

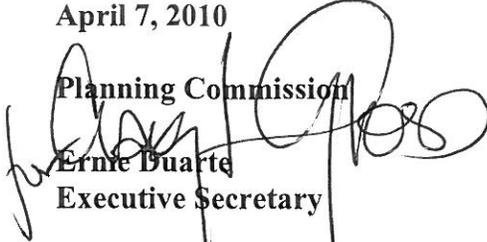


PLANNING COMMISSION

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

DATE: April 7, 2010

TO: Planning Commission

FROM:  Ernie Duarte
Executive Secretary

SUBJECT: **Infill Improvement Land Use Code Text Amendments – Downtown Area Infill Incentive District, Parking Reduction, Urban Overlay District, Certificate of Occupancy Regulatory Relief, and Development Timelines**

Issue – This list of proposed text amendments is for discussion by the Planning Commission in a Study Session. On March 9, 2010, the Mayor and Council directed staff to prepare the above text amendments so as to reduce obstacles to development proposals in the City's Downtown and Midtown areas. The revisions mainly focus on minor regulatory changes that will help expedite development review. One change creates an enabling ordinance for an overlay district with the goal of encouraging transit and pedestrian oriented development.

Recommendation – Staff recommends the listed text amendments be set for public hearing for May 5, 2010 or no later than June 2, 2010. The Mayor and Council would like to hear these items no later than August 2010.

Background – The list of text amendments will all have an expiration date of January 31, 2012 unless they are renewed by the Mayor and Council. Below are descriptions of the proposed text amendments:

Downtown Area Infill Incentive District (IID) Revisions (Attachment A) - In September 2009, the Mayor and Council adopted a modification of development regulations (MDR) provision allowing individuals to apply for relief from certain dimensional requirements, including parking and landscaping, within the IID (see map in Attachment B). An MDR may be granted in exchange for transit- and pedestrian-oriented design improvements.

Because of the short time since adoption of the IID, there have not been applications using the IID. However, staff observed after speaking to several potential applicants and reviewing initial proposals that the modifications permitted for parking, landscaping, pedestrian access, and the parking area location requirement would result in rejecting otherwise acceptable infill proposals. The proposed amendments should help to remove unintended obstacles for infill projects.

Parking - The current provision states that parking within the IID may be reduced to the extent permitted by the recently adopted 2009 parking reduction options. The current reduced parking standards could be made more flexible to aid certain changes of use and expansions of nonconforming properties. Staff recommends allowing a parking reduction up to 50% or

as modified per an agreement with the Downtown public parking authority, i.e., ParkWise. Staff also recommends allowing additional ways required parking may be provided, such as off-site within one-quarter mile of the project site through a shared parking agreement, on-street up to five parking spaces, and/or and in-lieu fee per an agreement with the City's Parking Division. The 2009 reduction strategies would still be available to an applicant.

Landscaping - Presently, the IID allows the Landscaping and Screening standards (Sec. 3.7) to be reduced up to 25%. The current landscaping and screening standards are intended mainly as buffering for car-oriented development and a 25% reduction is not sufficient for more urban properties in the IID. The proposals is to allow a waiver of the landscaping and screening requirements under the condition that shade is provided along sidewalks, pedestrian circulation paths, and outdoor patios. Buffers and/or screening must be provided where the project is adjacent to residential uses. The amendment permits greater flexibility in the types of strategies used to comply with the conditions, such as shade trees in the right-of-way.

Floor Area Ratio (FAR) – FAR is a ratio expressing the amount of square feet of floor area permitted for every square foot of land area within the site. Presently, the IID allows the FAR requirement to be increased by up to 25%. Staff recommends allowing an exception to the FAR requirement because FAR will essentially be limited by other requirements, such a building height, perimeter yard setbacks, landscaping, and parking.

Pedestrian Access - Development Standard 2-08.0.0 requires a continuous pedestrian circulation path within all development. Pedestrian access may not be feasible on infill sites due to as-built conditions and dimensional constraints of the site. Staff recommends amending the ordinance to allow pedestrian access to be waived, except as it pertains to providing an accessible path from accessible parking spaces to an entryway of the building.

Parking Area Location Requirement - The current IID ordinance requires parking areas to be located on the side or rear of the building. The requirement is too restrictive and could prevent the adaptive reuse of certain existing structures. The amendment allows changes of use and expansions to nonconforming properties to use their current parking configuration.

Parking Reduction Revisions (Attachment C) - In May 2009, the Mayor and Council adopted several parking reduction strategies. The three parking reduction strategies are: 1) changes of use on non-conforming sites (LUC Sec. 3.3.3.11 Replacing Existing Uses); 2) a reduced parking formula for certain uses within existing development (Sec. 3.3.8.6 Existing Development Sites); and, 3) the individual parking plan (Sec. 3.3.8.7 Individual Parking Plan).

Because of the economic slowdown there have not been many projects to evaluate the success or failure of the changes in parking standards. However, based on comments from internal review staff and applicants, staff has identified two issues with Sec. 3.3.8.6 (Existing

Development Sites) preventing it from being used as intended. No substantive changes to the Replacing Existing Uses and Individual Parking Plan provisions are recommended.

Two issues with Sec. 3.3.8.6 are: 1) the eligibility criteria are too restrictive; and, 2) the annual review of the parking mitigation plan is impractical and difficult to enforce.

