



PLANNING COMMISSION

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

Approved by Planning Commission on
February 4, 2009 w/corrections in bold.

Date of Meeting: January 7, 2009

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, January 7, 2009, at 7:04 p.m., in the Mayor and Council Chambers, City Hall, 255 W. Alameda Street, Tucson, Arizona. Those present and absent were:

1. ROLL CALL

Present:

Catherine Applegate Rex, Chair	Member at Large, Ward 5
Brad Holland, Vice Chair	Member, Ward 6
Rick Lavaty	Member at Large, Ward 1
Joseph Maher, Jr.	Member at Large, Ward 6
Shannon McBride-Olson	Member, Ward 2
William Podolsky	Member at Large, Ward 4
Thomas Sayler-Brown	Member, Mayor's Office
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

Eric R. Cheney	Member at Large, Ward 2
Sean Sullivan	Member at Large, Ward 3
James E. Watson	Member, Ward 4

Staff Members Present:

Albert Elias, Urban Planning and Design, Director
Linus Kafka, Principal Assistant City Attorney
Adam Smith, Urban Planning and Design, Principal Planner
Aline Torres, Urban Planning and Design, Lead Planner
Ramona Williams, Urban Planning and Design, Secretary
Yolanda Lozano, City Clerk's Office, Recording Secretary

2. MINUTES FOR APPROVAL: November 5, 2008

It was moved by Commissioner Williams, duly seconded, and passed by a voice vote of 9 to 0 (Commissioners Cheney, Sullivan and Watson absent) to approve the minutes from the November 5, 2008, meeting with the following corrections:

1. Page 1, Item #3 – Correct spelling for Commissioner ~~Saylor-Brown~~ to **Sayler-Brown**.
2. Page 2, Item #5 – first paragraph, “Chair Rex stated the Public Hearing ~~was a continuation~~ from the previous meeting and there would be a staff presentation.” to “Chair Rex stated the Public Hearing **was closed, but this was a continuation of discussions** from the previous meeting and there would be a staff presentation.”
3. Page 11, paragraph five, Commissioner ~~Saylor-Brown~~ to **Sayler-Brown** and ~~PAL~~ to **PAAL (Parking Area Access Lane)**.

3. MINUTES FOR APPROVAL: December 3, 2008

It was moved by Commissioner Williams, duly seconded, and passed by a voice vote of 9 to 0 (Commissioners Cheney, Sullivan and Watson absent) to approve the minutes from the December 3, 2008, meeting with the following corrections:

1. Page 1, first paragraph, change date from Wednesday, ~~November 5~~, 2008 to Wednesday, **December 3**, 2008.
2. Page 1, Item 1, correct spelling for Thomas ~~Saylor-Brown~~ to **Sayler Brown**.

Commissioner Williams stated he wanted to go on record and comment on whoever put the minutes together. He said he/she did an excellent job and wanted to commend them for putting them together, especially the minutes for the November 5, 2008, meeting as they were quite lengthy.

4. RECOGNIZING SERVICE BY FORMER PLANNING COMMISSIONER DANIEL PATTERSON

Chair Rex presented Daniel Patterson with a Certificate of Appreciation for his service on the Planning Commission. She stated that in November 2008, Mr. Patterson was elected as the State Representative for District 29 and could no longer to serve on the Commission. She said it was an important step forward, particularly for Tucson, as he would be able to serve Tucson at the State level as well as he did at the local level by being a loyal member of the Commission.

Daniel Patterson thanked the Commission and said the certificate was perfect as he was on his way to set up his office in Phoenix and would put the certificate on his wall to show he actually did do some things here in Tucson. He said he had a lot of respect for the work the Commission did and it was one of the most important Commissions in the City. He said he felt things were on the right track and hoped they would be able to

treat the City as fairly as possible at the State level. He said it would be a high priority for him.

