



# PLANNING COMMISSION

Department of Urban Planning & Design • P.O. Box 27210 • Tucson, AZ 85726-7210

**DATE:** March 4, 2009

**TO:** Planning Commission

**FROM:**   
Albert Elias, AICP  
Executive Secretary

**SUBJECT:** Land Use Code Amendment – Parking Reduction Amendments  
(Nonconforming Parking, Existing Development Parking Reductions,  
Individual Parking Plans)

**Issue:** At the study session held on January 7, 2009, the Planning Commission requested that the proposed Parking Reduction Amendments be set for a public hearing. A public hearing was held on February 4, 2009 and the public hearing was continued to March 4, 2009.

The Parking Reduction Amendments to Chapter 23 of the *Land Use Code (LUC)* are in response to Mayor and Council direction to remove obsolete zoning barriers to better facilitate the use of existing buildings and to provide flexible solutions for reductions in the parking requirements for new and existing uses.

**Recommendation:** Staff recommends that the Planning Commission forward this item to the Mayor and Council with a recommendation to adopt the parking reduction amendments to the *Land Use Code*.

**Background:** At the public hearing held on February 4, 2009, the Planning Commission discussed the components of the parking reduction draft. Several members of the development community and neighborhood representatives attended the public hearing to voice their concerns. The development community generally supported the parking reduction proposal with the exception of the provision requiring renewal of the mitigation plan. The neighborhood representatives have concerns about uses with parking reductions having negative impacts on adjacent residential development. The Planning Commission requested that staff respond to concerns raised at the meeting by stakeholders and Commission members. A summary of the history of the amendments and the concerns raised at the February 4, 2009 public hearing are attached as appendices A and B.

A summary of the key sections of the draft ordinance is as follows:

- **Section 3.3.3.11 New Uses Replacing Existing Uses** – The amendment would allow any previous use of similar intensity to use the property. In the current draft, bars and restaurants are prohibited from locating on nonconforming sites unless the immediate prior use was a bar or restaurant. Accessible parking spaces required by the Americans with Disabilities Act (ADA) cannot be reduced or eliminated due to a reduction in the

number of standard parking spaces on the site. Accompanying the amendment is a documentation policy for evaluating the application and the history of previous uses.

- Section 3.3.8.6 Existing Development Site Parking Reduction – The amendment allows development sites that existed prior to the adoption date of the ordinance to use a reduced parking calculation. This reduction is based on the typical commercial parking formula of one (1) space per 200 square feet of gross floor area compared to the proposed calculation of one (1) space per 333 square feet of gross floor area. Staff tested the proposed parking calculation on existing multiple use shopping centers and found that by using this calculation, a reduction of spaces between nine (9) and 24 percent.  
The proposed calculation for commercial service, retail and civic uses is one (1) on-site parking space for each 333 square feet of gross floor area for existing development with existing buildings.  
The proposed calculation for warehousing, storage and wholesaling uses is one (1) on-site parking space for each 2,000 square feet of gross floor area.  
The proposed calculation for manufacturing and other industrial uses is one (1) on-site parking space for each 1,000 square feet of gross floor area.  
The number of accessible parking spaces required by the Americans with Disabilities Act and provided on the approved site plan cannot be reduced or eliminated.  
Uses locating adjacent to existing residential uses are required to provide a mitigation plan and meet with the adjoining neighborhood.  
The mitigation plan will be reviewed on a regular basis and the Development Services Department Director may renew the mitigation plan.  
If a new use occupies the development site, the Director may renew the mitigation plan if the new use will have an equivalent impact on its surroundings.
- Section 3.3.8.7 Individual Parking Plan – This new section would allow a property owner to create parking calculations for new or existing development specific to the circumstances on the site without creating a parking nuisance in the immediate area. A licensed design professional can prepare the individual parking plan. The formula considers anticipated uses, hours of operation, shared parking agreements, traffic circulation and alternate modes of transportation.  
In the March 4, 2009 draft, bars and restaurants are not eligible to request an individual parking plan unless they are part of a large development complex with multiple tenants and share common elements as provided in Section 3.3.5.1. (Lane Uses Sharing Common Elements).

Based on discussion at the February 4, 2009 public hearing, staff has made revisions to the draft amendments. At the public hearing, the Planning Commission directed staff to meet with neighborhood and business representatives to discuss the parking amendments.

**Stakeholder Meeting:** Staff invited members of the development community and neighborhood representatives that attended the February 4, public hearing to meet on February 19, 2009 to discuss the parking reduction amendments. Due to low attendance at the meeting by members of the development community, the majority of the discussion focused on neighborhood concerns. The key issues that resulted from the discussion included the following:

- There is a concern that nonconforming uses would continue rather than being required to meet the current regulations;
- Any existing parking problems will be allowed to continue rather than being addressed and corrected;
- Changes of use and expansions of lot or building area have required full Code compliance and if the regulations are approved as written, the opportunity to have those improvements made will be lost;
- Bars and restaurants should not be allowed to take advantage of the prior use provisions in Section 3.3.3.11 of the amendment;
- The provision for shared parking agreements is a concern in the event that one of the participants in the agreement wants to change the use of their property;
- There is concern about the effect of the parking reduction previously granted and if the use that has been granted a parking reduction will be forced to close is the agreement is dissolved;
- All land uses requiring parking at a ratio of 1 space for each 100 square feet of floor area or greater should not be eligible for a parking reduction.