Eligibility Criteria. 1) Shared Parking criterion - the shared parking provision unintentionally became a barrier for some applicants to use the option. This proposal clarifies the role of shared parking to apply only to multiple use sites. 2) Noise and Glare criterion – the parking reduction noise and glare criteria are too vague and should be re-worded to be better focused and clearer in intention. The proposed amendment prohibits site layout changes from creating greater amounts of light trespass onto adjoining single-family residential properties and restricts the placement of outdoor seating areas and loudspeakers or music from within 100 feet and 600 feet, respectively, from residentially zoned property. The latter standard is the same criterion required of liquor sales in conjunction with a Food Service use in a C-1 zone (Sec. 3.5.4.7.J).

Parking Mitigation Plans - In addition, there is an issue about monitoring parking mitigation plans over a three-year period. The parking mitigation plan is a standard that requires an applicant to explain that the parking reduction will not cause an off-site nuisance or safety hazard to adjacent properties. The current provision requires the City to review each plan annually for the first three years. Staff reviewed about 20 mitigation plans for C-1 zone restaurant/bars. None have had associated nuisance problems. Note the parking reduction concepts are not available to restaurant and bars. The parking mitigation plan requirement mainly applies to offices, furniture stores and general retail and service uses. These uses do not tend to cause nuisance parking problems. Staff recommends deleting this requirement for monitoring plans for three years as a regulation. The typical zoning enforcement process can address any complaints. The department can as a policy make spot checks on the effectiveness of mitigation plans.

Minor Issue – Staff also recommends eliminating the storage and wholesaling parking reduction because it is redundant with current standards.

Other Issues.

1. Loading Zone (proposed) – The LUC requires a dedicated area for loading zones. Staff recommends a small change to the loading zone standard regarding the maneuvering area. The proposed change would create the needed flexibility in designing parking and loading areas together.
2. Expansion of Existing Buildings (Secs. 3.3.3.12 & 3.7.1.2) – *Note: this item is provided for informational purposes only. The Planning Commission is not being asked to take action on this item at this time. The item will be brought back to the Planning*

Commission when the proposal is more fully developed and has received stakeholder input. Provisions related to expansions of existing structures are located in numerous places throughout the LUC. Consequently, there are inconsistencies among the various provisions pertaining to when and to what extent a proposed expansion requires compliance with applicable requirements. Staff recommends consolidating and standardizing the numerous expansion provisions as part of mid- to long-term amendments to the LUC intended to facilitate infill development.

Urban Overlay District (Attachment D) – In September 2009, when the Mayor and Council adopted the modification of development regulation for the IID, it also changed the Planned Area Development District (PAD) provisions to better facilitate new infill areas like the Downtown Links study area which runs along the Downtown Links road alignment between I-10 and Euclid Avenue. The goal was to create a second zoning option allowing both current zoning and optional zoning and design standards that encourage transit and pedestrian oriented development. This proposed overlay will provide a clear indication on the City’s zoning map showing an infill overlay option with existing underlying zoning. A typical designation could be the added prefix of ‘U’, for example, C-3 in this overlay on the zoning map would show ‘UC-3.’

The overlay can only be initiated by Mayor and Council. Similar to a PAD the zoning regulations can be different from the underlying zone. The background documents can be similar to those of a PAD or they could be very simply a set of urban design standards that Mayor and Council adopt to encourage transit and pedestrian oriented development in a given area. The process of notification, public hearing would follow the general steps of a typical rezoning.

Certificate of Occupancy Regulatory Relief (Attachment E) – This proposal creates a simple method for new uses of existing development in nonresidential zones to achieve zoning compliance. The intent of the proposal is to streamline zoning review and approval for Certificates of Occupancy. The key provisions are the following:

- Any use permitted under the existing zoning is allowed so long as the improvements on the site remain unchanged from the May 2005 configuration.
- Only applies to nonresidential zoning that is not subject to an overlay zone, or any rezoning, variance, or special exception approved subject to conditions.
- Cannot be used for blood donor centers, correctional uses, restricted adult activities uses, or if there are unresolved zoning violations on the site.
- Food service uses and alcoholic beverage service uses may use this option if it can be demonstrated that the use has existed on the development site continuously since May 2005.
- A site inspection is required.

Timelines and Expiration Dates (Attachment F) – The basic purpose of these amendments is to lengthen development expiration dates. The proposed amendments to LUC Sections 4.1.6, 4.1.7 and 5.3.8 and to Section 23A-34(3)c will streamline the tracking of multiple expiration dates for tentative plats, final plats and development plans by extending the approval expiration dates of these documents from one (1) year to three (3) years.

The Community Design Review Committee (CDRC) is comprised of Planning and Development Services, other City departments, utility companies and other government agencies which regulate some feature of land use within the City limits. The CDRC performs formal technical review of all tentative and final plats and development plans, in accordance with applicable codes and ordinances.

If the proposed change allows a three year approval period, the department cannot ensure that all other CDRC review agencies will extend their approval period accordingly. At this writing, staff has notified all the agencies and no agency has expressed an objection. However, agencies where an assurance of service is given e.g., City Water and County Wastewater, these assurance may need to be renewed in a shorter time frame than three years.

