

Transcription of comments from Reinvestment Tools Public Meeting – May 11, 2016

Responses in red

A. General Comments

1. I would prefer using a special exception process which respected the current neighborhood plan for dealing with orphaned parcels along corridors & roadways damaged by widening projects.
 - The existing process for Planned Area Developments (PADs) is that they are required to be in conformance with all adopted land use plans, including neighborhood plans.
2. Look at site compliance exceptions in the UDC for use changes – i.e. conditions UDC 3.3.3.H... We couldn't do a B&B @ 700 N. 7th Avenue because no part of the use can be residential and to be feasible (County Health Code for Kitchens), the B&B needs a live in caretaker ("res"). Also B&B's in residential areas need more than (2) guests....
 - This has been noted and will be considered for future Unified Development Code (UDC) text amendments.
3. Public management does include the public.
 - Thank you for your comment.
4. Do need to increase and improve how the public can be reached.
 - We are currently looking at ways to expand the notification process through email signup.
5. It is critical, if any of these move forward, for neighbors to have an "ombudsman" who can help balance the process, since developers have professionals to represent their interests. Many of these processes involve negotiations between the applicant and adjoining property owners. Negotiations imply parity, but you can't have parity when one side has no help or representation. Under no circumstances should anything be moved to backroom, closed, secretive Administrative decisions.
 - Upon request staff can attend developer / neighborhood meetings to provide info on process. At this time, the city doesn't have resources identified to assist beyond this. The desire for additional assistance to neighborhoods has been noted and would need to be considered by Mayor and Council.
6. Open space needs to be better defined.
 - Open space is currently defined in the UDC as 'Open space is the aggregate of "natural undisturbed open space (NUOS)," "natural open space" and "functional open space."' This comment has been noted and PDSD will consider revisions to that definition.
7. Be Heard supports the 3 Reinvestment Tools!
 - Thank you for your comment.

B. PAD Comments

1. Make sure PAD in neighborhoods must follow neighborhood plan guidelines or not allow PAD in historic neighborhoods.
 - Like rezonings, PADs are required to follow all adopted land use plans, including neighborhood, area and general plans.

2. PAD – When reviewing that ordinance, please ensure that there is a public process which guarantees that the public is not dependent on the developer for their understanding of the code AND the possible options to consider. There MUST be a knowledgeable neutral party involved.
 - See response for question A.5.
3. Set a minimum standard when 40-acre PAD limit goes i.e. it's inappropriate on a small single development lot within existing zoning.
 - Due to the relative cost of a PAD and the required criteria of UDC Section 3.5.5 and Technical Standards Section 2-04, we believe approved PAD developments, no matter what size, will meet the intentions of the PAD. These factors include: compatibility with the surrounding area, harmony with the character of the neighborhood, need for the proposed development, effect of the PAD on the immediate area and on future development. Determining what size to set as minimum would be arbitrary versus the criteria for all sites.
4. Safeguards like IID has, i.e. no PADs in HPZ zones or ensure HPZ prevails over PAD considerations.
 - A PAD is a rezoning and would be subject to an HPZ. For a PAD to remove the requirements of the HPZ, they would be required to complete a separate process to dissolve a portion of or the entirety of the HPZ.
5. Agree that 40-acre limit for PAD development should be decreased – think there should be a minimum size for this flexibility.
 - See response to question B.3.
6. Must be clear that PADs do not supersede area plans, e.g. University Area Plan.
 - As is the case currently with PADs, all must be in conformance with adopted land use plans, including neighborhood, area and general plans.
7. Clarify who has standing with creating a PAD.
 - Mayor and Council, any property owner, or agent of a property owner has the ability to create a PAD. Property owners within 300 feet of a proposed PAD have the ability to protest, which determines if a super majority vote is required of Mayor and Council for approval.
8. Support expanded use of PADs because (due our City Atty's interpretations of rezoning that offer no protection to neighborhood negotiations) a PAD spells out the plan & details such as height, FAR, uses, etc, which cannot be changed w/o going back to public. Must keep 10% rule in PADs (i.e. can make minor changes but nothing major). However, I cannot support expanding PADs unless we have a functioning Code Enforcement division. Presently, CE is relatively non-functioning: inspectors do not seem to understand what to do about zoning code violations and not enough of them to actually resolve CE issues. What does happen when zoning code violations occur? Is certificate of occupancy revoked? Are owners required to stop and remedy violation? All zoning conditions for a property should be recorded & easily found by owners, inspectors & the public. PADs must be public process w/ meaningful input by NA's & near-by impacted neighbors. No administrative approvals should be allowed → should go zoning examiner & then Mayor & Council for approval.
 - The 10% rule will not be eliminated through this text amendment. Property owners must meet the conditions of the rezoning in order for their case to be effectuated and the zone