5. WATER HARVESTING PRESENTATION BY BRAD LANCASTER (INFORMATION ONLY)

Chair Rex said she appreciated Brad Lancaster being able to present to the Commission because at the last Planning Commission meeting, there was much discussion regarding additional trees in parking lots. She said at that time there were several questions regarding water harvesting and how the trees would perform. She said from the questions and having seen Mr. Lancaster's presentation to the Mayor and Council, she felt it was timely in that he presents a lot of things that were useful and answers some of the questions the Commission had. She said as the Commission moved forward with additional sustainable design items, she thought it would be good background for the Planning Commissions' part of the review process on future *Land Use Code* changes.

Brad Lancaster made a presentation to the Commission entitled, "Turning Drains into Sponges and Water Scarcity into Water Abundance." He said he wanted to share ideas on how to make water go further. He talked about how, in 1904, the Santa Cruz River flowed year round until the 1940's, there were abundant springs and artesian wells in the basin, Flowing Wells and Sabino Springs water sources and abundant sponges of forests such as mesquite, hackberry, cottonwood and willows, particularly in the flood plain. He said these sponges of vegetation would defuse the erosive force of the falling raindrop so the water would make its way more calmly to a mulch-like layer of organic matter below rather than hitting bare soil.

Mr. Lancaster stated the sponge we had in the early 1900's had been replaced with pavement. He said over thirty percent of Tucson was now paved over and the rivers, springs and wells had been lost. He said, if you looked at the City's watershed, we must be a hydrophobic society afraid of water. He said whether it was conscious or not, we were doing all we could to get rid of the water as quickly as possible. He said a typical commercial development was ninety-five to one hundred percent paved and pavement shoots the water right off the property. In a residential development, homes were typically put on the high part of the property which was good, so homes were not flooded, but the roof run-off was designed to drain right past the landscaping on to the street into the storm drains and then the "Guns of Naverone" shot the water right out of the system. He said while we have lost the Santa Cruz River in its perennial flow and the Rillito River was flowing much less as well, we were gaining rivers in the streets which only lasted a few hours. He said this was why we considered stormwater and rainwater a liability rather than the resource that it was because all too often it ended up in areas where it was a liability. He said there was a perceived scarcity of water in Tucson, but in actuality there was an abundance. He said more rain fell on the surface area of Tucson than all the municipal water consumed by Tucson's citizenry in a typical year of rainfall.

Mr. Lancaster reviewed with the Commission Tucson Water's sources of water for deliveries in 2010:

- Colorado River Water: 88,000 Acre Feet (AF)/Year
TDS = 650 ppm (parts per million of dissolved solids)
- Groundwater 44,000 AF/Year
TDS = 330 ppm
- Reclaimed Water 15,000 AF/Year
TDS = 800 ppm
- Total 147,000 AF/Year

Yearly rainfall in Tucson Water Service Area is 185,000 AF/Year*
TDS < 200 ppm

* Current + obligated service area of 290 sq.mi. @ 1 ft of rain/Year

Mr. Lancaster said on the parts per million of total dissolved solids in water from the Colorado River it was well over 700, rain water was less than 200, which helped leach salts out of the soils making them more fertile so plants are able to get by with less water. He said the more salt in the soil, the harder it was for plants to uptake water.

Mr. Lancaster said he saw where the City could take two paths, but felt they were mostly on the path of scarcity but making shifts to the path of abundance.

Scarcity:

- Thirty to fifty percent of potable drinking water consumed by the average single family household in the western U.S. is used for landscape irrigation.
- Infrastructure planted on mounds to rapidly drain water and organic matter away sending household greywater out of the system
- Natural resources depleted over time

Abundance

- Rainwater is primary water source
- Greywater is secondary water source
- Municipal/well water only a supplementary source
- Plant within or beside sunken water harvesting earthworks
- Send household greywater to same earthworks so in times of no rain there is still water
- Over time, resources are enhanced rather than depleted.