Attachments:

- A - Downtown Area Infill Incentive District (IID) Draft
- B - IID Map
- C - Parking Reduction Draft
- D - Urban Overlay District Draft
- E - Certificate of Occupancy Regulatory Relief Draft
- F - Timeline and Expiration Draft

ATTACHMENT A

DRAFT AMENDMENTS TO THE DOWNTOWN AREA INFILL INCENTIVE DISTRICT

ADOPTED BY THE
MAYOR AND COUNCIL ON

ORDINANCE NO. _____

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE LAND USE CODE, CHAPTER 23, ARTICLE II, ZONES, DIVISION 8 OVERLAY ZONES, SECTION 2.8.12, DOWNTOWN AREA INFILL INCENTIVE DISTRICT ZONE (IID); ARTICLE III, DEVELOPMENT REGULATIONS, DIVISION 3, MOTOR VEHICLE AND BICYCLE PARKING REQUIREMENTS, SECTION 3.3.3, GENERAL PROVISIONS; SECTION 3.3.8, REDUCTION IN REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES; DIVISION 4, OFF-STREET LOADING, SECTION 3.4.4 DESIGN CRITERIA; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article II, Zones, Division 8, Overlay Zones, Section 2.8.12, Downtown Area Infill Incentive District, is hereby amended to read as follows:

2.8.12 DOWNTOWN AREA INFILL INCENTIVE DISTRICT ZONE (IID):

* * *

2.8.12.4 MDR Applicability. Development regulations may be modified within the IID zone. This process shall be known as the Modification of Development Regulations (MDR). An MDR may not be used in conjunction with waiver or modification provisions provided by other sections in the Land Use Code. Where the IID and RND overlap, applicants may select either the IID MDR or the RND MDR, but not both.

The MDR process applies to the following Land Use Code regulations, development types, land uses, and specific development criteria.

- * * *
- D. MDR Development Criteria. The regulations listed in Section 2.8.12.4.A may be modified up to twenty five percent (25%) of the dimension or amount permitted by the underlying zoning with the following exceptions where modifications may exceed this amount:
- * * *

3. Parking.

- a. Parking may be reduced up to fifty percent (50%) as required by Sec. 3.3.4 or modified per an agreement with the City's Parking Division.
- b. Accessible Parking and Bicycle Facilities. The number of accessible parking spaces required by the Americans with Disabilities Act and bicycle facilities shall not be reduced or eliminated and shall be based on the number of motor vehicle parking spaces required prior to any modification.
- c. Parking may be provided either solely as or by a combination of the following:
 - i. On-site;
 - ii. Off-site within one-quarter (1/4) of a mile of the project site through a shared parking agreement;
 - iii. On-street on the same side of the street as the proposed use up to five (5) spaces on a collector or arterial street per approval by the City's Transportation Department; and/or
 - iv. An in-lieu fee per an agreement with the City's Parking Division.

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 ¶
 i. Sec. 3.3.3.11 (New Uses Replacing Existing Uses);¶
 ii. Sec. 3.3.8.6 (Existing Development Sites);¶
 iii. Sec. 3.3.8.7 (Individual Parking Plan);¶
 iv. Sec. 3.3.6 (Parking Exceptions in the Downtown Redevelopment District) for those portions of the IID within the Downtown Redevelopment District; or,¶
 v. Exception to Secs. 2.8.12.4.D.3.a.i – iii. Restaurants and bars (Food Service or Alcoholic Beverage Service Uses) may request a parking modification.

6. Landscaping and Screening.

- a. A complete or partial exception to the Landscaping and Screening Requirements (Sec. 3.7) may be granted under the following conditions:

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i. Shade is provided for pedestrians and customers, such as along sidewalks, pedestrian circulation paths, and outdoor patios, consistent with Development Standard 9-05.4.3.B; and

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ii. Buffers and/or screening is provided where the project is adjacent to residential uses.

b. The following types of landscaping and improvements may be used to comply with the conditions:

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i. Existing landscaping;

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ii. Shade trees in the right-of-way;

iii. Green walls or green roofs;

iv. Shade structures, such as awnings; and/or,

v. Other landscaping or design features that are documented in writing as a best practice of transit/pedestrian oriented development.

7. Floor Area Ratio (FAR). A complete exception to the FAR requirement may be granted.

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8. Pedestrian Access. Pedestrian access may be waived, except as it pertains to providing an accessible path from accessible parking spaces to an entryway of the building.

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2.8.12.5 MDR Conceptual Plan Requirement. An MDR application must include an MDR Conceptual Plan that contains a Streetscape Element and a Development Transition Element (if adjacent to existing residential uses).

A. *Streetscape Element.* The MDR Conceptual Plan shall contain the following streetscape elements as provided below.

1. Required Streetscape Elements. The MDR Conceptual Plan shall contain the following:

*

*

*

b. Parking areas for comprehensive development or redevelopment of a site shall be located at the rear or the side of the building. Changes of use and expansion of existing structures may use the site's current parking configuration.

