



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: December 5, 2018

TO: Planning Commission

FROM: *Scott Clark for*
Scott Clark
Executive Secretary

SUBJECT: C8-18-05 Infill Incentive District Sunset Date – Public Hearing (Citywide)

Issue – This public hearing is to review and deliberate on the upcoming January 31, 2019 Infill Incentive District (IID) sunset date and review the proposed UDC text amendments which would make updates to the IID provisions and allow the IID to remain in effect with no sunset date (see Attachment A for proposed UDC text amendments).

On July 9, 2018, the Mayor and Council gave direction to the Planning and Development Services Department to review and extend the Infill Incentive District sunset date and begin stakeholder engagement related to potential modifications to the IID. Additionally, on February 7, 2017, M&C directed staff to pursue changes to the IID regulations related to the maximum building heights in Historic Preservation Zones. Over the past three months, staff has conducted a series of stakeholder meetings and public meetings to better understand how the IID is performing, and possible changes moving forward. Through these meetings, the general sentiment was that the IID is working well to incentivize more appropriate development in Downtown Tucson and is meeting the intent of the changes made when Mayor and Council passed the extensive suite of additions and revisions on February 18, 2015, and placed the sunset date of January 31, 2019. Based on feedback from stakeholders, staff has developed a code amendment that would make modest changes to clarify review procedures and resolve conflicting regulation between the IID and Historic Preservation Zones in areas of overlap. Additionally, staff will consider non-code process changes to improve IID reviews and has compiled a list of issues related to the IID to be evaluated at a future date.

Recommendation – Staff recommends that the Planning Commission recommend the approval of the related proposed amendments to the Unified Development Code (UDC) and removal of the Infill Incentive District sunset date.

Background - Originally adopted by Mayor and Council in 2009, the Infill Incentive District was established to encourage sustainable infill development, pedestrian-friendly and transit-oriented neighborhoods, and to protect historic and cultural amenities in the area around downtown (see Attachment B for a map of the IID). Over the past 9 years, the IID has undergone a handful of amendments to improve its effectiveness in achieving this intended purpose. The most recent changes were adopted by Mayor and Council on February 18, 2015 to provide better neighborhood protection, clarify the role of formal commitments, improve design review, reduce redundancy with other overlays, and ensure consistency with other City

projects located within the IID. At the time of adoption, Mayor and Council placed a sunset date of January 31, 2019 on the ordinance (see Attachment C) to provide an opportunity for staff to reevaluate the efficacy of the most recent changes and to determine if there were needed modifications.

Since the adoption of the 2015 ordinance, a total of twenty-four projects have been approved. Those projects were a mix of residential, retail, food service, and office. Fifteen of the approved projects were minor reviews and nine of the approved projects were major reviews. Among those twenty-four projects, the most requested exceptions were parking, landscaping and screening, solid waste collection, change of use, off-street loading, perimeter yard, and setbacks.

On October 24, 2018, the Planning Commission held a study session to deliberate on the Infill Incentive District Sunset Date and set a public hearing date for December 5, 2018. At that meeting discussion topics were related to quality of design along 4th Avenue, transitions between different districts in the IID, and a timeline for when to address the issues to be addressed at a later date.

Stakeholder meetings and public feedback – Beginning in August, staff conducted a series of stakeholder meetings and public meetings to better understand how the IID is performing and if any changes should be made while Mayor and Council address the sunset date of January 31, 2019. Those meetings can be grouped into three categories: general stakeholder meetings, IID study group stakeholder meetings, and the public meetings. The following are overviews of the feedback received at each of these:

General Stakeholder Meetings – The general stakeholder meetings were held on August 22, 24, and 29, 2018. Invitees and attendees for these meetings included representatives from Neighborhood Associations within the IID, Fourth Avenue Merchants Association, Fourth Avenue Historic Coalition, the previous IID Study Group who reviewed the 2015 ordinance (this included members from neighborhoods, developers, affected HPZ Boards, etc.), members from TRRG, and other previously interested parties. The topics discussed with a brief overview were as follows (more detailed summary is located in Attachment D – the comments from those meetings are the bolded type):

