

PLANNING COMMISSION REPORT



Meeting Date: July 10, 2024
General Plan Element: *Land Use*
General Plan Goal: *Create a sense of community through land uses*

ACTION

Adaptive Reuse Major General Plan Amendment and Text Amendment 596-PA-2024

Request to consider the following:

1. Initiate a major General Plan amendment to the City of Scottsdale General Plan 2035 to amend the Mixed-Use and Non-Residential Land Use Category definitions and other applicable sections of the Plan consistent with State of Arizona House Bill 2297; and
2. Initiate a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) for the purpose of amending applicable sections, consistent with State of Arizona House Bill 2297.

Key Items for Consideration

- Conformance to City of Scottsdale General Plan 2035
- Recent State of Arizona legislation intended to address conversion of economically or functionally obsolete commercial, office or mixed-use buildings to multifamily residential uses
- Legislation outlines set of objective criteria for allowance of multifamily residential uses at existing commercial, office or mixed use buildings
- New provisions must be adopted by local municipalities no later than January 1, 2025

Related Policies, References:

City of Scottsdale General Plan 2035, as amended
Zoning Ordinance
State of Arizona House Bill 2297 – recently-approved adaptive reuse legislation

APPLICANT CONTACT

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City of Scottsdale
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LOCATION

Citywide

PROPOSAL

Goal/Purpose of Request

On April 10th of this year, the State of Arizona approved House Bill 2297, which established new provisions in a new Section 9-462.10 of Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes. The new provisions direct municipalities with a population of 150,000 or more to establish objective standards to allow multifamily residential development or adaptive reuse on not more than ten percent (10%) of the total existing commercial, office, or mixed use buildings within the municipality. Further, the legislation sets forth several criteria for a municipality to follow in establishing standards. Those include:

- A municipality cannot require a conditional use permit (CUP), a planned unit development, or rezoning application or any other application that would require a public hearing.
- A municipality shall require a site plan review and approval process.
- A municipality shall require that adequate public sewer and water service for the entire proposed development be provided.
- A municipality shall require compliance with all applicable building and fire codes.
- A municipality shall require that the existing buildings are economically or functionally obsolete.
- A municipality shall require that the existing buildings are located on a parcel or parcels that are at least one (1) acre in size, but not more than twenty (20) acres in size.
- A municipality shall require that a minimum of ten percent (10%) of the total new dwelling units be set aside for either moderate-income housing or low-income housing, or any combination of the two for at least twenty (20) years after the initial occupation of the proposed development.

In addition, the legislation defines applicable setback requirements, density allowances, and building height maximum allowances based upon existing zoning requirements, or similar established development within one mile of the proposed development. This legislation requires municipalities to adopt changes in response to these new requirements no later than January 1, 2025.

The purpose of this request is to 1) initiate a major General Plan amendment to Scottsdale General Plan 2035 for the purpose of amending the Plan's Mixed-Use and Non-Residential Land Use Category definitions and any other applicable sections of the plan, and 2) initiate a text amendment to the City of Scottsdale Zoning Ordinance to modify any provisions and references to align with this new state legislation, which will likely require updates to multiple sections of the ordinance. This text amendment (Adaptive Reuse Text Amendment) will be processed alongside other text amendments (ADU Major General Plan Amendment and Text Amendment 597-PA-2024 and Middle Housing Text Amendment 598-PA-2024) that address additional new legislation from the State of Arizona. City staff will assess what applicable sections of the Zoning Ordinance will be required for updates and any updates will be targeted to directly address the new legislation requirements.

IMPACT ANALYSIS

Community Involvement

This proposal will include standard community involvement consisting of public notice in the newspaper, online notification, postcard mailings to interested parties and community outreach meetings.

Community Impact

There is no immediate community impact as this is an initiation action for a text amendment only. Total future impact is unknown at this time as this is the first step in addressing new legislation passed by the State of Arizona. The new legislation, as written, is intended to permit additional multifamily residential development in some areas that have traditionally been primarily commercial in nature. The legislation also appears to remove the ability for public input through the public hearing process for some multifamily residential development if it is located at a qualifying site. It is still uncertain whether property owners will utilize these new provisions to develop new multifamily residential developments on their properties.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission initiate the major General Plan amendment and text amendment.