The neighborhood representatives expressed concern about the Individual Parking Plan (IPP). The comments resulting from this discussion included the following:

- The IPP makes it too easy for the development community to avoid meeting parking requirements;
- The IPP should be allowed on a case-by-case basis in special circumstances;
- The criteria for approval are inadequate and a set of performance standards needs to be put in place;
- A correlation between the use and the need for off-site parking is necessary. When permitted, a safe pedestrian path should be identified;
- In requiring that a licensed professional prepare an IPP, a professional hired by the applicant will inherently create conflicts.

**March 4, 2009 Draft Ordinance Amendment Summary:** During the public hearing held on February 4, 2009, the Planning Commission requested changes and clarification of some issues. In addition, comments and concerns that have been raised by stakeholders have been considered and included in the current draft dated March 4, 2009. A summary of the changes made as a result of those conversations include the following:

- Section 3.3.3.11 - *Clarify status of replacement uses* - The new language distinguishes between a new replacement use that is the same or different from an existing use. The provision allows a different use when it is an allowed use in the current zone and does not create a safety hazard in going into an existing complex. In cases where a different use is documented as a prior use, it may be allowed or a use that has the same parking intensity may also be allowed.
- Application Submittal Policy – *Applicability* - *Clarify what the term Tucson Zoning Code covers* – This provision clarifies typical inconsistencies that occur in zoning related to governmental land and nonconforming uses occurring from annexations.
- Section 3.3.8.6.A *Clarifies that a hazard cannot be created by a parking reduction* - This provision specifies that a parking reduction plan cannot be implemented that would create a safety hazard on the site.
- Section 3.3.8.6.A.3 *Clarifies differences between the parking requirements for storage uses and manufacturing uses* - This section establishes two parking formulas for warehousing and storage uses as well as a formula for manufacturing and other similar industrial uses. This distinction is necessary since warehousing uses require a large amount of gross floor area but fewer employees whereas manufacturing uses have greater employee parking needs.
- Section 3.3.8.6.A.4 *Allows more intense uses in the parking reduction plan on a limited basis* – This section allows a small amount of relief for a land use with a one (1) space for each 100 square feet of gross floor area. Religious uses tend to need parking in the evenings and on weekends thus being a natural shared parking partner for an otherwise unused parking lot.
- Section 3.3.8.6.B *Clarifies that parking reduction is not allowed in the R-2 or more restrictive zones* – Land uses in R-2 or more restrictive zoning classifications are not permitted to use a parking reduction plan. This provision attempts to address a concern raised by neighborhood representatives at the February 19, 2009 stakeholders meeting.
- Section 3.3.8.6.D *Clarifies how a parking mitigation plan works* – A parking mitigation plan must provide a compatibility analysis and a site inventory to demonstrate that a safety hazard will not be created and that no adverse impacts to adjacent neighborhoods will result.
- Section 3.3.8.6.F *Clarifies the role of the renewal section* – This will allow the Mayor and Council to remove or continue this provision at their discretion.

**Conclusion:** The proposed parking reduction amendments to the *Land Use Code* provide property owners of underused buildings with an alternative to demolishing those buildings or

PUBLIC HEARING – LAND USE CODE AMENDMENT  
Parking Reduction Amendments (Nonconforming Parking, Existing  
Development Parking Reduction, Individual Parking Plans)  
March 4, 2009

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allowing the site to remain vacant. As requested by the Mayor and Council, the proposed amendments remove obstacles from owners of existing buildings. The amendments also attempt to reduce the negative impacts on surrounding properties.

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**Attachments:**

Draft text amendment – Section 3.3.3.11

Draft text amendments – Section 3.3.8.6 and 3.3.8.7

Appendices: A – History of the Amendments

B – Issues from February 4, 2009 public hearing

C.1 – February 19, 2009 Stakeholders meeting comments

C.2 – Power Point presentation

D – February 4, 2009 public hearing background materials



DRAFT (MARCH 4, 2009)

**DRAFT TEXT AMENDMENT AMENDING  
MOTOR VEHICLE AND BICYCLE PARKING REQUIREMENTS  
SECTION 3.3.3.11 – NEW USES REPLACING EXISTING USES**

**SECTION 1.** The Tucson Code, Chapter 23, Land Use Code, Article III, Division 3. Motor Vehicle and Bicycle Parking Requirements Section 3.3.3.11 is hereby amended to read as follows:

~~New Uses Replacing Existing Uses – Whenever the use of an existing development is changed to a different use which requires more parking spaces under this Division than were required for the prior use, additional parking spaces shall be provided for the new use as follows.~~

- ~~A. The number of additional parking spaces required is determined by subtracting the number of spaces required for the prior approved use from the number of spaces required for the new use.~~
- ~~B. If parking for the new use can be accommodated within the vehicular use area approved for the prior use, the parking for the new use shall comply with the regulations in effect at the time of approval of the most recent parking plan for the prior use. However, if the prior use was approved before April 1, 1969, and there is no approved parking plan for the use on file with the City, parking for the new use shall comply with:
  - ~~1. The parking, screening, and landscaping requirements in effect at the time the development permit for the prior use was approved; and~~
  - ~~2. The paving and striping requirements of this Division.~~~~
- ~~C. If parking for the new use cannot be accommodated within the existing vehicular use area approved for the prior use, parking must be provided in accordance with the requirements in Sec. 3.3.3.12.~~

- A. When a new use replacing an existing use is the same as an existing use on the property, the parking remains the same in accordance with Section 5.3.6. of Land Use Code.
- B. When a new use replacing an existing use is different it must be a permitted use in the current zone.
  - 1. A change in use does not include a bar or restaurant;
  - 2. On-site parking, landscaping and screening requirements may remain in their current configuration however, the Development Services Director may require improvements where a public safety hazard exists or may be created.
  - 3. The proposed use must comply with current paving and striping requirements and the Americans with Disabilities Act.
- C. Whenever the use of an existing development is replaced by a new and different use, parking requirements for the proposed use may be calculated based on a prior use of the same or lesser parking intensity. The property owner must provide documentation as required by the Zoning Administrator.

