

## Land Use Code (LUC) Committee

August 26, 2009

5:30 pm – 7:30 pm

Pueblo Conference Room, IT Building

481 W. Paseo Redondo

### Summary of Comments

#### Committee members in attendance

Frank Bangs (alternate)

David Godlewski

Karolyn Kendrick

Glenn Lyons

Albert Morales

Jim Portner

Pam Sutherland

Tracy Williams

Gal Witmer (alternate)

Jason Wong (alternate)

Colin Zimmerman

#### Facilitator

Irene Ogata

#### Staff

Jim Mazzocco

Adam Smith

Pat Krausman

Tom McMahon (Attorney's Office)

#### Ward 6

C.T. Revere

### 1. Introduction and Welcome

Irene Ogata started the meeting started at 5:35.

### 2. Updates

#### a) Parking Reductions

Jim Mazzocco informed the committee that the Parking Reduction ordinance was adopted by the Mayor and Council and went into effect June 2009. The ordinance is comprised of three parts: replacing existing uses (applies to nonconforming sites only), existing development sites, and individual parking plans. The existing development sites and individual parking plan provisions require a parking mitigation plan.

#### b) Downtown Area Infill Incentive District & Amendments to the Planned Area Development requirements

Adam Smith notified the committee that the proposed Downtown Area Infill Incentive District (IID) and Planned Area Development text amendments received a recommendation for approval from the Planning Commission and that the items would be going to the Mayor and Council September 9<sup>th</sup> for public hearing and consideration.

Tracy Williams commented that the building community thinks that privacy mitigation can be satisfied by planting a few trees.

Adam Smith explained that the IID requires Development Transition (i.e. privacy mitigation) from multistory projects locating adjacent to existing single story residences. Requirements include not locating balconies and windows that overlook adjacent residences, being sensitive to the scale and massing of the residences, and providing buffers.

Tracy Williams – What about airflow, solar, water, etcetera? What about privacy mitigation for 4 story structures?

Adam Smith explained the scale and massing requirements of the Development Transition element.

Gal Witmer asked, in regards to the PAD amendment, what publicly initiated means?

Adam Smith and Jim Mazzocco explained that the Mayor and Council have the authority to initiate a PAD rezoning. One example of when the Mayor and Council may initiate a PAD rezoning is to implement the Downtown Links plan.

#### **c) Feldman’s Neighborhood Preservation Zone**

Adam Smith provided background on the proposed Feldman’s Neighborhood Preservation Zone (NPZ) and the rezoning process currently underway. Adam Smith informed the committee that the Zoning Examiner preliminarily recommends the rezoning and the item is tentatively scheduled for the Mayor and Council in October.

Tracy Williams recommended having one design manual for the whole City rather than for just one neighborhood.

Jonathan Mabry explained that the NPZ is designed for National Register historic districts where the defining characteristics of the area have been clearly identified. The defining characteristics are used when evaluating a project’s compatibility.

#### **d) Energy grant application**

Jim Mazzocco informed the committee that the City has applied for a \$5 million Energy Grant from the Federal government. If the grant is awarded, a portion of the money would be designated for a sustainability analysis and revision of the LUC. The Mayor and Council will be discussed the item on September 9<sup>th</sup>.

Glenn Lyons - Will both land use and building sufficiency be discussed?

Jim Mazzocco – Yes. A sustainability analysis similar to what is proposed for Tucson has been done for Salt Lake City. Adam Smith will send a link to the report to the committee.

Colin Zimmerman – Will revising code cost \$5 million?

Jim Mazzocco – No, revising code is one of 14 items proposed.

### **3. LUC Articles I & II**

Jim Mazzocco provided an update on the Unified Development Code (UDC), including its organization, the scope of services, the project's objectives, and estimated timeline.

Karolyn Kendrick – What basis is used to make decisions to fix code?

Jim Mazzocco explained he will keep list based on recommendations from committee members and staff reviewing articles.

Tracy Williams – Will the term “interpretation” be clarified every time it is used? That term is problematic. She proposed eliminating the use of “interpretation” entirely.

