Date: April 6, 2006

To: Andrew Singelakis, City of Tucson Planning Department

From: Neighborhood Infill Coalition

Re: Public comments on the proposed changes to the Land Use Code

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Since September 2005, members of the Neighborhood Infill Coalition (NIC) have participated in meetings with City staff and the Planning Commission Infill Subcommittee, exploring possible modifications to the Land Use Code (LUC). Specifically, these proposed LUC changes deal with four issues: Residential Cluster Projects (RCP; section 3.6.1), Design Review Board (DRB; section 5.1.8), Neighborhood Overlay Zone (NOZ, section 2.8.11) and Mixed-Use Infill Zone (MI, section 2.6.5). The following comments are being submitted by NIC as part of the official public comment period that closes on April 7, 2006.

Residential Cluster Project

Modification of the RCP was the catalyst that eventually led to the formation of a Planning Commission subcommittee charged with examining possible changes to the LUC in relation to infill development. The March 13, 2006 draft contains some proposed changes which, by and large, are satisfactory and an improvement over the existing language. These proposed changes include: the removal of the density bonus option within this section; distinguishing between parcels 5 acres or less from those greater than 5 acres, review by the Design Review Board for parcels 5 acres or less and the inclusion of additional design standards to give guidance to the DRB. These are all improvements over the existing language. However, there are still some points that we believe should be considered in the modification to the RCP.

- Section 3.6.1.4.1 of the current LUC language requires conformance with the design policies and criteria of the General Plan and applicable area and neighborhood plans. This language has been removed in the new draft. It needs to be reinstated in order to guarantee that these various plans will be used as guides in the design of any RCP.

- Language should be included to the effect that the decision to allow a clustered residential development using the RCP provisions shall be granted only if the proposed development is consistent with the purpose of the RCP option as stated in section 3.6.1.1 A-G. According to the city attorney, without this stipulation, the purpose of the RCP can essentially be ignored, as it has been for many years.

- Limited Notice does not afford neighborhoods sufficient opportunity to respond to the appropriateness of a proposed RCP, nor does it provide an avenue for their input. Limited notice does not even require the developer to meet with the affected neighborhood; it only "encourages" it. The notification process for RCP's on parcels that are 5 acres or less, which make up the vast majority of parcels for which RCP's are requested, should be much more substantial than is currently written.

- The following minor changes should be made to the 03/13/06 draft:

Section 3.6.1.4.A.1 should have the words "When developed with a density increase" removed since the density bonus has been removed from the RCP.

Section 3.6.1.4.A.5 should have the word "masonry" added to describe the type of wall that should be used.

Section 3.2.3.1.F table should have Alternative B (and conditions associated with alternative B) struck from the RCP-4, RCP-5, and RCP-6 sections since this refers to the Density Bonus option which has been removed from this section.

In summary, NIC believes that the modifications to the RCP are crucial, since this language is already in the LUC and the changes to this section should move forward expeditiously with or without the other proposed changes to the code.

Design Review Board

NIC applauds the changes to the DRB that would include a civil engineer or land planner and a neighborhood representative on the board. We recommend that staff decide if the one position will be an engineer or a planner, since these are two very different fields with potentially very different perspectives. In addition, the position of neighborhood representative should have qualifications associated with it, since it is unlike all the other members, where credentials are required or assured.

There are still some short-comings to the DRB that need to be addressed:

- As it currently stands, a decision can ultimately be made by only 2 members of the DRB, since a quorum is only a majority of the regular members (5) and not of all the members (7). This could easily be solved by making all members "regular" members and adjusting the quorum to be a majority of the 7 member board.

- Notification of DRB meetings should be sent to the affected neighborhood association and adjacent residents. If no registered neighborhood association exists, the meeting agenda should be posted on-line at least 5 days prior to the meeting.

- Recommendations of the DRB should be in writing and made available to the public.

Neighborhood Overlay Zone

The NOZ, like any overlay zone, should serve as an enhancement, not as a complete alternative to, existing zoning. This zone should be used to ensure that established areas in the city are enhanced and revitalized by new development. NIC believes that this enabling legislation could offer existing neighborhoods protection when parcels are re-developed. We do question whether the NOZ is allowed under the state statutes that addresses overlay zones and ask that the city request a legal interpretation so that if passed, the new LUC language will not be subject to legal challenge.

