4-0.

5. **Discussion with Zoning Administrator of Unified Development Code (UDC) Sections below.** **Study Session**
- a. [UDC § 5.12.7.D.4.b](#) – Rio Nuevo Area (RNA) Shade Requirements
 - b. [UDC § 3.11.1.D.2.d](#) – Criteria for Development Design Option (DDO) Appeals
 - c. DRB's ability to reference UDC Sections [7.1](#), [7.2](#) and [7.3](#) when making a recommendation to the PDSD Director regarding DDO appeals.

The Zoning Administrator provided the following clarifications to questions posed by the DRB:

UDC Section 5.12.7.D.4b – RNA Shade Requirements

- i. Applicants and staff can contact the Zoning Administrator requesting a second opinion or interpretations of the code;
- ii. Sidewalks, pedestrian pathways (including those in semi-public areas) must be part of shade calculations; Shade can be provided by a building;
- iii. In the case of the Tucson Convention Center's campus, plazas, pathways and patio spaces all blend together as one. When an applicant is requested to provide a shade study, the applicant needs to make a reasonable argument for what is a pedestrian pathway. Applicants could certainly delineate their plans to show what areas are patios, pathways or patios. Applicants can also contact staff or the Zoning Administrator to clarify parameter interpretations before presenting to the DRB;
- iv. The DRB can continue cases when more clarification is needed and can request applicant or staff to contact the Zoning Administrator. The DRB can also make a recommendation based upon the assumption that staff is going to concur with the DRB's interpretation, so applicant does not have to return to the DRB;
- v. Sometimes is helpful to look at the section of code and the context of which section it's nested under. So the shade requirement is actually nested under streetscape as a category and there's a bullet that says streetscapes must be consistent with streetscape design policy. Priority given to pedestrians and then the next one is shade. Living under streetscape as a section indicates that it's about that pedestrian experience, primarily in the streetscape and the movement areas for pedestrians. And again, using also the terminology of sidewalks and pedestrian pathways. It's streets and movement areas, not congregation areas and there's no delineation of public and private necessarily, but it's about, what area are we actually looking out of streetscape itself as a larger topic. And it seems then if we were still having some issues of determining the intent of the code then we can go and look at the rest of the section to see if there's further guidance. But there is another section right above streetscape that's about plazas and open space, and the shade requirement is not in that section. It's specifically in the streetscape section. I think that helps you kind of narrow in your focus a bit as well;
- vi. Projects that opt into the IID because of a change of land use, expansion of an existing land use or expansion of an existing structure, or because of new development or a new development project, need to meet the shade requirements.

UDC § 3.11.1.D.2.d – Criteria for Development Design Option (DDO) Appeals and DRB's ability to reference UDC Sections [7.1](#), [7.2](#) and [7.3](#) when making a recommendation to the PDSD Director regarding DDO appeals.

- i. DDOs have existed in the UDC for a long time and that they are a tool for setback relief and also modifications to landscaping locations and wall height;

- ii. The interpretation of what the findings mean can absolutely be based on DRB members expertise and what the DRB understands of code design principles, but the recommendation itself must be based on the findings;
- iii. If the DRB's decision is based on another section of code that was outside of the DDO findings, then that would not be consistent with the chain of decision-making that we make on an appeal;
- iv. The DRB can't make a motion or decision based on UDC Section 7.1 for the DDO because a recommendation needs to be based on the findings of the DDO. To give a negative recommendation, the DRB would need to demonstrate error in the DDO findings;
- v. In the case of code enforcement cases or cases where permits are trying to be obtained after the fact, the code allows to look at those cases as a brand new project, and essentially retroactively resolve issues through the standard permitting process;
- vi. City staff would or the PDSD director will not make a decision on a DDO. Based upon it existing, a decision would be made based on the findings. The code provides applicants the opportunity to resolve a code enforcement case before it goes to court and that becomes the mechanism to resolve it through permitting.

6. Staff Announcements

Informational

The Fox Theater's expansion and the Children's Museum Annex will require RNA review.

7. Adjournment

Meeting adjourned at 9:23 AM.