Eight Principles to Water Harvesting

- Long and thoughtful observation
- Start at the top of the watershed and work your way down
- Start small and simple
- Slow spread and infiltrate
- Always have an overflow and use it as a resource
- Maximize living and organic groundcover – the sponge

- Maximize beneficial relationships and efficiency by “stacking functions”
- Feedback loop: Long and thoughtful observation

Rainfall

- A 10-foot wide paved street will drain 27,800 gallons of rainfall per mile
- A 20-foot wide paved street will drain 55,700 gallons of rainfall per mile
- A 30-foot wide paved street will drain 83,500 gallons of rainfall per mile

Mr. Lancaster also spoke about the following topics:

- Orientation of buildings in new developments
- Passive Solar Heating and Cooling
- Relationship between energy conservation and water harvesting
- Ways to reduce water consumption
- Potable Water, CAP water and greywater

7. LAND USE CODE PROJECT UPDATES (INFORMATION)

(This item was taken out of order.)

Adam Smith, Urban Planning and Design, Principal Planner, stated he would be updating the Commission on the *Land Use Code (LUC)* Simplification Project that was currently under way: He said the Mayor and Council directed the Urban Planning and Design (UPD) Department to proceed with a contract to reformat the *LUC*. He said they also told UPD to continue work on text amendments that were in process which included mixed use and infill incentive district, parking reduction, and eventually overall parking code revisions.

Mr. Smith stated that Clarion Associates, the consultant working on the *LUC* Simplification Project for the City, also put together a diagnostic report that was completed in April 2008, which identified several major issues with the codes.

Major Issues

- Codes are widely considered to be difficult and tedious to use.
- Regulations are distributed in a way to cause redundancies and overlaps.
- Development Designator system inherently creates a more difficult cross-referencing task for all readers
- Fine distinctions within zones create an overly complicated system distinct to Tucson.
- The Development Standards is a catchall for many overlapping development review policies and regulations
- The Design Guidelines Manual gives overly broad design guidance.
- Documents have few graphics, flow charts and other quick reference tools (Code is not user friendly).

Key Recommendations

- Integrate the *Land Use Code*, Chapter 23A Procedures, Development Standards, and Design Guidelines Manual into a unified development code.
- Consolidate into separate sections all procedures, zoning district/use provisions, and substantive regulations.
- Review past *LUC* interpretations for relevancy.
- Increase the number of summary tables, flow charts, and illustrations to make the *LUC* more user-friendly
- Improve quick-reference tools such as the index and definitions.
- Revamp the development designator system (Focus on dimensions by zone vs. dimensions by use).
- Draft a Citizen's Guide to summarize key code provisions and Procedures.
- Adopt an Administrative Manual for routine requirements, lists, and fees.

Key Documents Being Reviewed

- Development Standards - 1970s
- *Land Use Code* - 1995
- Design Guidelines Manual - 1999
- Development Compliance Code (23A) - 2004

New Format of Development Code

- *Land Use Code* - main zoning regulation
- Administrative Manual - fees, misc. policies
- Technical Manual - engineering regulations
- Design Guidelines Manual (optional)
- Development Code Users' Guide (future project)

Organization of Modern 'Unified Development Code'

1. General Provisions (Scope/applicability)
2. Review Authorities (List of decision makers)
3. Review Procedures (Procedures for rezonings, variances, etc.)
4. Zone Districts (Zone districts, uses, and special regulations by district)
5. Use Regulations (Standards for special exception uses, temporary uses, accessory uses, etc.)
6. Dimensional Standards and Measurements (Height, setback, etc.; rules of measurement)
7. Development Standards (substantive standards - landscaping, parking, natural resource protection, etc.)
8. Subdivision Standards (Standards and requirements, not procedures)
9. Nonconformities (nonconforming uses, structures, and lot provisions)
10. Enforcement and Penalties
11. Definitions and Rules of Construction

Mr. Smith stated that a *LUC* Committee had been established and was comprised of twenty five people that include representatives from the development community, neighborhood representatives, and consultant field. The Committee held its first meeting on December 11, 2008. Some of the Committee's comments were:

- Need more clarity to the *LUC* reformat/revision project.
- What values from the *General Plan* reflect the needed direction of an *LUC* project and what values need to be looked at?
- The Current *LUC* is too suburban; what can be done to encourage a more urban focus to development?
- Simplification effort is very helpful vs. simplification is of little use - need a total revision effort instead.
- Form based codes should be closely examined as possible revision direction. Note: There were no direct comments on sustainability orientation of the *LUC*.
- Downtown should have no **parking** requirements.
- Consider **parking** overlays from urban to suburban.
- Do not use development agreements in **infill** incentives.
- Clarify what **infill** incentives will be in exchange for what regulations.
- Needs to be a better way to have **infill** developers communicate with neighbors.