## Application Submittal Policy Related to Sec. 3.3.3.11

**Re:** Land Use Code – Motor Vehicle and Bicycle Parking Requirements (Section 3.3.3.11) – New Uses Replacing Existing Uses

### Applicability.

- A. This policy applies to property with buildings that were in existence prior to July 1, 1995 and subject to the regulations in the *Tucson Zoning Code* (adopted January 1, 1968). Note: governmental land, such as state and federal land, is not regulated under City zoning. Annexed lands may be classified as nonconforming uses under City zoning.

### Zoning Criteria.

- A. The proposed use(s) must be similar in intensity or less intense than any previously-approved use(s) that complied with requirements in the *Tucson Zoning Code* (adopted January 1, 1968);
- B. This provision does not apply to existing building or site layouts where an expansion occurred after the establishment of the previously approved use(s) that complied with the *Tucson Zoning Code* (adopted January 1, 1968). Expansions made to meet the requirements of the Americans with Disabilities Act are exempt.

### Documentation Criteria.

- A. The Zoning Administrator may require information to assure the veracity of the use criteria documentation using one of the following:
1. A Certificate of Occupancy for a previously approved use on the site in the current zoning classification;
  2. An approved business license for a previously approved use on the site permitted in the current zoning classification; or;
  3. Another item of evidence that establishes the existence of an approved use on the site in the current zoning classification that is found acceptable by the Zoning Administrator.
- B. In addition, the Zoning Administrator may require one of the following site criteria:
1. An approved site plan in compliance with the requirements in the *Tucson Zoning Code* for the previously approved use(s);
  2. An aerial photograph that documents the original building configuration on the approved site plan; or
  3. Another item of site plan evidence acceptable to the Zoning Administrator.
- C. In all cases, the Zoning Administrator will require proof of the square footage of all buildings on the site as approved for the prior use.

**DRAFT TEXT AMENDMENT**  
**MOTOR VEHICLE AND BICYCLE PARKING**  
**REQUIREMENTS ADDING SECTIONS**  
**3.3.8.6 AND 3.3.8.7**

**SECTION 1.** The Tucson Code, Chapter 23, Land Use Code, Article III, Division 3. Motor Vehicle and Bicycle Parking Requirements is hereby amended by adding Section 3.3.8.6 Existing Development Sites – Parking Reduction, and Section 3.3.8.7 Individual Parking Reduction reading as follows:

**Section 3.3.8.6. Existing Development Sites**

A. **Parking Reduction** – A parking reduction plan may apply to existing development that existed prior to the adoption date of this ordinance and that meets the criteria listed below. A parking reduction plan may be approved by the Development Services Department Director (the Director.) The parking lot for an existing development may be used in its current configuration, except if the Director requires improvements that are required where a public safety hazard exists or may be created.

1. Commercial service, retail and civic uses may request a parking reduction using an alternate parking calculation of three (3) spaces for each 1,000 square feet of gross floor area if the use meets the all the criteria listed in Section 3.3.8.6.A.5 below.
2. Warehousing, storage and wholesaling uses may request a parking reduction using an alternate parking calculation of one (1) space for each 2,000 square feet of gross floor area if the use meets criteria listed in Section 3.3.8.6.A.5.a.b. and c. below.
3. Manufacturing and other industrial uses may request a parking reduction using an alternate parking calculation of one (1) space for each 1,000 square feet of gross floor area if the use meets criteria listed in Section 3.3.8.6.A.5.a.b. and c. below.
4. Exception. The alternate parking reduction for existing development does not apply to uses with a parking formula of 1 space to 100 square feet of gross floor area or a more intense formula. Typical uses include restaurants and bars. This exception does not apply to religious uses. The number of accessible parking spaces required by the Americans with Disabilities Act and provided on the approved site plan shall not be reduced or eliminated.
5. The following criteria apply to Sec. 3.3.8.6.A.1 and 2 as noted in those sections:
  - a. The site can accommodate shared parking arrangements for uses with alternate hours of operation or peak use times;
  - b. The use will not cause a substantial increase in noise or glare from the site;
  - c. The use will not cause excessive drive-through traffic or habitual parking within the adjacent residential neighborhood or commercial development; and
  - d. Existing development except industrial uses shall be located within 1,320 feet (1/4 mile) of an existing transit stop or public parking facility.

B. Parking reductions do not apply to land uses in the R-2 zone or a more a more restrictive zone.

C. **Development Adjacent to Residential Uses** – Development located within 300 feet of R-3 or more restrictive zoning requesting a parking reduction may require a parking mitigation plan.

D. A parking mitigation plan must be submitted to the Director and shall be reviewed in accordance with Sec. 23A-50 and 23A-51 of the Tucson Code.