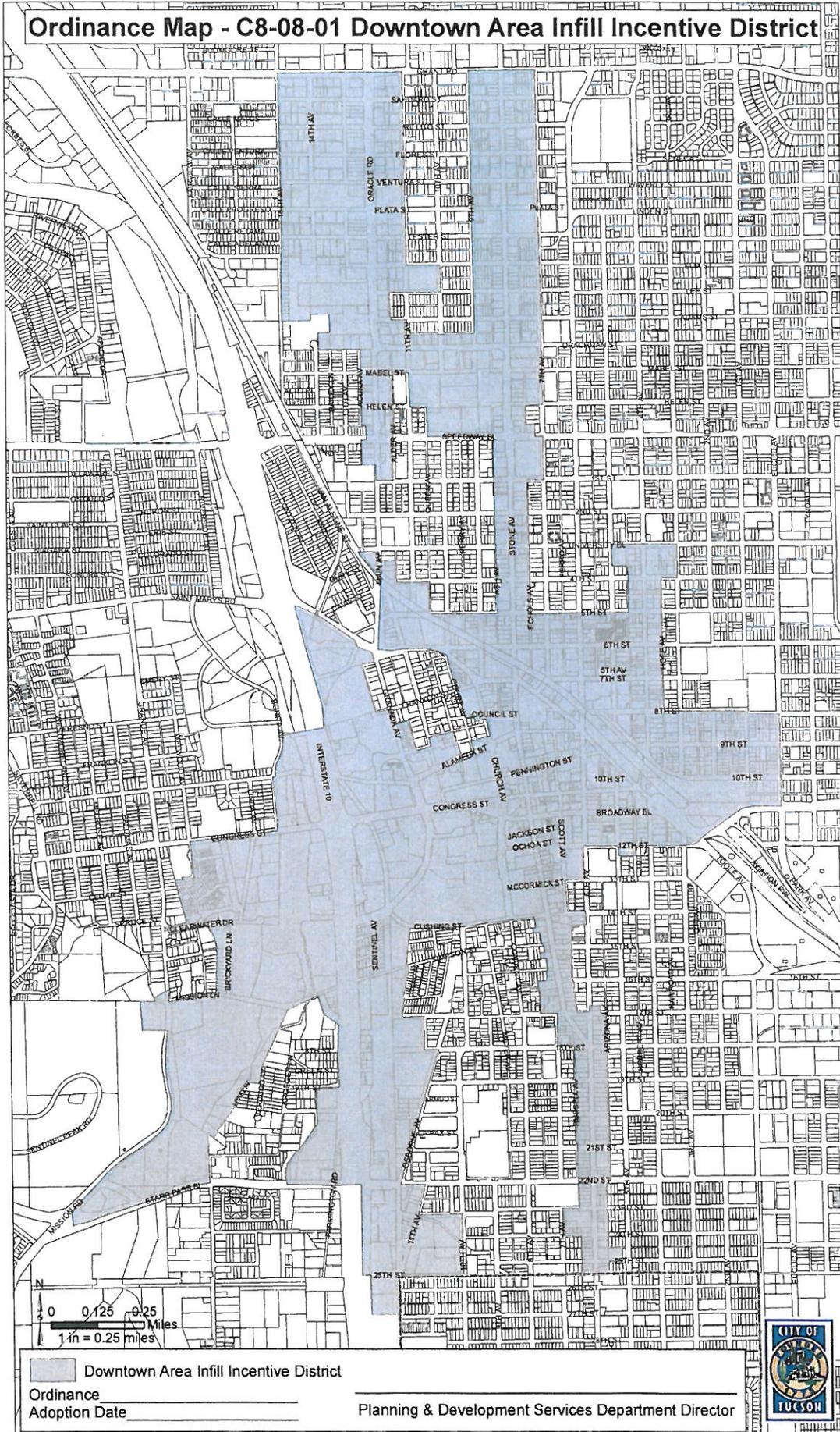
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2.8.12.8 IID District Termination. The provisions of LUC § 2.8.12 Downtown Area Infill Incentive District shall end on January 31, 2012, unless Mayor and Council extend the date by separate ordinance.

Deleted: January 1, 2011

ATTACHMENT B

Ordinance Map - C8-08-01 Downtown Area Infill Incentive District



ATTACHMENT C

DRAFT AMENDMENTS TO THE PARKING REDUCTION & OFF-STREET LOADING ORDINANCES

#1 Draft Parking Reduction Amendments:

- #1a = Sec. 3.3.3.11 Replacing Existing Uses
- #1b = Sec. 3.3.8.6 Existing Development Sites
- #1c = Sec. 3.3.8.7 Individual Parking Plan

#2 Draft Off-Street Loading Amendments

Amendment #1a: SECTION 2. The Tucson Code, Chapter 23, Land Use Code, Article III, Division 3, Motor Vehicle and Bicycle Parking Requirements, Section 3.3.3, General Provisions, is hereby amended to read as follows:

3.3.3 GENERAL PROVISIONS:

* * *

3.3.3.11 Replacing Existing Uses. This section refers to nonconforming sites only. Whenever the use of an existing development is changed to a different use, parking spaces shall be provided for the replacement use as follows:

* * *

- B. When the replacement use is different than the existing use, the replacement use must be a permitted use in the current zone.

* * *

- 3. Existing on-site parking, landscaping and screening may remain in their current configuration; however, the Planning & Development Services Director may require new improvements including paving and striping when a public safety hazard exists or may be created. The proposed use must comply with the Americans with Disabilities Act.

* * *

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

3.3.8 REDUCTION IN REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES:

* * *

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 **Planning & 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 all the criteria listed in Section 3.3.8.6.A.4 below.

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2. Manufacturing, off-site service and repair and other industrial uses except salvaging and recycling 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.4, a, b, and c. below.

Deleted: <#>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 the criteria listed in Section 3.3.8.6.A.5.a.b and c below.¶

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3. Exception. The alternate parking reduction for existing development does not apply to uses with a parking formula of one (1) space for each 100 square feet of gross floor area or a more intense formula. Typical uses include restaurants and bars (Food Service and Alcoholic Beverage Service uses). This exception does not apply to religious and personal service 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.