- **Is the IID working?** – The general consensus was that the revisions in 2015 addressed the concerns at the time and that the IID is working. Most who commented on this did acknowledge there were minor tweaks that could improve the ordinance. Some, however, were hesitant to make any large changes due to its success.
- **Historic Preservation** – At the stakeholder meetings there were discussions surrounding what constitutes a historic resource, demolition of contributing or eligible structures, creating a process (i.e. Mayor and Council approval) to allow for demolition of historic resources, and how deal with the recent trend of developments taking themselves out of their Historic Preservation Zone (HPZ) Overlay so they can be allowed greater building heights.
- **Design Review** – There were several discussions related to overall process and how to improve the consistency of the final product, whether to add a study session to a public hearing, and how to make sure what is being approved is what is being built.

Many of these are related to internal PDSB processes and may not necessarily be addressed through a UDC code change.

- **Parking** – There were several discussions about parking within the IID, if there is a way to create greater automatic parking reductions in the Greater Infill Incentive Subdistrict (GIIS), and how to better stimulate Transit Oriented Development to reduce the need for new parking.
- **Student Housing** – The discussion toward student housing was quite diverse. On one hand, it was discussed that we should not be incentivizing student housing with the IID, on the other it was stated that Main Gate District is nearly built-out and we need to plan for where new student housing goes. In general, most agreed that the Mayor and Council Special Exception required for a group dwelling is effectively restricting these types of developments in the IID.
- **Transit Oriented Development** – There was significant discussion on how to better incentivize development that supports transit and other public transportation options. This is currently addressed in the IID and it was acknowledged that coordination with other initiatives, such as bulk discounted transit passes may be a way to further promote Transit Oriented Development in the IID.
- **Design Guidelines and Overall Design** – It was discussed that we are not getting the level of design anticipated by the IID and that we should explore creating design guidelines for development and create a way to get a better end product. A concern was also voiced about the lack of permeability of developments and public space being addressed.
- **Impact on Neighborhoods** - In general stakeholders believed that the new protections added in the 2015 ordinance had significantly reduced the impact of development on the neighborhoods. It was also stated that because most of the larger IID projects have been downtown, the impact on the neighborhoods may not be felt yet.
- **Sunset Date** – There was discussion on the Sunset Date and what to do with it. In general it was suggested that the Sunset Date be extended three to five years.
- **Affordable Housing** – There were a few suggestions that a certain percentage of housing be required to be affordable.
- **Northern Portion of the Greater Infill Incentive Subdistrict** – There was a bit of discussion about the lack of development outside of the downtown, especially in the northern portion of the Greater Infill Incentive Subdistrict. Much of this was believed to be due to the lack of other incentives, economic condition of the area, and the lack of street car.

IID Study Group Stakeholder Meetings - Stakeholder Meetings with IID Study Group held on September 10 and 20, 2018. These additional stakeholder meetings were held with the previous IID Study Group who reviewed the 2015 ordinance (this included members from neighborhoods, developers, affected HPZ Boards, etc.), to review the feedback from the first three Stakeholder Meetings. At these two meetings, the group went through each of the topics listed in the General Stakeholder Meetings to discuss possible changes moving forward. It was at these meetings, that it was suggested that we should mostly leave the ordinance as is, except for some minor process changes and clarifications. The general sentiment was that the ordinance is working and if we wanted to make any major changes, it would require a significant public process, which we do not have time for right now with the Sunset Date coming up in January. It was also suggested that a list of items for additional study and public

outreach be recommended to the commission to be addressed at the next sunset date. For an overview of those meetings please see Attachment D the comments and responses from those meetings are in blue.