1. The mitigation plan shall include a compatibility analysis that addresses how the parking reduction will not cause a safety hazard or problem driving, noise or parking impacts on an adjacent existing neighborhood. The plan shall address the following:

- a. Methods to avoid potential increases in noise and glare from the site;
- b. Methods to deter vehicular access into adjacent residential neighborhoods using signage or other means; and
- c. The prevention of excessive drive-through traffic or habitual parking within adjacent residential neighborhoods or commercial development; and;
- d. Any other issues deemed appropriate by the Director.

2. In addition, the parking mitigation plan shall provide the following site inventory information:

- a. A site plan indicating existing site conditions, including any available on-street parking;
- b. Hours of operation;
- c. Any existing shared parking agreements;
- d. Proximity of the site to existing residential neighborhoods;
- e. Neighborhoods adjacent to the site using a Residential Parking Permit program;
- f. Existing site access and traffic circulation; and
- g. Any other information deemed appropriate by the Director.

3. The parking mitigation plan will be reviewed every year for the first three years the business is in existence to determine if changes to the plan are warranted. If changes are necessary, an amended mitigation plan must be submitted to the Development Services Department and approved by the Director. When a change of use occurs, a new mitigation plan is required. The Director may renew the existing mitigation plan for a new use if the new use is determined to have an equivalent impact on its surroundings.

E. **Violation of the Mitigation Plan** – If a development is operated in a manner that violates its mitigation plan or conditions for permitting the use or causes adverse land use impacts, the use may be suspended or terminated in accordance with Section 23A-54 of the Tucson Code.

C. **Renewal** – Reserved. [Note: the purpose of this provision it to allow the Mayor and Council to remove i.e, 'sunset', or continue this provision as an active part of the Land Use Code. The provision may be renewed annually , modified or made permanent at the discretion of the Mayor and Council. The City Attorney's office will provide the final language for the section. ]

### Section 3.3.8.7. Individual Parking Plan

- A. The Development Services Department Director (the Director) may approve an individual parking plan request for the following uses:
1. Combined residential and non-residential development in a single structure or unified development;
  2. Newly constructed development or changes of use in existing buildings within 1,320 feet (1/4 mile) of a transit stop or public parking facility;
  3. Religious uses where the parking plan will accommodate weekend and evening use;
  4. Residential care services or housing developments for the elderly or physically disabled;
  5. A development site that can accommodate shared parking arrangements for uses with alternate hours of operation and peak-use times.
- B. The following information shall be provided for review of an individual parking plan:
1. A site plan indicating existing site conditions including all anticipated uses of the site;
  2. Site access and traffic circulation patterns;
  3. Distance from the development site to existing residential neighborhoods;
  4. Availability, location and distance to alternate modes of transportation;
  5. The number and location of parking spaces proposed and required indicating data source in establishing the number of spaces;
  6. Expected hours of operation of proposed uses reflecting peak use times;
  7. Evidence that all required parking for the proposed uses will either be on-site or at an approved off-site parking location;
  8. Existing and proposed shared parking agreements. Proposed shared parking may be located within an existing parking location up to 1,500 feet away located in a more or less intense zone.
  9. A parking agreement must be prepared in a manner acceptable to the Development Services Director;
  10. Verification that accessible parking spaces required by the Americans with Disabilities Act provided on the approved site plan have not been reduced or eliminated;
  11. Any other information deemed appropriate by the director including a traffic study.
- C. Findings for Approval. The Director may approve an individual parking plan, as provided in this Section if all of the following findings are made:
1. The uses for which the individual parking plan will be applied are allowed in the current zone;
  2. The proposed parking plan will deter vehicular access into adjacent residential neighborhoods;
  3. The proposed parking plan will prevent excessive drive-through traffic or habitual parking within adjacent commercial development or residential neighborhoods; and
  4. The proposed parking plan will not obstruct site access or traffic circulation;
  5. All parking is on site or at an off-site location with an approved shared parking agreement.

- D. An individual parking plan request must be prepared by a licensed design professional approved by the Director. The plan must include a formal agreement prepared by the property owner agreeing to the uses allowed on the site. Any revisions to the allowed uses will require approval of a revised individual parking plan.
- E. **Exception** – Restaurants and bars are not eligible to request an individual parking plan unless the property owner or applicant can demonstrate compliance with Section 3.3.5.1. (Land Uses Sharing Common Elements) of the Land Use Code.
- F. The parking area of any existing development may continue to be used in its current configuration except where a public safety hazard may be created or adjustments in parking space dimensions are required.
- G. The individual parking plan is subject to a parking mitigation plan in accordance with Sections. 3.3.8.6.C.D. and E.
- H. **Renewal** – Reserved. [Note: the purpose of this provision it to allow the Mayor and Council to remove i.e, ‘sunset’, or continue this provision as an active part of the Land Use Code. The provision may be renewed annually , modified or made permanent at the discretion of the Mayor and Council. The City Attorney’s office will provide the final language for the section. ]

Code Revision/Parking/DRAFT March 4, 2009

**OUTLINE OF EVENTS LEADING TO THE PARKING REDUCTION  
AMENDMENTS  
February 25, 2009**

**February 5, 2008**

Mayor and Council directed staff to form a stakeholder group to develop a Certificate of Occupancy Disclosure Ordinance. This ordinance was directed at concerns expressed in the small business community about the use of existing buildings and making an attempt to revitalize the use of otherwise empty midtown commercial buildings.

**February through June 2008**

Development Services staff met with a business group facilitated by Ward 6. The Metropolitan Pima Alliance worked on an ordinance addressing issues surrounding the certificate of occupancy process.