RESPONSIBLE DEPARTMENT

Community & Economic Development

Current Planning Services

Long Range Planning Services

STAFF CONTACT


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APPROVED BY



Brad Carr, Report Author

7/1/2024
Date



Tim Curtis, AICP, Current Planning Director
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7/1/2024
Date



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07/03/2024
Date

ATTACHMENTS

1. House Bill 2297 Legislative Text

Senate Engrossed House Bill

~~adaptive reuse; commercial buildings; zoning~~
~~(now: zoning; adaptive reuse; commercial buildings)~~
(now: commercial buildings; adaptive reuse)

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

CHAPTER 141
HOUSE BILL 2297

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-462.10; RELATING TO MUNICIPAL ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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ATTACHMENT #1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6.1, Arizona Revised
3 Statutes, is amended by adding section 9-462.10, to read:

4 9-462.10. Commercial buildings; multifamily development;
5 adaptive reuse; prohibition on rezoning or
6 municipal review; objective standards;
7 applicability; definitions

8 A. ON OR BEFORE JANUARY 1, 2025, THE GOVERNING BODY OF A
9 MUNICIPALITY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR MORE
10 PERSONS SHALL ESTABLISH OBJECTIVE STANDARDS TO ALLOW MULTIFAMILY
11 RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE ON NOT MORE THAN TEN PERCENT OF
12 THE TOTAL EXISTING COMMERCIAL, OFFICE OR MIXED USE BUILDINGS WITHIN THE
13 MUNICIPALITY WITHOUT REQUIRING A CONDITIONAL USE PERMIT, A PLANNED UNIT
14 DEVELOPMENT OR REZONING APPLICATION OR ANY OTHER APPLICATION THAT WOULD
15 REQUIRE A PUBLIC HEARING. THE GOVERNING BODY OF THE MUNICIPALITY MAY
16 MODIFY THE PERCENTAGE OF EXISTING COMMERCIAL, OFFICE OR MIXED USE
17 BUILDINGS WITHIN THE MUNICIPALITY AVAILABLE FOR MULTIFAMILY RESIDENTIAL
18 DEVELOPMENT OR ADAPTIVE REUSE EVERY TEN YEARS.

19 B. A MUNICIPALITY MAY DESIGNATE COMMERCIAL OR EMPLOYMENT HUBS AND
20 OTHER ESSENTIAL COMMERCIAL OR EMPLOYMENT USE AREAS WHERE EXISTING
21 COMMERCIAL, OFFICE, EMPLOYMENT OR MIXED USE BUILDINGS ARE EXCLUDED FROM
22 THE PROVISIONS OF THIS SECTION. THE DESIGNATIONS MADE PURSUANT TO THIS
23 SUBSECTION MAY NOT EXCEED TEN PERCENT OF THE EXISTING COMMERCIAL, OFFICE,
24 EMPLOYMENT OR MIXED USE BUILDINGS WITHIN THE MUNICIPALITY. A MUNICIPALITY
25 MAY MODIFY THE COMMERCIAL OR EMPLOYMENT HUBS THAT ARE EXCLUDED FROM THE
26 PROVISIONS OF THIS SECTION ONCE EVERY TEN YEARS.

27 C. FOR MULTIFAMILY RESIDENTIAL DEVELOPMENT OR ADAPTIVE REUSE, THE
28 OBJECTIVE STANDARDS ESTABLISHED BY A MUNICIPALITY SHALL REQUIRE BUT MAY
29 NOT REQUIRE MORE THAN THE FOLLOWING:

30 1. A MUNICIPAL SITE PLAN REVIEW AND APPROVAL PROCESS REQUIREMENT,
31 INCLUDING SITE PLAN REVIEW BY ANY UTILITY PROVIDER IMPACTED BY THE
32 PROPOSED DEVELOPMENT.

33 2. ADEQUATE PUBLIC SEWER AND WATER SERVICE FOR THE ENTIRE PROPOSED
34 DEVELOPMENT.

35 3. COMPLIANCE WITH ALL APPLICABLE BUILDING AND FIRE CODES.

36 4. THAT THE EXISTING BUILDINGS ARE ECONOMICALLY OR FUNCTIONALLY
37 OBSOLETE.

38 5. THAT THE EXISTING BUILDINGS ARE LOCATED ON A PARCEL OR PARCELS
39 THAT ARE AT LEAST ONE ACRE IN SIZE BUT NOT MORE THAN TWENTY ACRES IN SIZE.

40 6. A SET ASIDE OF TEN PERCENT OF THE TOTAL DWELLING UNITS FOR
41 EITHER MODERATE-INCOME HOUSING OR LOW-INCOME HOUSING OR ANY COMBINATION OF
42 THE TWO FOR AT LEAST TWENTY YEARS AFTER THE INITIAL OCCUPATION OF THE
43 PROPOSED DEVELOPMENT. THE DEVELOPER MAY SET ASIDE MORE THAN TEN PERCENT
44 AT THE DEVELOPER'S SOLE DISCRETION.