Public Meetings – On October 3, 4, and 11, 2018, staff conducted public meetings on the sunset date of the IID. At these public meetings, staff gave a presentation to help attendees understand the Infill Incentive District (IID) ordinance, gave an overview of the feedback received to-date, and had time set aside for questions, answers, and for attendees to share their opinions, observations, and suggestions regarding proposed changes and improvements. Much of that feedback reflected what we received during the Stakeholder Meetings. The following is an overview of additional comments that we received, which may not have reflected through previous meetings (please see Attachment E for comments submitted at those meetings):

- **Parking** – There were comments received at the meeting related to parking and how we need to make sure we are providing enough parking along Fourth Avenue so that we do not negatively affect the businesses. It was also stated by others that we should work to reduce parking further and better support transit.
- **Student Housing** – This was a stated concern at the public meetings and that this type of development affects neighborhoods disproportionately.
- **Should Extend Sunset** – It was stated that we should not remove the sunset date from the ordinance, as then it would become essentially by-right and would create a proposition 207 problem if we wanted to change anything in the future.
- **Remove Tucson Origins Heritage Park from IID** – It was stated that this was unnecessarily a part of the IID, and that the Commission and Mayor and Council should look into removing it from the IID.
- **More Sustainable Projects** – It was stated we should look for ways to build more sustainable projects, such as ones that use solar, promote rainwater harvesting, etc.
- **Promote Transit Orientated Development** – It was stated that we need to look for additional ways for the development within the IID, and elsewhere, to support transit. Items like discounted transit passes for all multi-family housing could support the transit system and would be a way to promote equity.

Written Correspondence Received – Throughout the review of the IID Sunset date, staff has received written correspondence with comments and suggestions. Below are summaries of the letters received.

On October 19, 2018 Chris Gans, the Chair of the IID Design Review Committee and member of the IID Study Group submitted a letter to PDS and the Planning Commission (See Attachment F). In this letter, Mr. Gans wrote of both how he believes the IID has been successful in promoting infill development in downtown, but also has some room for improvements. Some improvements suggested in his letter are related to the following:

- Concerns about student housing and its impact on the areas within the IID.
- A need for a more thorough review of existing historic properties and a restriction of five years from using the IID if a property has demolished a contributing historic structure.

- Establishment of a basic design review process training that all members must participate in.
- To promote pedestrian and Transit Oriented Development, the City could offer bulk rate transit discounts to developers.
- Requirement of any housing development in IID to build a minimum of 20% of their units at a local affordable rate.

Several of these suggestions mirror the recommendations moving forward in this communication.

On October 20, 2018 the Friends of Tucson's Birthplace (FOTB) submitted a letter to the Planning Commission and the Mayor and Council related to the removal of the Tucson Origins Heritage Park from the IID (see Attachment G). In this letter, stated reasons for this site's removal were related to the need for its preservation and that it should not be "covered by an overlay which lures developers through incentives."

Staff have considered this request and believe that the removal of the Tucson Origins Heritage Park from the IID is not the most effective avenue to achieve the goals put forth in the letter from the Friends of Tucson's Birthplace due to the following reasons:

- One of the goals for the site put forth by FOTB is to develop a museum and/or archeological site that would serve as a tourist destination. The development of such a use could be facilitated through IID provisions that allow flexibility with respect to parking, setbacks, access, or solid waste pickup.
- Removal of the sites from the IID would not limit the ability to rezone and develop with more intensity or additional uses than allowed by the R-1 and R-2 residential zones that the sites currently fall within. Future uses at these sites are likely to require rezoning, at which time project sponsors could consider whether to use standard zoning or IID provisions.
- The IID boundary has not changed since 2009 and would likely require recalculation of State required criteria necessary for establishment of an IID.
- Due to the properties dual ownership by Pima County and the City of Tucson, no private redevelopment of the sites could occur without public process.
- There are currently historic protections related to compatibility standards and required review by the Tucson-Pima County Historical Board Plans Review Subcommittee within the IID that would potentially benefit this area and the project's goals.

It should be noted that on March 4, 2018, the Tucson-Pima County Historical Commission submitted a letter to Mayor and Council requesting that the City provide permanent protection for the Tucson Origins Heritage Park (see Attachment H). One option to explore for promoting preservation of this area may be the establishment of a Historic Landmark Designation for the Tucson Origins Heritage Park site.