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4. The following criteria apply to Sec. 3.3.8.6.A.1 and 2 as noted in those sections:

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- a. For multiple use sites, the site can accommodate shared parking arrangements for uses with alternate hours of operation or peak use times;
- b. A site layout change to accommodate a parking reduction shall not allow a light source that creates greater amounts of trespass light onto an adjoining single family residential property. Nor shall such a site layout change add an outdoor seating area within one hundred (100) feet of residentially zoned property unless separated by a building, or loudspeakers or music, live or recorded, within six hundred (600) feet of residentially zoned property;
- 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.

Deleted: <#>The use will not cause a substantial increase in noise or glare from the site; ¶

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* * *

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 as described in Sec. 3.3.8.6.A.4.b above;
- 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, if applicable:

- a. A site plan indicating existing site conditions, including any available on-street parking;
- b. Hours of operation;
- c. Any existing shared parking agreements, if applicable;
- 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.

Deleted: 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. ¶

Amendment #1c: SECTION 4. The Tucson Code, Chapter 23, Land Use Code, Article III, Division 3, Motor Vehicle and Bicycle Parking Requirements, is hereby amended to read as follows:

3.3.8.7. Individual Parking Plan.

A. The Planning & Development Services Department Director (the Director) may approve an individual parking plan request for the following uses:

* * *

B. The following information shall be provided for review of an individual parking plan:

* * *

8. Existing and proposed shared parking agreements, if applicable. Proposed shared parking may be located within an existing parking location up to 600 feet away located in a more or less intense zone. A parking agreement must be prepared in a manner acceptable to the Director.

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Amendment #2: SECTION 5. The Tucson Code, Chapter 23, Land use Code, Article III, Division 4, Off-Street Loading, Section 3.4.4 Design Criteria is hereby amended to read as follows:

3.4.4 DESIGN CRITERIA. All loading spaces shall comply with the requirements of Development Standard No. 3-05.0, Vehicular Use Area Design Criteria, and the following:

* * *

3.4.4.1 Locational Requirements. Loading spaces shall be located on the same site or lot as the use they serve, except on the following applications.

* * *

C. Loading zones may be co-located within the approach area for dumpster containers and the stacking spaces of drive-through aisles when safety and access issues are appropriately addressed.

SECTION 6. The provisions of this ordinance amending Section 3.3.3.11 and adding Sections 2.8.12.4, 3.3.3.11, 3.3.8.6., 3.3.8.7 and 3.4.4.1 of the Land Use Code shall cease to be effective on January 31, 2012, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement the amended and added requirements or to revert to those existing prior to this ordinance.

SECTION 7. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 8. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately

March 29, 2010 DRAFT

effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona,_____.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

TM/tl
3/26/10

ATTACHMENT D

DRAFT AMENDMENT CREATING THE URBAN OVERLAY DISTRICT ZONE

ADOPTED BY THE
MAYOR AND COUNCIL

ORDINANCE NO. _____

RELATING TO PLANNING AND ZONING; AMENDING THE TUCSON CODE, CHAPTER 23, LAND USE CODE, ARTICLE II, ZONES, DIVISION 8, OVERLAY ZONES, BY ADDING A NEW SECTION 2.8.13, "UOD" URBAN OVERLAY DISTRICT ZONE (UOD); AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article II, Zones, Division 8, Overlay Zones, is hereby amended by adding a new Section "2.8.13" to read as follows:

2.8.13 "UOD" URBAN OVERLAY DISTRICT ZONE (UOD)

2.8.13.1 Purpose. The purpose of the Urban Overlay District (UOD) is to encourage:

- A. comprehensively planned pedestrian and transit-oriented, urban infill and mixed use areas with site planning and architectural solutions that are appropriate for the Southwest climate; and
- B. safe urban neighborhoods; and
- C. urban design features that include the use of sustainable design solutions, an historic image, without discouraging contemporary design, inspired by traditional precedents where appropriate, simple, durable and low maintenance materials, and appropriate transitional features emphasizing reduced privacy intrusions onto adjacent, existing single family residential development.

2.8.13.2 Initiation

- A. An Urban Overlay District shall be initiated by the Mayor and Council.

- B. Planning and Development Services Department shall process the application. The UOD may include rights of way within and adjacent to the proposed site area.

2.8.13.3 Establishment

- A. The overlay shall be established through the Zoning Examiner Legislative Procedure, Sec.5.4.1 and 5.4.3. The Mayor and Council may adopt a rezoning ordinance for the overlay.
- B. Each Urban Overlay District shall be in compliance with the adopted General Plan and applicable sub-regional, area and neighborhood plans.
- C. The Urban Overlay District shall be identified on the City Zoning Maps by the prefix "U" followed by the assigned zoning designation, i.e., C-3 becomes UC-3. The UOD may have a specialized name, e.g. Downtown District.

2.8.13.4 Development Regulations

- A. The UOD may have land use regulations and procedures different from the zoning regulations applicable in another UOD or in the Land Use Code.
- B. An Urban Overlay District does not remove the zoning rights of any underlying zone but provides a development option that encourages well-designed infill projects subject to the regulations and guidelines provided in the UOD's development document.
- C. The UOD development document shall be adopted as part of the rezoning and govern development using the UOD development options instead of the regulations of the underlying zone.

2.8.13.5 Application

- A. An Urban Overlay District development document shall include maps regulations, guidelines and background materials in general conformance with the Planned Area Development (PAD) procedure application including the exceptions for the Downtown Area Infill Incentive District (IID) in accordance with Section 2.6.3.6.
- B. The Mayor and Council may waive the requirement of the above development document. In its place Mayor and Council may approve an alternate urban design document which may contain maps, regulations, guidelines, and background materials as approved.