Jim Mazzocco explained that Clarion and staff are working to clarify what interpretation means and adding that to the code.

David Godlewski – What are Clarion's thoughts on dual usage of the codes during transitions?

Jim Mazzocco – They endorse it.

Albert Morales – Who came up with two year grace period? Could it be changed to until land changes hands?

Jim Mazzocco – Clarion agreed that two year period would meet legal requirements.

Frank Bangs – Where is the Minor Modification section?

Jim Mazzocco: Article 3

David Godlewski – How does the reorganization affect this process? Does the new director support the project?

Jim Mazzocco – The reorganization has gone smoothly and has not affected this project. The Director supports the project. The biggest change is that we can now meet with staff and discuss as opposed to e-mail. The users are right there with us.

Jim Portner – Re: Transitional requirements: What are Clarion's ideas and expertise? What is the backlog of experience? Are enough people benefiting from their expertise?

Jim Mazzocco – Clarion's clients are benefiting from their broad experience.

Jim Portner – We're beyond the guinea pig stage?

Glenn Lyons – Supports the fact that we’re beyond that stage.

Jim Mazzocco explained one idea of how the Design Review Board (DRB) can be streamlined. He also explained the Historic Preservation Zone districts, permit requirements, and recommendation that some reviews be forward directly to the Board of Adjustment. The Mayor and Council would continue review of demolition of historic structures in HPZs.

Frank Bangs – How many demos come up for Historic?

Tom McMahon – Not that often. There may be three in the next couple of months.

Frank Bangs – He wouldn’t touch this issue with a 10-foot pole if he was on council.

Gal Witmer commented on the case about replacing windows in the HPZs. The window replacement case that went before the DRB was stupid and did not need to be reviewed by the DRB.

Frank Bangs – What is relationship between role of DRB and Design Professional (DP)?

Jason Wong – What is the difference between the DRB and CDRC (Community Design Review Committee)?

Jim Mazzocco explained the functions of each. The DP is to oversee NPZ permits and make recommendations. The DP is an advisory position hired to work with staff on ad hoc basis. Clarion made recommendation to combine the DP and the Design Examiner positions. This function may branch out to include other professionals to make recommendations as needed.

Pam Sutherland stated she likes the recommendations so far. Historic demolitions should go before the Mayor and Council so they keep their hands on that.

Frank Bangs & Karolyn Kendrick agreed with Pam’s sentiment.

Jim Mazzocco then explained the revised timelines. The target date for adoption of the UDC is November or December 2010.

Colin Zimmerman – Is staff planning on having an official comment period? How should comments be submitted?

Jim Mazzocco – The drafts will be posted online for review and comment. We are compiling lists of comments from staff and committee so Clarion can start reviewing and incorporating or clarifying as needed.

Colin Zimmerman – Should we start sending our comments by e-mail? Is there a format?

Jim Mazzocco: Yes, send them as you think of them. E-mails are fine. Listing Clarion draft article and page numbers would be helpful.

David Godlewski – Why was the initial draft not be distributed to this committee?

Jim Mazzocco – Normally, an ordinance is reviewed by attorneys before we go public. We wanted attorneys to review the first draft. Clarion prepares drafts for City attorneys review for local legal determinations. Attorney client privilege is not unique to this document. Procedurally, reviews gets messy when people are talking about different drafts of the same documents.

David Godlewski – The comment period looks like it will be two years. He recommended that the group meet more often and would like to have an opportunity to hear presentations for SAHBA (Southern Arizona Home Builders Association) and neighborhoods. More outreach to the stakeholders and due diligence is needed.

Tracy Williams – Can I come to the SAHBA meetings to listen? There is a parity issue here.

David Godlewski: Building community is just trying to get a chance to ask city staff questions. Questions and comments will be in writing. There is a consensus that changes need to be made to code. SAHBA needs a chance for thorough review, comment, and vetting.

Jim Mazzocco – City staff is available to meet with any group who wants to talk.

Albert Morales stated that public feedback is needed.

Jim Mazzocco reiterated that staff will talk to anybody about the project.