On October 24, 2018, the Tucson Metro Chamber submitted a letter to the City of Tucson Planning Commission (see Attachment I). In this letter, the Tucson Metro Chamber encourages the Planning Commission to send a recommendation to the Mayor and Council

extending the sunset date for another five years with support for the minor code clarifications and amendments suggested by staff.

HPZ Building Height Text Amendment - On February 22, 2017, the Mayor and Council voted 7-0 to adopt ordinance 11437 to approve the C9-16-12 rezoning of the Trinity Presbyterian Church to a Planned Area Development. To accommodate the applicant's request for additional building height and the use of alternative materials, M&C amended the boundary of the West University Neighborhood Historic Preservation Zone, thus removing the Church from the HPZ. Given the difficulty of the process and concerns raised by the historic preservation community, the Mayor and Council directed staff to initiate a text amendment process to provide a mechanism for processing height adjustments in the HPZ without having to amend the HPZ boundary.

Since the February 22nd meeting, staff has worked with stakeholders including local designers, developers, residents, and a selection of members from the affected HPZ boards to determine an appropriate mechanism for building height adjustments in the HPZ. The option determined to be most reasonable was the following:

- Allows for a building height of up to the tallest existing contributing structure within that HPZ, and alternative building materials if favorably recommended by the Tucson-Pima County Historical Commission (TPC-HC) and the associated local Historic Preservation Zone (HPZ), when located within an HPZ and the Infill Incentive District (IID). In general, this proposed amendment only applies to vacant lots and those utilizing this option must adhere to demolition regulations within both the IID and the applicable HPZ.

The proposal applies to a very limited area and will have an impact only in areas where the IID overlaps with an HPZ. The stakeholder group recommended this option as the IID is an area that the council has specifically created to direct growth and the provisions of the IID would result in development which is more sensitive to the existing neighborhoods. An exhibit depicting the proposed option was presented to each of the HPZ boards for feedback.

The proposed amendment has received split support amongst the Historic Advisory Boards. Barrio Historico and West University HPZ Boards voted to recommend denial of the proposed amendment; El Presidio voted to recommend approval with the condition that the tallest height allowed was no greater than the tallest contributing structure within the HPZ. Armory Park recommended approval of the amendments as presented. The two HPZ boards (Barrio Historico and West University) that voted against the proposed amendment suggested that even with the revisions offered by El Presidio, they would still recommend denial preferring the applicant go through the rezoning process to remove a property from the HPZ. For a review of the Legal Action Reports from those meetings refer to Attachment J.

On August 8, 2018, Mayor and Council held a Study Session on this item to deliberate and provide additional direction to staff related to the HPZ Height Modification UDC Text Amendment (see Attachment K for Mayor and Council Materials and Legal Action Report). At that meeting they directed staff to continue with the current text amendment, as-is, and refer it to the Tucson-Pima County Historical Commission Plans Review Subcommittee for a

recommendation, then to the Planning Commission for a recommendation to Mayor and Council.

On September 13, 2018 and October 25, 2018 staff presented the proposed HPZ Height Modification UDC Text Amendment to the Tucson-Pima County Historical Plans Review Subcommittee for review and discussion (see Attachment L for Legal Action Reports from those meetings). At the October 25, 2018 meeting, the committee voted 5-0 to recommend to the Planning Commission approval of the revisions to the text amendment to the UDC on height as presented with the following conditions: adopt a specific maximum height for each HPZ; define how height is measured; and ensure that the Plans Review Subcommittee would be part of the review process.