**July 8, 2008**

Mayor and Council adopted the Certificate of Occupancy Disclosure Ordinance. As part of the adoption Mayor and Council also requested continued work on the certificate of occupancy process and, with regards to corresponding zoning issues of small business commercial buildings, directed the Department of Urban Planning and Design to do the following: "... begin working with stakeholders and Development Services staff on appropriate medium and long term solutions to encourage and facilitate adaptive reuse of older buildings and remove obsolete Land Use Code barriers to small businesses in our community." Staff shall provide updates to EPRM (Environmental, Planning, and Resource Management)."

**August through December 2008**

Under the facilitation of Ward 6 and the Metropolitan Pima Alliance, the committee and staff discussed the problems occurring on existing midtown sites. The participants were from the development, real estate, property management, and consultant fields. The group told many stories about existing property where small business people want to use existing tenant spaces but parking requirements prevent them from doing so. They specifically noted that the "prior use" provision of the parking regulations tended to sterilize property from any future use. They noted that furniture stores, especially, could sterilize a tenant space because of its more restrictive parking requirements.

During this time, working with the facilitators and committee, staff proposed 'medium term solutions' for parking concerns. It consisted of three parking reduction concepts that eventually evolved into the parking reduction amendments being reviewed by the Planning Commission. As a long term solution staff proposed a revision of the entire parking regulations. At this time, this part of the project is in a preliminary stage.

**September 2008**

Staff met with several stakeholders from the developer, consultant, and neighborhood groups to talk generally about problems with parking regulations. Staff has collected

these comments and will be using them as it begins to proceed with the long term solution of an entirely revised parking regulation.

**October 22, 2008**

Staff gave a presentation on the draft parking reduction amendments to the EPRM Subcommittee. The committee received the amendments positively and looked forward to them coming to the Mayor and Council in about April 2009.

**December 11, 2008**

Staff presented the draft amendments to a newly formed Land Use Code Committee made up of a broad group of stakeholders representing neighborhoods, commercial, and non-profit interests. The committee generally was supportive although they felt that a total review of the parking regulations was warranted.

**January 7, 2009**

The Planning Commission held a study session on the draft amendments. They asked for several changes to the amendments and also asked that staff meet with neighborhood stakeholders and get their input. Staff met with a group of neighbors who expressed concerns about bars and restaurants having parking reductions, reductions in disabled parking and other concerns. Staff prepared new drafts of the amendments attempting to respond to the neighbors' concerns.

**February 4, 2009**

The Planning Commission held a public hearing on the draft amendments. The public input mainly suggested the development community speakers supported the changes and the neighborhood speakers had concerns and were not supportive. The Commission continued the item until March 4<sup>th</sup> and directed staff to review a list of concerns by Commission members, meet with a joint group of developers and neighbors to discuss concerns about the amendments, and report back to the Commission with revised staff recommendations based on the outcomes of the requested tasks.

## CONCERNS RAISED BY THE PLANNING COMMISSION

### Introduction

On February 4, 2009 the Planning Commission continued the public hearing for the parking reduction Land Use Code text amendments. The Commission asked staff to address several concerns raised by the Commission. Below is staff's attempt to address some of the issues discussed by the Commission.

### Scope of the project

At the February public hearing, some Commissioners felt that the three text amendments reflected an over-reaction to the Mayor and Council's direction to develop mid-term and long-term solutions to zoning issues coming out of the certificate of occupancy matter.

Additionally, prior to going to a study session on January 7, 2009 with the Commission staff presented preliminary drafts of the parking reduction text amendments to the Environmental, Planning, and Resource Management Subcommittee of the Mayor and Council. The subcommittee was supportive of the direction of the amendments and gave no indication that the amendments were too broad.

Since the January 7 Commission hearing, staff spoke to the ward offices about whether the draft amendments were too broad a reaction to the direction received on July 8, 2008. The ward offices gave no indication that the direction of the amendments is too broad.

We have concluded that these amendments are appropriate in their scope and should be looked at for their effectiveness or ineffectiveness to address a mid-term solution for an identified parking problem that came out of the process set in motion on July 8, 2008.

### ADA parking status

The American Disability Act (ADA) is a federal law that all jurisdictions must comply with, thus all local buildings and sites must adhere to its provision. A parking lot in Tucson must have the number of parking spaces required by the Act. In the three proposed text amendments, the property owner's parking lot must be in compliance with the ADA.

ADA spaces come from a formula from ADA, which is shown in the following table.

<b>Total Parking in Lot</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5

151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1,000

The proposed parking reductions text amendments follow a precedent set in the current parking code's Section 3.3.8, that is, ADA spaces are based on the total spaces prior to the reduction. Accordingly, the reduction only applies to regular parking spaces and not the ADA spaces.

**Timing of transit improvements and reducing parking**

A commissioner raised a concern that reduced parking should follow improvements in transit. The parking reduction amendments are an adjustment in parking supply. The reduction for existing development and the Individual Parking Plan can only apply when the business is near a transit line. The City can decide to delay these amendments and wait until a time that transit services are increased or proceed now relying on current services to counter a perceived reduction in supply.

The supply issue was set in 1969 with the adoption of parking regulations and when Tucson was beginning a large expansion outward in becoming a typical Southwestern suburban community. These generic numbers reflected in our current parking code are not necessarily reflective of the demands of the uses today. Most full parking lots are those with successful restaurants. Otherwise, most parking lots are design for a few peak parking days during the year.