changed. Additionally, they must also meet those conditions prior to receiving a certificate of occupancy.

- As is the case now, if a zoning violation is reported to Code Enforcement, the property owner must remedy that violation, prior to receiving any permits from the City.
 - We are currently exploring a process to require all rezoning conditions to be recorded with the City Clerk prior to approval of their development package. Additionally, we do post the rezoning conditions to the property research online website.
 - The PAD process will not change other than the removal of the requirement to go to Mayor and Council for the 40-acre waiver prior to submitting the application. The applicant will still be required to go to Zoning Examiner and Mayor and Council like with all rezonings.
9. PADs should retain a minimum lot size so it isn't used on a small lot.
- See response for question B.3.
10. Eliminating the 40-acre requirement for a PAD seems reasonable for "Inner City Refill Projects" only! It should NOT be eliminated for areas on the perimeter! It would only result in Urban Sprawl. Also, you need to keep in effect the 10% rule. Any changes more than 10% needs to go back before the neighbors. Neighbors need to be notified regardless of the existence of any neighborhood plan or lack thereof.
- The 10% rule will not be eliminated through this text amendment. While the intention for the PAD was originally for larger developments, we have seen it work well on smaller projects in recent years. We do not believe this will result in urban sprawl, as it still has to conform to all adopted land use plans, including neighborhood, area, and general plans. It is those land use plans that dictate the type of future development and ultimately will help to curb sprawl.
11. What was the reason(s) for the proposed change to PAD use? Who benefits? How? Who's idea was it?
- The proposed change to the PAD use was to essentially increase efficiencies. Currently we allow PADs under 40-acres in size, but they are required to apply for a waiver from Mayor and Council. This generally adds 2-4 months to a project and requires time from Staff and Mayor and Council. Historically, one of these waivers has never been denied.
 - The proposed change will help to streamline the process for smaller PAD projects, which are generally small business owners. Additionally, it will help to free up time for staff to focus on other things.
 - The idea for the redevelopment tools originated with Mayor and Council, and the tools were developed by the Staff in the Planning and Development Services Department.

C. MS&R Comments

1. Major Streets and Routes - Ensure uses comply with neighborhood plan.
 - Adopted land use plans inform rezonings.
2. I support all three tools. With respect to setback relief, I urge the City to present to the public for review, the revisions to the MS&R.

