



BOARD OF ADJUSTMENT
Wednesday, April 29, 2026
(Hybrid Meeting)
Mayor and Council Chambers, City Hall
255 W. Alameda Street

Legal Action Report

1. CALL TO ORDER / ROLL CALL

A quorum was established and the meeting started at 1:31 pm.

Members present: Bruce Dawson, Michael Marks, Araceli Juarez, and Michael Schaff. Erma Duran, Robert Valencia and Denise Bowls were remote.

2. C10-26-02 ENCLAVES AT TUMAMOC LOTS 1-129 / KB HOME TUCSON INC TR / 1802 WEST SAINT MARY'S ROAD, R-1, O-3

The appellant, Shana West, is appealing the Zoning Administrator's Determination (ZAD), TZ-CMP-1125-00197, issued January 22, 2026 regarding how the General Plan and applicable or neighborhood plans are treated when applied to Flexible Lot Developments (FLDs). The Zoning Administrator (ZA) determined General Plan and Area Plan policies should not be treated as binding zoning rules for FLDs, and under Arizona law, the General Plan and Area or Neighborhood Plans are not zoning laws, and finally, the Tucson Unified Development Code (UDC) is the City's enforceable land use law which provides FLDs flexibility as it applies to UDC dimensional and design standards. The appellant contends that the policies, guidelines, and "shall" statements within the General Plan and area plans are mandatory and enforceable as part of the zoning code. UDC Sections applicable to this appeal include, in part, but are not limited to the following: Section 8.7.3 which provides the standards for the FLD; Sections 4.7.8 and (15) and Tables 4.8-2 and (3) which provides criteria for residential development in the R-1 and O-3 zones; Section 1.5.1 which provides for the ZA to interpret the provisions of the UDC; Section 1.6.1 which provides resolution for conflicts of provisions within the UDC; and Section 3.10.2 which provides for the Board of Adjustment to hear and decide on appeals made to the Zoning Administrator's decision. The appellant is requesting reversal of the ZAD, issued January 22, 2026 and a reassessment of the issued development package for conformance to the General Plan and Tumamoc Area Plan.

Motion by Mr. Marks, duly seconded by Ms. Bowls, to uphold the ZAD. The motion passed by a voice vote of 7 - 0.

3. C10-26-03 LA INDITA RESTAURANT DINING PATIO / LIBERTY FEDERAL FUND LC/ 722 N STONE AV / C-3

The applicant's property is an approximately 0.27-acre lot zoned C-3 (Commercial) and is currently developed with a restaurant. The applicant proposes constructing a new outdoor patio. Tucson Unified Development Code (UDC) sections applicable to this project include, but are not limited to, Section 4.7.22 and Table 4.8-4, which

provide criteria for food service uses in the C-3 zone; Section 7.4.4, which provides the required number of motor vehicle parking spaces; Section 7.4.11, which provides the required number of electric vehicle supply equipment; and Section 7.6.4, which provides landscaping requirements. Additionally, applicable Technical Standards Manual (TSM) sections include Section 7-01.3.0, which provides requirements for pedestrian circulation, and Section 8-01, which provides requirements for solid waste collection. The applicant is requesting the following variances: **1)** Reduce required motor vehicle parking fifty-four (54) to fourteen (14) spaces, including one van-accessible space, **2)** Delete the electric vehicle supply equipment requirement to provide 3 EV-installed spaces and 6 EV-capable spaces, **3)** Allow an alternative pedestrian circulation path in lieu of a concrete walkway and additional access gate connecting the restaurant to the Echols Avenue right-of-way, and **4)** Allow the existing trash dumpster to remain with a new enclosure, all as shown on the submitted plans.

Motion by Mr. Schaff, duly seconded by Mr. Marks, to grant variances 1, 2, 3, and 4. The motion passed by a voice vote of 7 – 0.

4. C10-26-04 FRAUSTO GARAGE ADDITION/ MARTIN FRAUSTO / 7682 EAST APPLE TREE DRIVE / R-2

The applicant's property is an approximately 7,742 square foot lot zoned R-2 "Residential" and is developed with a single-family residence with an attached garage. The applicant is seeking zoning approval necessary to allow the garage to remain as constructed in the northeast portion of the residence. Tucson *Unified Development Code (UDC)* section applicable to this project includes, but is not limited to, Table 6.3-2.A., which provides the perimeter yard setback standards for principal and accessory structures. The applicant is requesting the following variance: **1)** Allow the garage to remain as constructed by eliminating the required setback to the east property line, all as shown on the submitted plans.

Motion by Ms. Juarez, duly seconded by Ms. Bowls, to grant the variance. The motion passed by a voice vote of 7 – 0.

5. ADJOURNMENT Hearing was adjourned at 3:55 pm.