In light of smart growth planning techniques, the trend toward designing parking lots for abundant parking is no longer the popular policy. The trend throughout the country is to start limiting supply and looking more carefully about the environmental impacts of increased impervious surfaces. Further, there also is a trend to re-evaluate the investment in transit to be a counterbalance to the reduction in parking supply.

Most planning literature ties transit increases to densification and mixing of uses. The land use mix allows residents to rely less on cars and more on alternate modes of transportation. For this situation we have the term transit-oriented development. Whether transit improvements should precede land use intensification is a possible policy choice. However, the cost and resources involve often make transit improvements reactive to an increase in potential riders.

A parking/transit balance is more than an academic discussion. To begin allocating financial resources to build and invest in more transit without a concurrent or adopted policy that encourages transit-oriented development can be called into question in tough economic times where every dollar needs to be accounted for.

The other stream of planning information speaks to the overabundance of parking required by most suburban-focused zoning codes. These amendments come from the concern that there are numerous small properties with underutilized tenant spaces and in many cases parking spaces that the current parking requirements prevent from being used.

A plausible solution is a process in the Land Use Code that allows some flexibility for midtown properties to make modest adjustments without a public hearing and a criterion that they cannot meet.

Many site designers have reviewed the proposed parking reduction standards and support them because they give enough leeway to develop otherwise sterilized property without causing a nuisance to adjoining properties.

These amendments may not be perfect, but they are at the point of being given a chance to see how they will work. If they cause unintended problems the amendment process will allow the City to return to them and fix the problem.

#### **Extent of a prior use**

Section 3.3.3.11 currently provides that when a nonconforming use exists, the parking formula for a change of use must adhere to the parking formula set by the immediate prior use. So if the use has a restrictive parking formula, any former use with a less restrictive formula can no longer use the tenant space.

The business community complained that this ruling left otherwise useable buildings sterilized from being rented. They pointed out that having a tenant like a furniture store could especially cause trouble with future uses because a furniture store tends to have a very restrictive parking formula.

Thus, the tenant space would substantially lose a large amount of its marketability forever. The only relief, then is a board of adjustment variance procedure. This procedure is not intended to create flexibility, but to address equal protection issues. The main focus is to examine a unique hardship, such as a problematic topographic issue specific to one property. The process was not designed to apply to self-imposed hardships stemming from a particular business decision. Most tenant space parking problems cannot meet this narrow test.

Nonconforming parking in the City has several sources. April 1, 1969 is the date of adoption of the basic parking regulations used today with a revision about bicycle parking adopted in May 1990. Many nonconforming parking issues as well as loading zone issues were created by the April 1969 ordinance.

In addition, to this basic change in 1969, parking non-conformity was further created by the adoption of the current LUC on July 1, 1995 involving mostly small changes to industrial and automotive related uses. Additional parking nonconformity has been

created by government actions, such as road widening and drainage improvements, as well as annexation where the City accepts development as approved by the County regulations.

While there has been a Development Services policy to allow some change of use in nonconformity situations it has not been formalized. This text amendment and documentation policy attempt to formalize a policy and clarify what uses may go into a nonconforming building. The point being that there is evidence that the proposed change of use has been in that building previously.

**Attachment C.1: Response to Stakeholder Comments**

On February 19, 2009, staff met with neighborhood representatives and a business representative to discuss the proposed parking reduction amendments. The following is a staff response to the issues raised at this meeting. NOTES: 1) The section references provided in the table correspond to the March 4<sup>th</sup> draft. 2) Because there was only one business representative at the meeting, all the comments are concerns raised by the neighborhood representatives.

**Attendees**

Staff: Craig Gross, Manny Padilla, & Adam Smith

Neighborhood Representatives: Colette Altaffer, Ruth Beeker, Bill Dupont, Diana Lett, & Alice Roe

Business Community: Michael Guymon

Planning Commissioner: Cathy Rex

Section	Comment	Staff Response
<b>Sec. 3.3.3.11: New Uses Replacing Existing Uses</b>		
General	<p><i>Perpetuation of nonconforming uses.</i>                      Isn't one objective of the Land Use Code to require nonconforming uses to eventually become compliant with current regulations?</p>	<p>Traditional zoning practice is to phase out those uses that are currently not permitted in the zoning district. The March 4th draft requires that the prior use be a permitted use in the current zone. However, it is important to differentiate a nonconforming use and nonconforming parking. Nonconforming parking refers to parking that was compliant with regulations in effect at the time it was constructed, but is not compliant with current regulations.</p> <p>The July 8, 2008 Mayor and Council direction was to come up with a strategy that removed barriers for the use of older buildings.</p> <p>There are other issues now competing with reducing nonconformity. Many midtown rental spaces must go unused with little chance of reuse. The option is to tear them down. With some modification of current parking requirements, these buildings can be revitalized. Tear downs become a natural resource issue. Do we cart old buildings off to landfills then use more energy and materials for new buildings to satisfy nonconformity goals</p>

