



PLANNING COMMISSION

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

DATE: June 2, 2010

TO: Planning Commission

FROM: Ernie Duarte
Executive Secretary

SUBJECT: Infill Improvement Land Use Code Text Amendments – Reductions in the Required Number of Motor Vehicle Parking Spaces and the Urban Overlay District

Issue – This list of proposed text amendments is scheduled as an Action item. The Planning Commission conducted a public hearing May 5, 2010. Following the public hearing, the Planning Commission closed the public hearing and continued consideration of these items to their meeting in June.

On March 9, 2010 and March 23, 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 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 that the Planning Commission forward these items to the Mayor and Council with a recommendation to approve. 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:

Reductions in the Required Number of Motor Vehicle Parking Spaces (Attachment A) – 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.

Planning Commission Comments: The Planning Commission made the following comments at the May 5, 2010 public hearing regarding the proposed Reductions in the Required Number of Motor Vehicle Parking Spaces amendments:

1. Section 3.3.8.6.A.4.b (Existing Development Sites Eligibility Criteria)
 - a) Inquire the City's Zoning Enforcement division whether the City has received complaints from homeowners regarding nuisances created by outdoor seating areas and loudspeakers associated with nearby commercial uses. The purpose of the inquiry is to determine the effectiveness of the proposed distance requirements

(Note: the proposed distance requirements are the same as those required of Alcohol Beverage Sales in conjunction with Food Service). *Staff response: Staff will report back to the Planning Commission at the June 2nd meeting with a response to this request; and,*

- b) Revise the sentence to clarify the distance requirements for each design feature. *Staff response: The draft has been revised as recommended. See Attachment A.*
2. Section 3.3.8.6.D (Parking Mitigation Plan) – Reinstatement the provision requiring a revised parking mitigation plan when a change of use occurs. *Staff response: The draft has been revised as recommended. See Attachment A.*

Urban Overlay District (Attachment C) – 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.

Update on Urban Overlay District: At the May 5, 2010 Planning Commission meeting, the Commissioners requested several small changes to the Urban Overlay District (UOD) draft presented by staff to clarify and improve the proposed ordinance. Three requested changes as well as proposed modifications are shown below.

Change in Language regarding a UOD Rezoning Ordinance: A concern was raised that language in Section 2.8.13.3.A (Establishment) may be ambiguous in that it stated that the Mayor and Council 'may' adopt a rezoning ordinance rather than 'shall' adopt a rezoning ordinance. The intent of the drafters was to reflect the fact that Mayor and Council always have the discretion to adopt or not adopt a zoning ordinance. There was no intention to indicate that zoning would be effectuated absent a properly adopted ordinance. In order to make this clear staff propose the following language:

“The overlay shall be established through the Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. Subsequent rezoning will require Mayor and Council approval and adoption of a rezoning ordinance for an affected area.”

Change in the Zone Designation for Mapping: Staff anticipates that the UOD overlay may be used for multiple rezonings and apply different zoning regulations for such areas. To avoid confusion, it is necessary to develop a method of differentiating each overlay district. Staff recommends using the zoning prefix ‘U’ for each overlay district. The ‘U’ prefix would be followed by a sequential number to distinguish overlay districts. Thus, the first UOD established would be assigned the prefix ‘U1’ the second ‘U2’ and so on. The UOD designation would be followed by letters indicating pre-existing, underlying, zoning. The change would occur in Section 2.8.13.3.C (Establishment) as follows:

“The Urban Overlay District shall be identified on the City Zoning Map by the prefix ‘U’ followed by a sequential number and the assigned zoning designation, i.e. C-3 becomes UIC-3. The UOD may also be given a descriptive name associated with the subject area, e.g. Downtown District.”

Clarify the Phrasing for Modified UOD Development Documents: The Commission expressed a concern that there was a lack of clarity regarding acceptable or required zoning regulations or modifications within an UOD. The UOD is an attempt to provide the Mayor and Council flexibility to initiate rezonings. One such use would be a transit-oriented development modeled on a detailed urban design concept such as a form-based code district. The proposed Downtown Links Overlay district proposes utilizing such a basic concept. Additionally, an UOD overlay could be modeled on a modification of development regulations (MDR) as provided in the Downtown Area Infill Incentive District. Finally, an UOD overlay could be a hybrid overlay using elements of both a form-based code district, a similar urban design approach, or a dimensional flexibility option concept like an MDR. An UOD overlay would offer opportunities including, but not limited to the creation of:

- 1) A form based code district or similar detailed urban design district;
- 2) A district offering an IID-like modification of development regulations (MDR);
- 3) A district with an IID-like MDR and a set of transit-oriented land uses otherwise not allowed by the underlying zone. For example, a high density residential use could be allowed in an underlying industrial zone after a property owner forfeited industrial uses for the urban land use option;
- 4) A district with a set of design guidelines that could be developed for a specific area. The guidelines could be non-binding guidelines or binding if flexible dimensional options are used.