1 D. THE OBJECTIVE STANDARDS MAY NOT CONTAIN PARKING SPACE
2 REQUIREMENTS THAT EXCEED THE PARKING REQUIREMENTS THAT APPLY TO
3 MULTIFAMILY RESIDENTIAL BUILDINGS OR ADAPTIVE REUSE BUILDINGS UNDER THE
4 EXISTING ZONING CODE UNLESS THE PROPOSED MULTIFAMILY RESIDENTIAL
5 DEVELOPMENT OR ADAPTIVE REUSE ALSO QUALIFIES AS A MIXED USE DEVELOPMENT.

6 E. A MUNICIPALITY MAY NOT WITHHOLD A DEMOLITION PERMIT IF A
7 MULTIFAMILY RESIDENTIAL DEVELOPMENT MEETS THE REQUIREMENTS OF THIS
8 SECTION. FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT, ALL OF THE FOLLOWING
9 APPLY:

10 1. THE DEMOLITION OF ALL OR A PORTION OF THE EXISTING COMMERCIAL,
11 OFFICE OR MIXED USE BUILDINGS SHALL BE ALLOWED.

12 2. SETBACK REQUIREMENTS MAY NOT EXCEED WHAT IS REQUIRED IN THE
13 EXISTING ZONING CODE FOR MULTIFAMILY RESIDENTIAL BUILDINGS.

14 3. NOTWITHSTANDING SECTION 9-462.01, SUBSECTION C, THE MAXIMUM
15 HEIGHT AND DENSITY SHALL BE EQUAL TO THE HIGHEST ALLOWABLE MULTIFAMILY
16 HEIGHT AND DENSITY FOR A MULTIFAMILY ZONING DISTRICT IN THE MUNICIPALITY
17 WITHIN ONE MILE OF THE BUILDING TO BE REDEVELOPED. IF THERE IS NO
18 MULTIFAMILY ZONING DISTRICT IN THE MUNICIPALITY WITHIN ONE MILE OF THE
19 BUILDING TO BE REDEVELOPED, THE MAXIMUM HEIGHT AND DENSITY SHALL BE
20 EQUIVALENT TO THE NEXT CLOSEST MULTIFAMILY ZONING DISTRICT.

21 4. THE ALLOWABLE HEIGHT MAY NOT EXCEED FIVE STORIES AND A
22 MUNICIPALITY MAY LIMIT THE HEIGHT TO TWO STORIES IN THE AREAS OF A SITE
23 WITHIN ONE HUNDRED FEET OF SINGLE-FAMILY RESIDENTIAL ZONES. MULTIFAMILY
24 RESIDENTIAL DEVELOPMENT THAT IS CONSTRUCTED PURSUANT TO THIS SECTION DOES
25 NOT QUALIFY AS BEING WITHIN ONE MILE OF THE BUILDING BEING REDEVELOPED OR
26 THE NEXT CLOSEST MULTIFAMILY BUILDING.

27 F. A MUNICIPALITY MAY NOT WITHHOLD A DEMOLITION PERMIT IF AN
28 ADAPTIVE REUSE PROJECT MEETS THE REQUIREMENTS OF THIS SECTION. FOR
29 ADAPTIVE REUSE, ALL OF THE FOLLOWING APPLY:

30 1. THE DEMOLITION OF A PORTION OF THE EXISTING COMMERCIAL, OFFICE
31 OR MIXED USE BUILDING OR BUILDINGS SHALL BE ALLOWED.

32 2. THE SETBACK REQUIREMENTS FOR THE PROPOSED USE SHALL APPLY. IF
33 THE MINIMUM SETBACK REQUIREMENT THAT APPLIES TO THE EXISTING COMMERCIAL,
34 OFFICE OR MIXED USE BUILDING IS LESS THAN THE MINIMUM SETBACK REQUIREMENT
35 THAT APPLIES TO THE PROPOSED USE, THE EXISTING BUILDING SHALL BE
36 CONSIDERED NONCONFORMING FOR SETBACK PURPOSES UNLESS EASEMENTS, INCLUDING
37 PUBLIC UTILITY EASEMENTS, ARE LOCATED WITHIN SETBACK AREAS.

38 3. IF THE MAXIMUM ALLOWABLE HEIGHT THAT APPLIES TO THE EXISTING
39 COMMERCIAL, OFFICE OR MIXED USE BUILDING EXCEEDS THE MAXIMUM ALLOWABLE
40 HEIGHT FOR THE PROPOSED USE, THE EXISTING HEIGHT MAY REMAIN AND SHALL BE
41 CONSIDERED NONCONFORMING FOR HEIGHT PURPOSES AND THE EXISTING BUILDING MAY
42 BE EXPANDED TO THE MAXIMUM ALLOWABLE DENSITY FOR THE PROPOSED USE. ANY
43 ROOFTOP APPURTENANCES SHALL BE INCLUDED WITHIN THE HEIGHT EXEMPTION.