Section	Comment	Staff Response
		or do we adjust our suburban parking standards to accommodate midtown older buildings?
General	<i>Problems merely passed along.</i> Parking problems that may exist with the previous use are not addressed by this amendment. The amendment merely continues the lack of parking with the new use.	One of the objectives is to better match the parking needed for a particular use and the parking required for that use. While there are examples of ‘underparked’ businesses, the parking study included in the February 4 <sup>th</sup> background materials shows that uses are generally ‘overparked.’ The Sec. 3.3.3.11 amendment requires that a proposed use must use a same or lesser parking intensity formula as a prior use.
General	<i>Potential opportunity for upgrades lost.</i> Historically, change of use and certain expansions to existing uses have triggered upgrades to the site, such as landscaping, fire access, and drainage. The opportunity to get these types of upgrades to a property would be lost if the amendment as written were approved.	The direction of the Mayor and Council was to remove barriers to allow older buildings to be used.  The amendment allows the Director to require improvements where public safety hazards exist such as fire access.  Where drainage issues exist, engineers with the City may also require improvements to correct these issues.
General	<i>Idling trucks.</i> Idling trucks adjacent to or in proximity to residential areas are a nuisance to residents.	Idling trucks may be part of a more general land use issue. These amendments do not attempt to answer all land use concerns. However, Individual Parking Plans will be evaluated for its compatibility with surrounding uses.
3.3.3.11	<i>Exempt bars and restaurants.</i> Bars and restaurants should not be allowed to use the proposed ‘prior use’ provision.	This provision concerning bars and restaurants refers to allowing them when the immediate prior use was a bar or restaurant. We cannot take away a use when the only change is in ownership. That is standard zoning practice of handling nonconforming uses.
Policy Related to 3.3.3.11	<i>Time limit.</i> Specify the date of the Tucson Zoning Code.	The draft has been revised to specify the Tucson Zoning Code dated January 1, 1968.
<b>Sec. 3.3.8.6: Existing Development Sites</b>		
3.3.8.6.A.4	<i>Keep the 1:100 uses.</i> None of the uses currently required to provide parking at a 1:100 formula should not be eligible for a parking reduction.	The only 1:100 use staff would consider is religious uses because of their predominant evening and weekend use when most parking lots will be empty.

Section	Comment	Staff Response
3.3.8.6.C & 3.3.8.6.D.2	<i>Soft language.</i> Throughout the document, the terms “may” and “should” need to be replaced with “shall” and “must”.	The draft has been revised as appropriate.
3.3.8.6.D.2.c	<i>Parking agreements.</i> When a parking reduction is granted contingent on a shared parking agreement, what happens when the property owner “giving” the parking spaces wants to change the use of her property? How does this effect the parking reduction previously granted? Will the property owner be told she cannot change her use? For the use granted the parking reduction, will the City close the business down if the shared parking agreement is dissolved?	Any existing parking agreement must be accounted for in any future change of use. There will either be enough parking for a future use or not. The previous agreement must be accounted for in calculating a new use. The parking reduction applicant needs to prove to the City that the off-site shared parking agreement is for the life of the proposed use. If the agreement is for less than that then the City should not accept the agreement. This means the agreement must be a serious document with proper legal intent of rights that are granted to the parking reduction applicant.
<b>Sec. 3.3.8.7: Individual Parking Plan (IPP) Comments</b>		
General	<p>The neighborhood seemed particularly concerned about the Individual Parking Plan.</p> <p>One stakeholder commented that the IPP is a “total abdication of the City’s responsibility.” The IPP allows developer to circumvent the parking standards in the LUC too easily.</p>	<p>This concept is based on the smart growth technique of doing a case-by-case analysis of a proposed use. Each property has distinct features that may allow for a parking situation that would otherwise be overlooked using national generic tables. In Tucson’s case, we are using formulas adopted with the 1969 parking code.</p> <p>The individual parking plan is already in the LUC and can be used for big box development. This provision would allow an exiting or a new use to do its own calculation of a formula for that particular site using local information in the analysis. The key standards is that the formula adequately accounts for the land uses, and the environs of the site. Further, that the parking formula creates no safety hazards on or off the site.</p> <p>Pima County currently has a similar provision for over five years and has reviewed several of these types of plans without experiencing negative results.</p>
3.3.8.7.A	<i>Too permissive.</i> There are not many uses or type of projects that wouldn’t	This section merely states those uses eligible to request an IPP. This section

Section	Comment	Staff Response
	meet criteria. IPP's should only be allowed on a case-by-case basis for special circumstances.	does not constitute automatic approval of an IPP request. Each IPP will have to meet the findings (see revised draft) for approval.
3.3.8.7.A.4	<i>Remove assisted living facilities as an eligible use.</i> Many of these facilities are in converted homes in the middle of neighborhoods. Some of these uses actually generate high volumes of traffic and parking. Ambulances frequently have to come to these facilities.	Every request, including those for assisted living facilities, will be reviewed for its potential impact on the surrounding neighborhoods. If the proposed IPP does not sufficiently address potential problems, the IPP will either have to be amended or will be denied by City staff.
3.3.8.7.B	<i>Criteria are inadequate.</i> Only #7 is truly a criterion regarding on-site parking. The other 'criteria' need to be reworded to actually require a performance standard.	The draft has been revised to create a clearly identified findings section that spells out the criteria to be used when evaluating an IPP request.
3.3.8.7.B.8	<i>Off-site shared parking.</i> Allowing off-site parking up to 1,500 feet away invites cut-through traffic. A correlation between the use and the need for off-site parking is necessary. When off-site parking is permitted, a safe pedestrian path should be identified.	Staff has kept the 1,500 foot requirement. This standard is currently in the LUC for the Downtown area. The other standard is 600 feet. Staff no objection to having the number set at 600 feet.
3.3.8.7.B.10	<i>Accessible parking.</i> Clarify that projects are required to comply with current ADA parking requirements.	The current draft states that the number of accessible parking spaces cannot be reduced or eliminated through the IPP process.
3.3.8.7.D	<i>Licensed professional.</i> Specify what kind of professional. Relying on a professional hired by the applicant creates an inherent conflict. The professional will work for the best interest of his client, which may not result in a plan that is sensitive to the neighborhood or totally feasible.	<p>The draft has been revised to specify that a licensed <u>design</u> professional must prepare Individual Parking Plans.</p> <p>The use of the licensed professional is a concept several Commissioners strongly support as a reasonable and rational approach. The type of professional that can do this type of work would include professional engineers, architects and landscape architects. All of these professions can currently design sites and already work out the details of site's parking plans. Additionally, City staff would have a traffic engineer review these plans for compliance with current best practices.</p>