Present Considerations

Based on the feedback received to-date, staff is recommending a three-pronged strategy to addressing the IID Sunset Date. This includes (1) a series of amendments to IID text to provide needed clarifications and to change the building height regulations for IID projects within Historic Preservation Zones, (2) specific non-code related process issues for PDSO to explore and work to address, and (3) recommendations for more complex policy issues related to the IID that are outside the scope of the current code update and could be addressed at a later date. The following are the recommendations related to each of these three areas:

Minor Code Clarifications and Amendments (see Attachment A for proposed amendments)

1. Clarification in Section 5.12.2.B regarding the review process for projects in the Rio Nuevo Area (RNA) Overlay that would like to develop with the standards of the Infill Incentive District.
2. Clarification in Section 5.12.6.A.3 regarding the required pre-application conference and that, at those meetings staff and the applicant will review for potential code modifications and waivers, in addition to ensuring the plan meets the standards of the IID and if it is reviewed through a Major or Minor Review.
3. Amendment to HPZ requirements in Sections 5.12.6.E.1 and 5.12.14.A.1 in regards to building height and building materials, when overlapping with the IID. This would allow for modification of the required building height up to the tallest contributing structure within the HPZ, and would allow for modification of building materials, subject to review from the Tucson Pima County Historical Commission – Plans Review Subcommittee and the local HPZ board.
4. Clarification, in Section 5.12.6.E.3, of demolition of a historic structure to set the date to which, if a contributing or eligible structure is demolished, after that date, they are not allowed to utilize the IID.
5. Clarification, in Section 5.12.6.O, of the appeals process for the IID. This is not a substantive change; it only clarifies the process for how to file an appeal of a PDSO Director's decision on IID developments.
6. Clarification, in Section 5.12.6.Q, of the amendment process for approved design packages. This is only codifying the existing process taken for amendments.

Non-Code Items Related to the Processing of IID Projects for PDSO to Explore

1. Create easy to understand checklists, timelines, and list of staff and developer responsibilities so everyone involved in projects have a better understanding of the process.
2. Coordinate with development and community stakeholders for education on tracking changes throughout a project, how to document, and then submit to PDS.
3. Work with the University of Arizona and the College of Architecture, Planning and Landscape Architecture to develop annual or bi-annual training sessions for the Design Review Committee and Design Professionals.

Additional Issues to be Addressed at a Later Date

1. Monitor current parking conditions and trends to better inform code and policy changes.
2. Due to the uneven growth throughout IID, conduct research and a market study to better understand areas that have seen less development and adjust the code to better incentivize development there.
3. Explore the development of design guidelines or best practices that can better guide the design process in achieving the goals of the IID. This could include better addressing transitions between different subdistricts and areas, and addressing the streetscape.
4. Explore a housing study to create a plan for how to deal with student housing in this area and how to address affordable housing and providing a diversity of housing options.
5. Seek opportunities with existing initiatives to look for additional ways to promote transit oriented development and increase connectivity to transit systems.

At this time, staff recommends that the Planning Commission recommend the approval of the related proposed amendments to the Unified Development Code (UDC) and removal of the Infill Incentive District sunset date. Throughout this sunset date review and recent outreach undertaken, the overwhelming sentiment was that the IID is working well in achieving its intended goals of promoting transit-oriented infill development in Tucson's core. At this point, the overlay has a substantial track record of successful development projects and is a concept Mayor and Council have directed staff to expand throughout the City. Additionally, the removal of the sunset date does not preclude the City from making additional changes in the future. Mayor and Council may direct staff at any time to undertake that assessment of the code or make changes to address any further issues that may arise.

Attachment

- A - Proposed UDC Code Amendments for IID
- B - Map of the Infill Incentive District
- C - IID Ordinance #11246
- D - Summary of General Stakeholder Meetings and IID Study Group Stakeholder Meetings
- E - Comments Submitted at Public Meetings
- F - Letter from Chris Gans, IID Design Review Committee Chair dated 10.19.18
- G - Letter from Friends of Tucson's Birthplace dated 10.20.18

H – Letter from Tucson-Pima County Historical Commission dated 3.4.18

I – Letter from Tucson Metro Chamber dated 10.24.18

J – Summary of Legal Action Reports from HPZ review by HPZ Boards

K – Memorandum and supporting materials submitted to Mayor & Council regarding the HPZ Building Height Text Amendment on 8.8.18

L - Tucson-Pima County Plans Review Subcommittee Legal Action Reports – 9.17.18 and 10.25.18