Staff recommends that required application submittal materials be simply described in a single section of the proposed ordinance. This single section would provide for submittal of a basic document addressing the UOD situation's complexity or simplicity as needed. Staff recommends the following language to clarify the application process and submittal requirements.

"2.8.13.5.A Application The applicant shall provide a development document that includes proposed regulations, modifications, maps, guidelines, and background materials sufficient to implement the proposed UOD. In addition, the Mayor and Council may require the development document to include a site analysis as provided for in Sec. 2.6.3.6 (Planned Area Development) where necessary or desirable to review UOD proposals, such as form-based code districts or similar concepts."

Stakeholder Comments

Planning Commission: The Planning Commission discussed the proposed amendments during their Study Session on April 7, 2010. The discussion focused on the Urban Overlay District (UOD) and two other amendments not on the June 2nd agenda.

Regarding the proposed UOD, the Planning Commission inquired whether the UOD could be used to consolidate the multiple downtown overlays into a single overlay and used a mechanism to implement the policies being developed for the Grant Road Project. Staff clarified that the proposed text amendment is enabling legislation allowing the creation of geographically-specific districts. No specific districts are being created by the proposed amendment. With that said, a UOD for the downtown area could consolidate the requirements and standards of the downtown overlays. The UOD can also be used to implement the Grant Road Project policies.

Land Use Code (LUC) Committee: The LUC Committee discussed the proposed amendments at several of their meetings and are in general support.

Attachments

A – Parking Reduction Draft

B – Urban Overlay District Draft

ATTACHMENT A

DRAFT AMENDMENTS TO THE REDUCTIONS IN REQUIRED NUMBER OF
MOTOR VEHICLE PARKING SPACES ORDINANCE

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 III, DEVELOPMENT REGULATIONS, DIVISION 3, MOTOR VEHICLE AND BICYCLE PARKING REQUIREMENTS, SECTION 3.3.3, GENERAL PROVISIONS; SECTION 3.3.8, REDUCTIONS 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 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.

* * *

SECTION 2. 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.54 below.
- ~~2. 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.~~
32. 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.45.a, b, and c. below.
43. 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.
54. The following criteria apply to Sec. 3.3.8.6.A.1 and 2, ~~and~~ 3 as noted in those sections:
 - a. For multiple use sites 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;~~
 - eb. 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.
 - c. A site layout change shall not add an outdoor seating area within one hundred (100) feet of residentially zoned property unless separated by a building. Loudspeakers or music (live or recorded) is prohibited within six hundred (600) feet of residentially zoned property;
 - d. The use will not cause excessive drive-through traffic or habitual parking within the adjacent residential neighborhood or commercial development; and

ed. Existing development except industrial uses shall be located within 1,320 feet (1/4 mile) of an existing transit stop or public parking facility.

* * *

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.

61. 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 and c 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.

72. 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.

~~38. 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. A new mitigation plan is required when a change of use to a more parking intensive 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.~~

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:

3.3.8.7. 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.——A parking agreement must be prepared in a manner acceptable to the ~~Development Services~~ Director.

SECTION 4. The provisions of this ordinance amending Sections 3.3.3.11, 3.3.8.6, and 3.3.8.7 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.

May 24, 2010 DRAFT

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
3/26/10

ATTACHMENT B

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;
- B. Site planning and architectural solutions appropriate for the Southwest;
- C. Safe urban neighborhoods;
- D. Urban design features that include sustainable solutions and a historic image without discouraging contemporary design;
- E. Reduced privacy intrusion into existing single family residential development; and,

- F. Responsive development review processes that address flexible solutions for obsolete regulations and accommodate desired urban trends.

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. Subsequent rezoning will require Mayor and Council approval and adoption of a rezoning ordinance for an affected area. ~~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 a sequential number and the assigned zoning designation, i.e., C-3 becomes U1C-3. The UOD may also be ~~given~~ have a descriptive specialized name associated with the subject area, 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. The applicant shall provide a development document that includes proposed regulations, modifications, maps, guidelines, and background materials sufficient to implement the proposed UOD. In addition, the Mayor and Council may require the development document to include a site analysis as provided for in Sec. 2.6.3.6 (Planned Area Development) where necessary or desirable to review UOD proposals such as form-based code districts or similar concepts. 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