2.8.13.6 Development Review

- A. Unless a specific waiver procedure is approved as part of the rezoning, no development using the UOD regulations shall occur within a UOD unless or until a development plan or if applicable a subdivision plat is approved by the City.
- B. The City may require financial and other assurances to assure the installation of required streets, sewer, electric, and water utilities, drainage, flood control and other improvements of a property owner using the UOD regulations.

2.8.13.7 Enforcement. Regulations adopted for each UOD are enforced in the same manner as provided in Article V, Administration, Division 5, of the LUC.

2.8.13.8 Interpretation. The Zoning Administrator shall interpret a UOD.

2.8.13.9 Amendment Procedures

- A. An amendment to a UOD may be initiated by a property owner, the owner's agent, or the Mayor and Council upon submittal of a written application to amend one or more of the UOD regulations.
- B. Planning and Development Services Department must determine if the amendment would result in a substantial change in the UOD. An amendment shall be determined to be a substantial change pursuant to the criteria set forth for Planned Area Development Districts in Section 2.6.3.11 or may be determined to be a special procedure contained in the UOD's development or urban design documents.

2.8.13.10 Waiver: Execution of a waiver is required for any property owner using the urban design option of a UOD, in conformance with A.R.S. §12-1134(1).. The owner of property requesting to exercise the UOD design option will be required to waive any and all claims for diminution of value that may be based upon action by the City in response to such a request by the Owner.

SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. If any provision of this Ordinance or the application to any person or circumstance is invalid, the invalidity shall not affect other provision or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 4. Whereas, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, _____.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

TM/tl
3/26/10

ATTACHMENT E

DRAFT CERTIFICATE OF OCCUPANCY RELIEF AMENDMENT

ADOPTED BY THE
MAYOR AND COUNCIL ON

ORDINANCE NO. _____

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE LAND USE CODE, CHAPTER 23, ARTICLE V, ADMINISTRATION, DIVISION 3, SPECIAL DEVELOPMENT APPLICATIONS, ADDING SECTION 5.3.12, ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article V, Division 3, Special Development Applications, is hereby amended to add Section 5.3.12 Zoning Compliance For Site Improvements In Existence on May 1, 2005, to read as follows:

5.3.12 ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005.

The owner of property may request that site improvements, including outdoor activity areas, in existence as of May 1, 2005 ("existing site improvements") be granted zoning compliance subject to the following:

5.3.12.1 This Section 5.3.12 shall only apply to developed property with nonresidential zoning that is not subject to Article II Division 8 Overlay Zones, or any change of zoning (rezoning), variance, or special exception approved subject to conditions, or the subject of an unresolved zoning violation.

5.3.12.2 Existing site improvements shall be determined by referring to May 2005 aerial photography administered by the Pima Association of Governments (PAG) and available on the PAG website.

5.3.12.3 Existing site improvements are not subject to compliance with Section 3.2.3, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, and 3.2.11; 3.3; 3.4; 3.7; and 3.8.

5.3.12.4 Properties granted zoning compliance under the provisions of this Section 5.3.12 may be used for all principal Permitted Land Uses based on the zoning of the site subject to the applicable General Restrictions in each zone, except for the following prohibited uses:

- a. Section 6.3.4.4 Correctional Use
- b. Section 6.3.5.6 Billboard
- c. Section 6.3.9 Restricted Adult Activities Use Group
- d. Section 6.3.5.3 Alcoholic Beverage Service uses unless continuously licensed through the Arizona Department of Liquor Licenses and Control from May 1, 2005, to the present.
- e. Section 6.3.5.13 Food Service uses greater than 2,400 square feet in gross floor area (GFA) unless continuously licensed through the Pima County Health Department from May 1, 2005, to the present.

5.3.12.5 Required drop-off areas may not be deleted.

5.3.12.6 Use of the property shall be in compliance with all applicable performance criteria enumerated in Article III, Division 5 of the Land Use Code.

5.3.12.7 This Section 5.3.12 shall be applied to single or multiple parcels of land but may not be applied to partial parcels.

5.3.12.8 Changes to parking lot striping, maintaining the same number of parking spaces, or increasing the number of parking spaces, are permitted in compliance with Section 3.3.7 so long as no existing elements such as loading zones or dumpsters are deleted except as permitted under current regulations.

5.3.12.9 The owner of the property shall:

- a. submit a sworn affidavit that the use of the property will be in compliance with this Section 5.3.12, or
- b. include the following in any lease/rental agreement for the property: "Tenant shall not cause or permit the Property to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation. Notwithstanding any contrary provision of this lease agreement, any occupancy or use of the premises in violation of this paragraph shall constitute a material breach of this lease agreement entitling Lessor to invoke all remedies provided hereunder including termination."

5.3.12.10 A site inspection to verify that the use of the property is in compliance with this Section 5.3.12 may be conducted at the discretion of the Planning and Development Services Director.

Requests for zoning compliance pursuant to this Section 5.3.12 must be submitted to the City of Tucson Planning & Development Services Department, and all applicable fees paid, prior to the expiration date of this Section 5.3.12, as provided herein.

SECTION 2. The provisions of this ordinance adding Section 5.3.12 of the Land Use Code shall cease to be effective on January 31, 2012, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement Section 5.3.12, as added or to revert to those provisions existing prior to this ordinance.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, _____.