Preliminary Timeline

- Crafting document stage starts in November 2008 (8 - 12 months). Includes:
 - Review by the *LUC* Committee
 - Updates to EPRM, Planning Commission and website
- Review by Planning Commission (2 - 4 months)
- Review and adoption by the Mayor & Council (1 - 2 months)
- Potential passage date about April/May 2010

Chair Rex asked staff to speak on the interim as a lead up to the Parking Reduction Text Amendment item on the agenda.

Mr. Smith stated the Parking Reduction item was broken up into short term and long term. He said the short term Aline Torres would be presenting, but they hoped to get it to the Mayor and Council by April or May 2009.

Albert Elias, Urban Planning and Design, Director, stated UPD was seeking a complete overhaul on the parking regulations which could take about six months, but would be done concurrently with what Clarion was doing.

Mr. Smith stated there was also the modification and development regulations which needed to go back to the Infill Subcommittee and hopefully would be presented to the Commission in February or March. He said UPD would like to see passage on it by early summer.

Mr. Elias said there was a combination of things being accomplished. He said the focus of the Clarion work was on organization, unification of the development codes, simplification to reduce the complexity, reduce the redundancies and try to get a product that was simpler and clearer to use. He said concurrent to that; there were some specific substantive code amendments that need to be worked on; such as parking and landscaping. He said looking at the more substantive code amendments being worked on had a focus that tied together. There was the water harvesting ordinance that had been adopted, substantial work on parking in general and landscaping. He said he felt there was an integral relationship between the three and would make a big difference with regard to some substantive changes that could be put in place over the next eight to twelve or thirteen to fifteen months that it would take to get through the Clarion project. He said the big message he wanted the Commission to understand was that UPD was working both sides. He said he wanted to be clear that the Clarion effort was primarily regarding organization, formatting and clarifying the regulations. He said the big change would be the development designator system which was the major change in 1995 when the *LUC* was adopted. He said for those who were familiar with the *LUC* it made it much more complicated.

Mr. Elias added, previous to 1995, the old Tucson Zoning Code did not have a development designator system. He said development standards, in particular dimensional standards, were basically tied to a zone not a specific land use. He said if you happened to be trying to apply rules to a property that was unlucky enough to be surrounded by half a dozen different land uses, you had half a dozen different development regulations to deal with on one site, even though all the different land uses might be permitted in the same zoning classifications. He said this was another significant change that was tied back to the simplification and reformatting work.

Other topics of discussion were:

- Making sure revisions were compatible with the rewriting of the *LUC*
- On-line (website) posting of the *LUC* vs printing of numerous copies
- Compatibility of revisions with rewrite of *LUC*
- Design Guideline Manual
- Revisions to the *General Plan*
- Impacts of budget cuts, financial resources, staffing resources

6. PARKING REDUCTION TEXT AMENDMENTS (STUDY SESSION)

Aline Torres, Urban Planning and Design, Lead Planner, gave a brief overview of the parking reduction text amendments. She said in July 2008, UPD began working with stakeholders and Development Services staff on appropriate medium and long term solutions to encourage and facilitate adaptive reuse of older buildings and remove obsolete *LUC* barriers to small businesses in the community. She said there had been many discussions on how to remove obsolete barriers.

Topics of discussion were:

- Section 3.3.3.11 of the *LUC* which required changes of use on nonconforming lots to apply the parking calculations for the immediate prior use.
- Documentation required for verifying prior uses was not clear
- Changes of use in existing development using current parking requirements causes problems due to parking formulas being more suburban in nature
- Current parking requirements encourage existing buildings to be left vacant or underused.

Ms. Torres reviewed with the Commission the “Smart Growth” Parking Reduction techniques, parking reduction proposals, and staff recommendations.