- Thank you for your comment. There is a public process when amendments to the public MS&R are made. The proposed code change does not change the MS&R, it provides an avenue for relief from the setbacks required when there is no plan to widen a roadway.
- 3. Regarding the MS&R: What if one director decides “yes,” and the other decides “no.” What happens then? Appeal process?
 - The City Manager will make a decision.
- 4. What if both say yes or no? Appeal process if the decision disfavors the developer? Appeal process if the decision disfavors the neighborhood/neighbors?
 - See response to question C.3.
- 5. MS&R – push for the total city review ASAP.
 - Thank you for your comment.
- 6. Revamping the MS&R is way overdue, do not allow this band-aid to help a few projects – some very worthwhile, many may not be. Need a fair playing field – this will get muddy fast. Protect our R.O.W. screening & requirements.
 - We agree that an update to the MS&R is needed and is a policy in Plan Tucson. Due to budget cuts and dwindling staff, neither PDS&R or TDOT have the resources to do so at the current time. This is a short-term solution to get us to the date when we have the resources to update the currently outdated MS&R plan.
 - Regarding screening & requirements, the development will still need to meet all the screening and development requirements that they would today.
- 7. MS&Rs? Why do they list exist along roadways that ‘never’ will be widened? (powerpoint, “...not planned.”)
 - This is a consequence of an outdated MS&R plan. We have planned right-of-way widths that are too wide on certain roads that will never be widened. Until we update the MS&R plan, which is a very costly and time intensive process, this will continue to be a problem.
- 8. MS&R – To avoid having the taxpayers take a “hit” in the future for the purchase of the building that was allowed to located in the ROW, the applicant should be required to sign a waiver that will not hold the taxpayers liable for the decision.
 - PDS&R is looking into including a waiver on the application that will absolve the City of financial liability should we eventually decide to expand that road.
- 9. Building in future ROW → proposal sounds reasonable as long as due diligence is done by staff prior to approval of allowing building in ROW. MS&R should be reviewed to determine if future ROW is reasonable, especially if numerous requests to building in ROW of a certain road is approved.
 - This is addressed in the text amendment language. For a property owner to receive the setback relief, they must meet all criteria listed. When it is time to update the MS&R plan, the previous approved applications for the setback relief can act as a guide to what needs to be changed.

D. Overlapping Plan Amendment / Rezoning

1. PA&RZ – clarify who has the option. Unless the adjoining area impacted by the project agrees with the developer that it should be addressed together, it is not an option for the developer.

- This is an option for whoever is applying for the overlapping Plan Amendment and Rezoning (generally a developer). Ultimately, it is a risky move for a developer if they do not have proper buy-in from the adjoining areas, as it requires more upfront design work.
- 2. Prefer staggered approach to concurrent P.A. and rezoning to ensure safeguards in process but agree discussion should include both from beginning.
 - The process as proposed now is staggered, but overlapping to some degree.
- 3. Very opposed to concurrent review of Plan Amendment & Rezoning. This will limit review and question periods needed for important and permanent changes directly affecting our neighborhoods. What about those neighborhoods without active watchdogs? The submission for Plan Amendment should be substantial; that affected people will have more complete information is a bunk argument. This only benefits the developer, the larger they are and the larger the development the slicker the ability to grease the process. Zoning changes are too important, any developer or design professional knows what they are getting into now when a project requires rezoning.
 - Regarding neighborhoods without active watchdogs and public input, we are currently looking at ways to expand the notification process, especially regarding Homeowners Associations. One of the impetuses for this change was neighbors' interest in seeing more details earlier in the process.
 - The process being proposed is only allowing the two processes to partially run at the same time, it will not remove any of the requirements of either process.
- 4. Optional Concurrent Plan Amendment & Rezoning process must include options for all sectors to observe and follow through after implementation.
 - Currently, all rezonings and rezoning conditions stay with the land once they are effectuated. This requires the new development to adhere to those conditions.
- 5. Concurrent Plan Amendment & Rezoning could be beneficial to both developers & neighbors. As someone who worked w/staff on North Side Area Plan, understand amendments may be needed in the future. But once a plan amendment is approved, it will be part of plan text if applicant backs out of does not get rezoning → bad for neighborhoods in the long run. Being able to do both requests concurrently can be beneficial to all parties but no guarantee. Vote to approve plan amendment must precede rezoning vote & be part of a rigorous public process. Neighborhoods should be welcome to amendment plans as well as developers → those who live there are most impacted by plan conditions.
 - Thank you for your comments. As currently written, the UDC allows neighborhoods to make amendments to plans as well.