Jim Portner – Article III is a critical phase since recommendations on the Development Designator system will be made. When will draft be available to committee? Is staff putting pressure on Clarion to get Article III back?

Jim Mazzocco – Let them work at their pace. They have experience and Article III will impress you. Staff has found a lot of shrinking to reduce redundancies has already taken place.

Jim Portner – So far the documents look really nice, they're easy to understand, and the writing is clean.

Frank Bangs stated that Mary Beth Savel submitted comments. He has issues re Section 1.5.1., page 2, of the draft. He stated he knew why this was added back in 2004. The City was plagued by serial appeals over past interpretations by Zoning Administrator (ZA). The problem was that there was no time limit fixed after a decision was made for people to act. The City added a provision that said once there is an interpretation, someone has 30 days to appeal it or hold your peace. The only trouble is that we like certainty. Legally secure and due process needed for posting and communicating ZA interpretations.

Frank Bangs then discussed the transition between the LUC and UDC. Why would the transition just be from the LUC to the UDC? What about future amendments. Typically grandfather provisions are placed. Why not make it uniform?

Frank Bangs commented he was amazed at long list of Board of Adjustment responsibilities on page 13. He likes the re-write. He stated he assumed the criteria will be in manual? Staff needs to look at the criteria more carefully, particularly #1 and 5. The performance standard is wrong and not associated with the current Development Designator system. There are a lot of idiosyncratic provisions floating about. Staff needs to look at the Board of Adjustment's "can not" list. Can the Mayor and Council vary this list? (See MBS notes.)

Frank Bangs stated that special exceptions and conditional uses are usually spelled out. (Example is in residential use, pre-existing conditions to be met. Typically can't be varied.) Clarion and staff need to look more carefully and include more performance criteria.

Tracy Williams said she was listening to Mr. Bangs very carefully. She questioned the use of "shall" or "may"? She stated we need to make sure "shall" and "may" is used where it is supposed to be.

Glenn Lyons stated that some say "may" should not be used in codes.

Frank Bangs asked if the yellow highlighted sections were drafted from old code?

Tracy Williams stated that City Of Tucson attorney needs to listen to this. We need to watch every may and shall.

Karolyn Kendrick – Consider differences of "may" and "shall?"

Glenn Lyons stated that "shall" is a stronger term.

Jim Mazzocco stated that some people recommend the use of the term "must." He reminded the committee to send comments to staff and that staff will meet individuals or small groups and get back with a recommended version.

#### **4. Amendments to the Parking Code (Formulas and Uses)**

Adam Smith presented an overview of the Parking Code Revision project, which included the Mayor and Council direction, key concerns with the current parking code, expectations of the new parking code, current best practices, objectives for the parking use table and formulas, and the next steps. He stated that staff will work with the committee to develop recommendations. Regarding the parking comparison table, Adam stated that it can be expanded to include additional uses and comparison cities. He also said the chart has been corrected to reflect Pima County's current shopping center parking standards. He concluded his overview by requesting feedback.

Tracy Williams stated that if you reduce or change parking, more landscaping needs to be required. If reducing the heat island is an objective, then “real” open space requirements and landscaping needs to be required.

Adam Smith stated that a recently adopted amendment going into effect in June 2010 will require 1 tree per 4 parking spaces. Requiring more trees has already been adopted.

Irene Ogata commented that the Landscape Advisory Committee (LAC) is evaluating the landscaping requirements in code right now. The LAC meets the last Wednesday of every month and committee is invited to attend.

Glenn Lyons stated that landscape requirements need to be appropriate for use of land.

Jim Portner asked for clarification on what will be included in the parking design standard revisions?

Adam Smith explained that the committee will evaluate the design standards currently in Development Standards (Are there too many criteria? Are there too many details?) and whether to put them in the UDC.

Jim Portner commented that part of what we’re looking for is balance.

Jason Wong – The Target project on Oracle Road is good example. There is less required parking and more required landscaping. What takes place of parking?