Techniques

- **New zoning districts/specific plan areas** – Parking requirements can be reduced in specific areas. (Stone Avenue, 4th Avenue, University area)
- **Case by case evaluation** – Reduces risks of development being delayed during permitting process.
- **Transit overlays** – Reduce minimum parking requirements citywide for certain types of uses along transit lines.
- **Abolish requirements** – Eliminate parking requirements in areas served by a range of travel options.
- **Parking freezes** – Institute maximum parking requirements by capping the number of spaces for a specific district.

Reduction Proposals

- Change Sec 3.3.3.11 to allow an applicant to apply the parking requirements for any prior use for any new use on a nonconforming site.
- Create a specific documentation policy to supplement this *LUC* subsection.
- Create an urban parking reduction formula that grants more flexibility to changes of use for existing development in the midtown near transit lines.
- Create an individual parking plan to allow the characteristics and surroundings of a site to influence the development’s parking formula.

Recommendations

- Short/midterm – Initiate three text amendments addressing parking reduction options returning to M/C in approximately April 2009.
- Long term – Initiate a comprehensive revision to parking requirements returning to M/C in approximately September 2009.

Albert Elias, Urban Planning and Design, Director, stated Ms. Torres outlined, in detail, the three specific amendments staff was proposing; nonconforming parking, new ratio of one space to each three hundred thirty-three square feet, and the individual parking plan. He said the reason staff chose to take three different approaches to the same problem was because during the discussion with stakeholders with regards to the

Certificate of Occupancy (C of O), it became pretty clear that not one of the three options would solve the problems encountered during the discussions. He said that was because of the fact that there were buildings that were developed at different times; before there was zoning, some with the old *Tucson Zoning Code*, and some, for different reasons, did not comply with any sort of regulations at all. He said they were not able to track back to one single solution to fix the problems. He said this was how they came up with the three specific amendments to the parking rule that staff thought would meet the objective. He said the real objective was to encourage the reuse of existing buildings.

Mr. Elias emphasized, as Ms. Torres pointed out, that one of the unintended consequences had been that there were old buildings that were perfectly useable in the built part of the City that were not being used because they could not meet the parking regulations. He said there was really nothing more sustainable than being able to use an existing building for a vibrant active business that could successfully contribute to the committee. He said the three different strategies were a result of feedback received during the C of O discussions. He said staff needed to discuss and review all three ideas with the Commission and that there were strengths and weaknesses associated with each of them.

Chair Rex stated, as additional background, the business community, about a year ago, came together to request that the City of Tucson do something about how difficult it was to reuse existing buildings. She said there had been several meetings and Jessie Sanders from Development Services had been working on the building side and Jim Mazzocco had attended the last few meetings to try and address and *LUC* issues. She said the further the discussions came along, the more it appeared that parking was the major culprit for the barrier to reusing existing buildings. She said as staff presented the three items, they seemed to be the most useful in getting the reuse of the buildings. She said the first thing the group had looked at changing was Section 3.3.3.11 from saying “the last approved use” to “a last approved use,” so that if anything was ever legal in that space, then you could recall that back and allow the building to be parked at that ratio. She said it did not address the fact that there had been potentially illegal issues to the building and in those cases, if you had a use that worked, then you could apply for an individualized parking plan which was the 3.3.8.7.

Commissioner Williams asked if there was going to be any reduction in ADA (American Disabilities Act) parking because he did not see that being addressed.

Ms. Torres stated there would be no reduction in ADA requirements and that any required parking for handicapped vehicles would remain the same. She said the only thing staff would be talking about would be standard parking spaces.

Chair Rex stated, to further clarify Commissioner Williams’ question, any handicapped parking fell under the building code requirements not the *LUC*.

Chair Williams asked what affect Proposition 207 would have if parking was reduced down and found it was going to be a big problem in some areas because we were allowing uses that may not be compatible.