MAYOR

ATTEST:

April 6, 2010 DRAFT

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

GM/gm
3/30/10

ATTACHMENT F

DRAFT DEVELOPMENT TIMELINES & EXPIRATION DATE AMENDMENT

ADOPTED BY THE
MAYOR AND COUNCIL ON

ORDINANCE NO. _____

RELATING TO PLANNING AND ZONING; AMENDING CERTAIN PORTIONS OF THE LAND USE CODE, CHAPTER 23, ARTICLE IV, SUBDIVISIONS, DIVISION 1, GENERALLY, SECTION 4.1.7, EXPIRATION DATES; ARTICLE V, ADMINISTRATION, DIVISION 3, SPECIAL DEVELOPMENT APPLICATIONS, SECTION 5.3.8, DEVELOPMENT PLAN; AND AMENDING CERTAIN PORTIONS OF THE DEVELOPMENT COMPLIANCE CODE, CHAPTER 23A, ARTICLE II, REVIEW PROCEDURES, DIVISION I, GENERAL ZONING REVIEW PROCEDURE, SECTION 23A-34, DEVELOPMENT PLAN REVIEW; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article IV, Subdivisions, Division 1, Generally, Section 4.1.7, Expiration Dates, is hereby amended to read as follows:

4.1.7 EXPIRATION DATES. Expirations dates for all platting applications are as follows:

* * *

4.1.7.1 Maximum Review Period. The subdivider has one (1) year from the date of application to obtain approval of a tentative plat which complies with requirements in effect at the time of application. If at the end of the one (1) year period the tentative plat does not comply with those requirements, the tentative plat must be revised and resubmitted in compliance with regulations in effect at the time of resubmittal. This resubmittal initiates a new one (1) year review period.

4.1.7.2 Tentative Plat Approval Period. Approval of a tentative plat is valid for a period of ~~three (3)~~ years after the date of approval. (Ord. No. 9392, §1, 5/22/00)

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- A. The expiration date for the approval of a tentative plat being platted and recorded in phases is subject to the same ~~three (3)~~ year period. Each phase shall be evaluated as per Sec. 4.1.7.4.
- B. Changes in the Tucson Code which relate to requirements of platting that occur between the time the tentative plat is accepted for review and the expiration of the time period allotted to gain approval shall not apply to the application under review unless specifically stated in the adopting ordinance.

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4.1.7.3 Final Plat Approval Period. A final plat must be approved and recorded within ~~three (3)~~ years of the tentative plat approval date.

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4.1.7.4 Tentative Plat Approval Extension. A subdivider may request an extension of the tentative plat approval period. The extension may be granted based on the following: (Ord. No. 9392, §1, 5/22/00)

- A. Up to a one (1) year time extension to the ~~three (3)~~ year tentative plat approval period, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat; or
- B. Up to one (1) year periods of extension for each phase of a tentative plat being platted and recorded in phases, provided there have been no changes in City regulations applicable to the proposed subdivision since the approval of the tentative plat phase under consideration.

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4.1.7.5 Resubmittal After Expiration of Approval. A proposed subdivision or a phase of a proposed subdivision for which the tentative plat approval period has expired shall be reconsidered as follows.

- A. If the tentative plat, using the same design concept previously approved, is resubmitted within three (3) months of the date of expiration of the approval, the resubmittal shall be considered a new application for review purposes; however, new application fees will not be required.
- B. If the tentative plat is designed differently from the design previously approved or is resubmitted more than three (3) months after the date of expiration of approval, the resubmittal shall be considered a new application, and appropriate application fees will be required.

SECTION 2. The Tucson Code, Chapter 23, Land Use Code, Article V, Administration, Division 3, Special Development Applications, Section 5.3.8 Development Plan, is hereby amended to read as follows:

5.3.8 DEVELOPMENT PLAN. A development plan is a drawing of a project site that provides detailed information as to how a proposed project will be developed in compliance with City ordinances and regulations. When a development plan is required to be processed in accordance with this Section, preparation, application, review, and approval shall be as follows.

5.3.8.1 Review Procedure. Preparation, application, review, and approval of development plans shall be in accordance with procedures established in Sec. 23A-34. (Ord. No. 9392, §1, 5/22/00; Ord. No. 9967, §5, 7/1/04)

5.3.8.2 Expiration Dates. Expiration dates for development plans are as provided below. For the purposes of Sec. 5.3.8, "construction or building permits" are those permits issued for the construction of the project, such as, but not limited to, infrastructure improvements, building foundations, buildings, paving of vehicular use areas, or similar types of improvements related to the construction and implementation of the project. Permits for: a) clearing, grubbing, and grading of a site; b) construction of a section of sidewalk; c) installation of screening; d) paving of an access driveway but not the parking associated with the use; or e) any similar type of work are not considered "construction or building permits" for purposes of this Section, unless specifically stated otherwise by this Section or the process requiring the applicability of this Section.