Mixed-Use Infill Zone

NIC does not support the MI zone as it is currently written and we ask that a decision on this new language be deferred to a future date. There are numerous reasons why we do not support the proposed legislation and the main issues are as follows:

- The MI zone is no longer a zone that requires a mix of uses. The original language in section 2.6.5.2 that required a mix of at least two uses was removed from the March 13, 2006 draft.

- The MI zone does not require a mix of residential with other uses. By most planning standards, a mixed-use zone blends residential uses with other commercial, retail or office uses in order to create a community where people can live near their work or shopping. An MI zone should require a minimum and maximum percentage of the proposed use for residential development.

- The location of MI districts (section 2.6.5.6.A) is written to allow such a district anywhere in the city and we question whether this is what was intended by those advocating for mixed-use development. All neighborhood plans to date were written without consideration for an MI district, since such a zone did not exist when the plans were written and therefore, neighborhood plans offer no direction with regard to the appropriate design and location of mixed use districts.

- The development standards in the MI draft are insufficient to offer protection to neighborhoods. The performance criteria that deal with the issues of most concern to neighborhoods (set-backs, building heights, building mass, parking) are lacking, leaving these important criteria open to subjective interpretation.

As an alternative to the MI zone, NIC proposes that the city investigate the option of removing the by-right residential options in commercial zones and replacing it with an option to provide for mixed-use development in a manner similar to Pima County's recent draft of the Mixed-Use zone within the CI-1 land use designation. This option should require a certain percentage mix of residential with commercial/retail/office and also provide specific design guidelines for mixed-use within each commercial zone. By pursuing this alternative, the development standards within each zone would serve as a framework for the mixed-use and the location of the mixed-use would be predicated on where commercial use was deemed appropriate by existing area and neighborhood plans.

Summary

NIC supports the RCP, DRB and NOZ proposals with some modifications and urges that these be moved forward to Mayor and Council as expeditiously as possible. NIC does not believe that the MI Zone should move forward in its present form and we recommend that mixed-use within existing commercial zones be pursued in its place.

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April 6, 2006

Sent by first class mail and by email

Infill Subcommittee
City of Tucson Planning Commission
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Re: Land Use Code Amendments of the Residential Cluster Project (RCP)

Dear Andrew,

As requested by the Subcommittee at the March 20th meeting, I am submitting comments resulting from another review of the above referenced document we believe will be passed on to the Planning Commission in the coming months.

Our first and foremost concern is that revisions to include the Design Review Board will add a ***minimum*** of two months to the platting process. As you know, time is money and the system is already fraught with various unintentional delays. We also continue to find the division between processes of five acres still to be too high.

One item we did not previously identify is the phrase "and other appropriate documents" in paragraph 3.6.1.4. We do not know specifically what these documents are, nor how to comply.

We continue to have problems when design compatibility is discussed and referred to, but there is no distinction between good and bad design carryover from ***existing*** neighborhood design. (3.6.1.4.A.2) How is that to be determined and by whom?

Not *all* RCP projects can support or need a passive/active amenity. The requirement is too absolute. In the past, RCPs were ***not required*** to have this unless they were asking for the density bonus, which no longer will exist in these revisions. Central location of the facility in all cases also might not always be desirable or practical. Sometimes locating noisy activity areas in a corner area is less intrusive to homeowners. (3.6.1.4.I.3.)

Design Criteria, Section I, ***Additional Design Standards,*** continues to cause us concern, as these specific design criteria were taken from the Design Guideline Standards without the Design Guideline Standards having been through the typical stakeholder/public process. Every time another one of my

technical members looks at this section, they continue to identify concerns with view walls, dumpsters, parking, etc. For example, one of my members picked up that there is a reference in part 9 which refers to a "site analysis", which unless there is a rezoning, there would be no site analysis otherwise required. We believe this entire section needs further review.

Finally, there is the issue of Terrain and Grading. Reference is made to "Natural Undisturbed Open Space", but what really is meant is Natural Open Space, appropriate for use as *common area*. Also, my membership has experienced examples of parcels having been previously altered so that there may exist a slope that was created as a result of a hole or other man-made depression. We are requesting that sloped areas be defined as "naturally occurring".

The effort to examine and refine this ordinance, as well as the Neighborhood Protection Overlay Zone and Mixed Use Infill, has been an enormous task. Our comments are not made to belittle or trivialize the work that has gone into the documents before this Subcommittee. It is important for the Building industry and the Neighborhood Associations, as well as the City, to have as few bugs to work out after the fact as possible. We remain available for further discussions and/or meetings as the Subcommittee deems warranted. Thank you again for your time and consideration.

Sincerely,

Lori J. Lustig
Government Liaison