## Parking Amendments Updates



Department of Urban Planning and Design  
February 19, 2009

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## Latest Draft Revisions

- [3.3.3.11 documentation policy] - Acceptable site plan evidence for documentation.
- [3.3.8.6.A, 3.3.8.7.E] Configuration of parking lot.
- [3.3.8.6.A.4.a; B.1.b] Peak time use; and vehicular access.
- [3.3.8.7.B.9] Shared off-site parking location and zoning.



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## Potential Draft Revisions

- 3.3.3.11 - add a date limitation to prior use?
- 3.3.8.6.A - allow religious or other 1:100 uses to use 3:1000?
- 3.3.8.6.A.2 - add 1/1000 for manufacturing and industrial uses other than storage and wholesaling?
- 3.3.8.7 - require a mitigation plan for individual parking plans?



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### Parking Mitigation Plan

The mitigation plan shall address the following:

- Potential increases in noise and glare from the site
- Methods to deter vehicular access into adjacent residential neighborhoods
- Preventing excessive drive-through traffic or habitual parking within adjacent neighborhoods or commercial development



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### Parking Mitigation Plan Elements

- Existing conditions, including any available on-street parking
- Hours of operation
- Existing shared parking agreements
- Proximity to residential neighborhoods
- Neighborhoods with Residential Parking Permit program
- Existing site access and traffic circulation
- Other information deemed appropriate by Director



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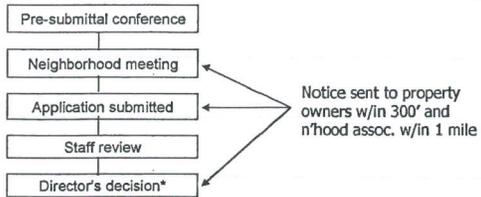
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### Parking Mitigation Plan: Review and Approval Process



\*The director's decision may be appealed to the Mayor & Council

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### Monitoring & Revisions

- The Parking Mitigation Plan will be reviewed every year for the first three years the business is in existence
- If changes are necessary, an amended PMP must be submitted for review and approval
- A new PMP is required when a change of use occurs
- The existing mitigation plan may be renewed for a new use if the new use is determined to have an equivalent impact on its surroundings.



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### Enforcement

**Violation of the Mitigation Plan** – If a development is operated in a manner that violates its mitigation plan or conditions for permitting the use or causes adverse land use impacts, the use may be suspended or terminated in accordance with Section 23A-54 of the Tucson Code.



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### Land Uses Eligible for Proposed Parking Formula (only applicable to existing development)

Land Uses	Current Parking Formula	Proposed Parking Formula
<ul style="list-style-type: none"> <li>▪ Office</li> <li>▪ Day care</li> <li>▪ Retail sales</li> </ul>	1:200	3:1000
<ul style="list-style-type: none"> <li>▪ Cultural use</li> <li>▪ Museum</li> <li>▪ Communications</li> <li>▪ Trade service &amp; repair – minor</li> <li>▪ Vehicle rental &amp; sales</li> </ul>	1:250	3:1000
<ul style="list-style-type: none"> <li>▪ Furniture store</li> </ul>	1:400	3:1000
<ul style="list-style-type: none"> <li>▪ Craftwork</li> <li>▪ General manufacturing</li> <li>▪ Processing and cleaning</li> </ul>	1:500	1:2000

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**Land Uses Not Eligible for  
Proposed Parking Formula**  
(only applicable to existing development)

Land Uses	Current Parking Formula
<ul style="list-style-type: none"> <li>▪ Live theater</li> <li>▪ Membership organization</li> <li>▪ Religious uses</li> </ul>	1:5 fixed seats or 1:50 w/out fixed seats
<ul style="list-style-type: none"> <li>▪ Alcoholic Beverage Service (Bars)</li> <li>▪ Food Service (Restaurants)</li> </ul>	1:50
<ul style="list-style-type: none"> <li>▪ Health Club/Gym</li> </ul>	1:75
<ul style="list-style-type: none"> <li>▪ Personal service (e.g. barber &amp; beauty shops)</li> </ul>	1:100
<ul style="list-style-type: none"> <li>▪ Financial service</li> <li>▪ Medical service – outpatient</li> </ul>	1:175

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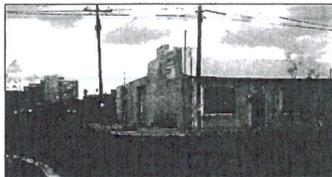
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6th St. & 5th Ave.



5th St. & 5th Ave.

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850 E. Ohio



850 E. Ohio

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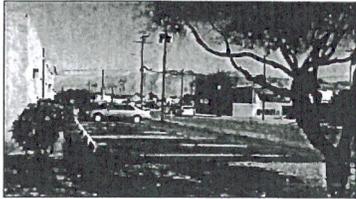
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2nd St.

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