A. *Maximum Review Period.* Except in the case of a Protected Development Right Plan, Sec. 5.3.10, an applicant has one (1) year from the date of application to obtain approval of a development plan that complies with zoning and other development requirements in effect at the time of application, unless an ordinance adopted by Mayor and Council during this period states otherwise. A development plan application that has been in review for a period of one (1) year which has not been approved is considered denied. To continue the review of a development plan for the property, a new development plan which complies with regulations in effect at that time must be submitted. The new submittal initiates a new one (1) year review period. (Ord. No. 9635, §2, 12/10/01)

B. *Development Plan Approval Period.* Except in the case of a Protected Development Right Plan, Sec. 5.3.10, an approved development plan remains valid for a period of ~~three (3) years~~ from the date of approval. (Ord. No. 9392, §1, 5/22/00; Ord. No. 9635, §2, 12/10/01)

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1. If, at the end of ~~three (3)~~ years, building permits have not been obtained, a new development plan application, in compliance with regulations in effect at the time of its resubmittal, is required.
2. If the project is being developed in phases and permits have not been issued for all phases within the ~~three (3)~~ year period, developers of subsequent phases have one (1) additional year to obtain permits. If, at the end of the ~~four (4)~~ year period, permits have not been issued, review and approval of a revised development plan for the undeveloped portion, in compliance with all regulations and/or ordinances in effect at the time of resubmittal, are required prior to the issuance of building permits.
3. If construction permits are issued within the required time period, but the construction of the project has not commenced and the permit and development plan approval periods expire, the approval of the development plan is considered expired. Review and approval of a revised development plan, in compliance with regulations and ordinances in effect at the time of resubmittal, are required prior to the issuance of building permits.
4. If construction permits are applied for but not issued within the time period required by this Section, the time period is extended an additional three (3) months to allow for completion of the review and for the issuance of permits.
5. If the approval period has expired pursuant to Sec. 5.3.8.2.B.1, .B.2, .B.3, or .B.4 of this Section, the resubmittal to obtain approval of a new development plan initiates a new review period in accordance with Sec. 5.3.8.2.A.

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5.3.8.3 Issuance of Building Permits. Review and approval for the issuance of permits for development plans shall be as follows.

- A. *Approved Development Plan*. The approved development plan shall be filed with the official building records for the site and shall be the basis for the issuance of building permits. Building permit applications shall include a copy of the approved development plan bearing the appropriate approval signature. (Ord. No. 9392, §1, 5/22/00)
- B. *Change From, or Expiration Of, an Approved Development Plan*. Building permit applications involving construction which changes from the approved development plan or if the approval has expired shall be accompanied by a copy of an amended development plan bearing the Development Service Department's approval. (Ord. No. 9967, §5, 7/1/04)
 1. The Development Services Department Director may approve minor changes from the approved plan without processing the plan

through the entire review process. Determination as to whether the change is minor or major is made by the Planning and Development Services Department Director on a case-by-case basis. Changes in site design include, but are not limited to, building height, density, land use, parking, and traffic circulation. (Ord. No. 9967, §5, 7/1/04)

2. Major changes from the approved plan require review and recommendation of approval of the new plan by the review agencies. If the development plan is required as a special requirement imposed by the Mayor and Council, a major deviation shall require approval by the Mayor and Council prior to review of the revised plan. (Ord. No. 9392, §1, 5/22/00)

SECTION 3. The Tucson Code, Chapter 23A, Development Compliance Code, Article II, Review Procedures, Division 1, General Zoning review, Section 23A-34 Development Plan Review, is hereby amended to read as follows:

Sec. 23A-34. - Development plan review.

A development plan is a drawing of a project site that provides detailed information as to how a proposed project will be constructed in conformance with city ordinances and regulations. When a development plan is required to be processed in accordance with the Land Use Code (LUC), Chapter 23, Tucson Code, section 5.3.8, preparation, application, review, and approval shall be as follows.

* * *

c. *Approval.* The Planning and Development Services Department (PDSD) director shall approve the development plan within five (5) days of receiving notification that all community design review committee (CDRC) members recommend approval, and it is confirmed that all conditions of approval as authorized by a rezoning, special exception land use, or other similar application have been met. This includes architectural review, dedication of right-of-way, building height, land use, or any other requirement pertinent to the individual case.

As provided by the Land Use Code (LUC), section 5.3.8.2.B, the approval is valid for three (3) years. The three (3) year time period provides the applicant the opportunity to secure permits and commence construction based on the regulations in effect during the review of the development plan. Expiration of the three (3) year time period prior to obtaining permits or commencing construction requires re-approval of the development plan based on regulations in effect at the time the development plan is resubmitted for review.

* * *

SECTION 4. The provisions of this ordinance amending Section 4.1.7 and 5.3.8 of the Land Use Code and Section 23A-34 of the Development Compliance Code shall cease to be effective on January 31, 2012, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to this amending ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement the amended and added requirements or to revert to those existing prior to this ordinance.

SECTION 5. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 6. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, _____.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

TM/tl
3/8/10

Item #4: Infill Improvement Text Amendment

ATTACHMENT F: ADDITIONAL AMENDMENT RE: DEVELOPMENT TIMELINES & EXPIRATION DATE

Sec. 23A-33.1. Subdivision plat process.

The subdivision of land through the platting process as provided in LUC [section] 4.1.6 shall be reviewed and approved as follows.

- (2) Final plat review. All proposed subdivisions, including minor subdivisions, require the review and approval of a final plat. The final plat shall substantially conform to the approved tentative plat and be prepared in accordance with final plat requirements set forth in Development Standard No. 2-03.0.

- c. Review. Final plats are reviewed by the community design review committee (CDRC) in conformance with Development Standards 1-03.0 and 2-03.0. As provided by the Land Use Code (LUC), section 4.1.7, the applicant has three (3) years from the date of tentative plat approval to secure approval and have the final plat recorded. This time period provides the applicant three (3) years within which to complete the platting process under the regulations in place at the time of tentative plat approval. Should the approval not be secured within the required timetable, the tentative plat and final plat shall be revised to comply with regulations at the time of re-submittal. The re-submittal initiates a new one (1) year time period. Refer to the LUC, section 4.2.5, for expiration dates on minor subdivisions.

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