Linus Kafka, Principal Assistant City Attorney, stated he had been working closely with UPD for every proposed text amendment, to try and anticipate what Proposition 207 implications would be. One of the vehicles they had been looking at for all proposed text amendments within the scope of 207 was to have sunset clauses in the text amendment so if the Mayor and Council did not renew them, they would not just go away, but rather would be renewable. He said from the beginning, they could expire and there would be no new restriction. He said that was one tactic because staff did not know what part of the community a 207 claim would come from, what shape it would take, and how successful it might be. He said there was no restriction but actually a relaxation. As the Commission suggested, the claim would come if staff decided it would not work, which was where the sunset provision came into play for usefulness. He said for other issues, staff would have to consider what the restrictive qualities of the proposed ordinance might be.

Commissioner Williams said what he was hearing was that staff was trying to come up with strategies that would work to allow this and if needed change it back. He asked if staff thought it would work. He said he was hesitant because he could see some potential problems with allowing parking with prior uses such as Chopped and Baum's Sporting Goods on Speedway. He said Chopped came in with much success, but unfortunately the parking was not big enough and bled over into the neighborhood. The neighborhood was up in arms wanting to restrict parking, put in speed bumps and eventually closing the street and forcing it back on to the development. He said on the other hand there was Baum's Sporting Goods struggling to stay in business because all their parking spaces were being taken by other businesses. He said that was an example of a good, successful business, but too successful for the sight it was put on. He said there was another business on Treat and Speedway with the same problem.

Mr. Kafka stated one reason staff believed in the strategy of having the sunset provision was that it would be part of any ordinance at the time of passage and the 207 claim existed if the ordinance was passed when the person making the claim owned the property. If the ordinance sunsets, anybody who buys and develops a piece of property after it is sunsetted, trying to leverage the prior ordinance, staff did not believe they would have standing for the claim. He said they might have standing if they owned the property **prior to the ordinance** and chose to develop it.

Mr. Elias stated, to build on what Mr. Kafka was saying, UPD had the same concerns. He said one of the things they had done was to try and work on some criteria in the amendment that attempted to identify situations where it would not work because they did not want to create more problems. He said if you looked at the one to three thirty-three example, you would see that they had tried to create some criteria that needed to be met and in some cases, they may require a parking mitigation plan in order to try and prevent bad things from happening or other unintended consequences from the use of that ratio. He said UPD had been concerned and during the course of discussions regarding the C of O, there were discussions on why a business would want to go into a location where they knew the parking was inadequate. He said if that inadequacy with respect to parking affected the viability of the business, it was not something many

business people were interested in. They wanted to be able to flourish. He said UPD found examples where there were businesses in difficult parking settings having a potentially adverse affect on them and that there was a balancing act between trying to establish criteria that would prevent the unintended consequence of spill over parking into a neighborhood, or unsafe conditions, and at the same time, have some confidence that business would not want to put themselves into that situation. He said it would be tricky but they had to accomplish both of those things.

Chair Rex stated there were specific exceptions for calculations of parking; one to one hundred could not use the one to three thirty three and the one to one hundred would be restaurants, health clubs, and beauty salons. These exemptions could be found in the packet of information for the item on the second to the last page.

Commissioner Holland said as the City moved to a more sustainable community it had to be beholding upon the people who live there to say, "I really like that place, but there is no place to park." He said it happened in every municipal city he went to and it weighed on whether or not people take public transportation, ride their bikes, and find other means to get there, or do whatever it took to create some paradigm shifts in the community.

Commissioner McBride-Olson asked for more explanation on how the sunset clause would work because it was still confusing to her. She asked if it had a time span on it or was it connected to the use of the property.

Mr. Kafka stated it would be connected to the ordinance itself and the passage of the ordinance would be renewable. He said it would be attached to the ordinance not to the use, but again 207 was not ~~invocated~~ **implicated** unless the proposed development was owned at the time the more restrictive **ordinance** went into place by the person making the claim. He said the idea of the sunset provision was that you did not have a more restrictive ordinance going into place, but a relaxation of an ordinance which would expire because it was a pilot program extensively which had not been solidified as an ordinance unless the Mayor and Council chose to do so. So there could be a test time period to see if it worked and at some point make it permanent in which case if they decided to change it again and make it more restrictive then we would have a more solid 207 claim. He said he felt if this was expressly put into the ordinance from the get go, all the owners would be on notice that this could expire and it would make any 207 claim a lot weaker.