Jim Portner – Target is good example of what works. Review staff got reams of studies from Target professionals assuring their stores could function with less parking. Staff worked with professionals who have conducted surveys to get the required parking number closer to what is actually needed for business. Business knows what it needs and comes up with it. Need more code flexibility to take an integrated approach.

Jim Mazzocco commented that water harvesting and landscaping requirements actually provide more flexibility with parking requirements.

Karolyn Kendrick noted that staff is not proposing changes to residential parking requirements. The lack of parking for the mini dorms need to be addressed. The parking is not adequate. Neighborhoods want to see changes and none are proposed yet.

Pam Sutherland requested that that an amendment allowing green materials be considered. She added too much asphalt is currently being used.

Tracy Williams stated that we don’t want to compromise ADA standards. The senior population is growing. Consider formulas that do not reduce blue zones and ADA requirements.

Adam Smith stated that under the number of required ADA spaces is based on the number of total required parking spaces. If the revisions result in fewer parking spaces, the number of ADA

spaces required could in turn decrease. The number of accessible parking spaces needed may also have to be reviewed as part of this project.

Tracy Williams – Who is going to educate the new staff on old code requirements? We need to remind everyone that “accessible is cool” and needs to be included.

Glenn Lyons commented that parking could be reduced by 20%.

Tracy Williams – We don’t want accessible parking reduced.

Glenn Lyons – Accessible parking issues can be addressed mathematically.

Colin Zimmerman said he would like to see what the current use requirements are compared to the proposed requirements. He would like to see a table.

Gal Witmer said that something has to be done about mini-dorm parking. There is no limit to the number of people who could live there legally. Can’t you do something like home occupation requirements to address boarding house use?

Adam Smith responded by saying San Diego requires tenants to register with city as a way of monitoring how many people live in rental units. Placing occupancy limits are difficult to enforce.

Jim Mazzocco – We all know what a mini-dorm is from a lay point of view. What becomes a problem is that no one applies for dorm or boarding house permits. They apply for single family residence. Families can be unrelated too and to restrict the number of unrelated people runs into constitutional issues. We can’t dictate who is in that residence. There may not be a zoning solution to this. Landlord rules might be better fix. Zoning doesn’t answer all problems.

Gal Witmer – If a home is built requiring parking for two cars and is rented to six students, we need some type of enforcement.

Karolyn Kendrick – We shouldn’t do anything that can’t be enforced. The problem with the current code is that things are not enforceable. We shouldn’t have to define families when people are advertising what they are building as luxury student rentals. Group homes are rented by bedroom, whereas mini-dorm landlords have someone holding the lease, but we know bedrooms being rented. Don’t give up on fact that this can not be controlled or enforced.

Jim Portner – This might not be zoning issue. An enforcement process exists. Advertisements and yellow pages are used in case-by-case trials.

Karolyn Kendrick - The parking ratios are laughable.

Colin Zimmerman – Staff did a great job of listening and layout is great, interactive way to present.

Adam Smith stated that the committee will meet again in a month.

Glenn Lyons stated that one meeting needed for parking alone.

Adam Smith said that parking and UDC may be discussed at separate meetings.

Jim Mazzocco emphasized that we won't hold one item back because of the other. We need to keep moving.

Adam Smith asked the committee to e-mail their comments and questions.

## **5. "The List" – Update**

Adam Smith explained that "The List" is a compilation of proposed amendments that fall outside the scope of the UDC project. He asked the committee to keep notes of items to be fixed as they review the UDC material. There are some issues that we do not want to lose track of that need to be addressed in administrative or technical manuals.

Tracy Williams commented that case-by-case enforcement is expensive and time consuming, particularly now that the number of staff is reduced. She would like case-by-case cost analysis performed by the developer.

Jim Portner stated that a case-by-case does put an onus on the developer. Staff is more in a review and verification mode. Staff is not charged with coming up with plan.

## **6. Call to the Audience**

Jonathan Mabry thanked the committee for their comments.

## **7. Next Steps**

Irene Ogata thanked the committee for their comments and reminded the them that the next meeting will be in approximately one month.

Meeting convened at 7:25 pm