- 1 G. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:
- 2 1. LAND IN AN AREA THAT IS DESIGNATED AS A DISTRICT OF HISTORICAL
- 3 SIGNIFICANCE PURSUANT TO SECTION 9-462.01, SUBSECTION A, PARAGRAPH 10.
- 4 2. LAND IN AN AREA THAT IS DESIGNATED HISTORIC BY A LOCAL
- 5 GOVERNMENT.
- 6 3. LAND IN AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL
- 7 REGISTER OF HISTORIC PLACES.
- 8 4. LAND IN THE TERRITORY IN THE VICINITY OF A MILITARY AIRPORT OR
- 9 ANCILLARY MILITARY FACILITY AS DEFINED IN SECTION 28-8461.
- 10 5. LAND IN THE TERRITORY IN THE VICINITY OF A FEDERAL AVIATION
- 11 ADMINISTRATION COMMERCIALY LICENSED AIRPORT OR A GENERAL AVIATION OR
- 12 PUBLIC AIRPORT AS DEFINED IN SECTION 28-8486.
- 13 6. LAND IN A MUNICIPALITY THAT IS LOCATED ON TRIBAL LAND.
- 14 H. FOR THE PURPOSES OF THIS SECTION:
- 15 1. "ADAPTIVE REUSE" MEANS CONVERTING AN EXISTING BUILDING FROM THE
- 16 USE FOR WHICH IT WAS CONSTRUCTED TO A NEW USE BY MAINTAINING SOME OR ALL
- 17 OF THE ELEMENTS OF THE BUILDING.
- 18 2. "BUILDING CODE" HAS THE SAME MEANING PRESCRIBED IN SECTION
- 19 9-1301.
- 20 3. "ECONOMICALLY OR FUNCTIONALLY OBSOLETE" MEANS THE COMMERCIAL,
- 21 OFFICE OR MIXED USE BUILDING IS IN A STATE OF DISREPAIR OR HAS A FIFTY
- 22 PERCENT VACANCY IN THE TOTAL LEASABLE SQUARE FOOTAGE.
- 23 4. "LOW-INCOME HOUSING" MEANS HOUSING:
- 24 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
- 25 EIGHTY PERCENT OF THE AREA MEDIAN INCOME.
- 26 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
- 27 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
- 28 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
- 29 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
- 30 5. "MODERATE-INCOME HOUSING" MEANS HOUSING:
- 31 (a) FOR A PERSON OR PERSONS WHOSE HOUSEHOLD INCOME DOES NOT EXCEED
- 32 ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.
- 33 (b) FOR WHICH THE OCCUPANT PAYS NOT MORE THAN THIRTY PERCENT OF THE
- 34 OCCUPANT'S GROSS INCOME FOR THE OCCUPANT'S RENT OR MORTGAGE, AS DETERMINED
- 35 BY THE ARIZONA DEPARTMENT OF HOUSING AND ADJUSTED FOR HOUSEHOLD SIZE BASED
- 36 ON THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
- 37 6. "MULTIFAMILY RESIDENTIAL DEVELOPMENT" MEANS A BUILDING OR
- 38 BUILDINGS THAT ARE DESIGNED AND USED FOR RESIDENTIAL PURPOSES AND THAT
- 39 CONTAIN MORE THAN ONE APARTMENT OR DWELLING UNIT FOR SALE OR FOR RENT BUT
- 40 THAT ARE NOT ADAPTIVE REUSE.
- 41 7. "NONCONFORMING" MEANS STRUCTURES THAT HAVE RECEIVED BUILDING AND
- 42 ZONING PERMITS UNDER THE REGULATIONS IN PLACE AT THE TIME OF CONSTRUCTION.

- 1 8. "ROOFTOP APPURTENANCES":
2 (a) MEANS ROOFTOP STRUCTURES THAT PRINCIPALLY HOUSE AIR
3 CONDITIONING EQUIPMENT, SOLAR PANELS, UTILITIES, ELEVATORS, OTHER ENERGY
4 PRODUCTION FACILITIES AND OTHER NONHABITABLE STRUCTURES.
5 (b) INCLUDES OPEN SPACE FEATURES, SWIMMING POOLS, SPACE FOR USE BY
6 RESIDENTS AND LANDSCAPING.
7 (c) DOES NOT INCLUDE ENCLOSED AREAS, SPIRES, BELL TOWERS, DOMES,
8 CUPOLAS, PEDIMENTS, OBELISKS OR MONUMENTS.

APPROVED BY THE GOVERNOR APRIL 10, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2024.