Commissioner Maher said, in his mind, the whole idea of this ordinance was more of a moratorium on the more restrictive aspects of the parking code, combined with all the extremely unique properties in town. He said, for instance, if there was a three or five year window, for the opportunity to address the properties with new parking ratios, he felt it might motivate people to take care of them. He said, as far as the instances where there was not enough parking, he thought most of them were per chance and never envisioned that. They were unique in themselves and someone would not pick a small property if they needed extensive parking. He said he has had several clients that had very little

parking needs and had been able to find properties that have had parking sliced off by road widening and have been able to utilize them well with no complaints and no problems with insufficient parking.

Commissioner Maher asked how this whole process tied into the landscaping because landscaping took up a good portion of the parking area. He said he read the portion of the document where it talked about landscaping, but was not sure whether there were some accommodations for flexibility. He said in Section 3.3.8.7a of the draft where it stated a director may approve, sounded like we were empowering the director to do things that did not require a variance or some other aspect to make it happen and perhaps he would have the power to address some of the landscape if it also came into play. He also asked about the loading space and if was going to go away.

Mr. Elias asked Commissioner Maher if he was talking about the individual parking reduction proposal. He said, basically, what it came down to was when you had to improve the parking area by providing additional parking you also had additional landscaping and screening type requirements. He said by not going in that direction and going in the opposite direction, staff hoped to avoid the landscaping related problems. He said staff also made some adjustments to some of the loading requirements about a year ago and have had positive feedback. He said more could be done with loading, but for this amendment, staff concentrated strictly on parking. He said what Commissioner Maher was talking about was retrofitting an existing building as opposed to a new building, new use, where someone had to comply with the parking and loading requirements. He said the focus was primarily on the reuse of existing buildings. If the existing building did not have a loading zone, then it would not be required to put one in.

Mr. Elias stated, as far as empowering the director, in an individual parking reduction option, the idea was that the applicant would have a consultant (traffic engineer), analyze the need for parking related to that specific use and make the case, because of shared parking, parking agreements with adjacent properties, and physical nature of the site, or types of criteria listed under A and B of the document, those would be appropriate reasons to come up with a parking ratio different than what the code currently had.

Discussion ensued regarding:

- Employee count for offices or businesses such as nail salons, dentist offices, medical facilities, barber shops, etc. and how it affects parking
- Parking Garages
- Compact spaces
- Demographic data for business plans
- Enforcement of Code

Chair Rex stated said she had a few concerns to go over. The language in Section 3.3.3.11, Documentation Criteria, A. 4., where it mentioned site criteria, the second item, “an aerial photograph that documents the original building configuration on the approved

site plan” should read the “proposed site plan.” Also in section 3.3.8.6, first paragraph where it gave the date of December 29, 2008, the adoption date of the plan/ordinance should be placed there. She also mentioned under Section 3.3.8.6, Item B, Development Adjacent to Residential Uses, Item #2, she felt was where the addition of the employee count would go and another item to consider would be the availability of on-street parking or off-site parking. She said as far as the enforcement of the code, there was Item C, Violation of the Mitigation Plan. She said her understanding of Chapter 23A already had provisions for violations so rather than sending it back to the director, were there not provisions in Chapter 23A where it could be indicated rather than saying the director.

Vice Chair Holland stated that the violations he spoke about were different than the ones under Item C. He said he did not believe that a business could be held liable for the parking violations of their patrons. He said the parking violations in the mitigation plan could be a failure to do what they said there were going to do. He said what he was talking about was the bad behavior of their patrons.

Commissioner Lavaty said he misread Item C regarding the mitigation plan. He asked in the instance where a business had a mitigation plan, was in compliance with the plan, looked perfectly reasonable, and looked like the plan would fly if everyone approved it, but six months down the road, the neighborhood could prove the mitigation plan was inadequate and did not work, was that a violation to allow the City to shut down the use.

Mr. Elias stated he had a good point. He said staff would try to make it clearer because in a scenario such as that, where the physical improvements and everybody had complied with the mitigation plan, and there was evidence that it was not working, we would need to come up with a provision for dealing with that type of situation. He said he did not think that was contained in the current wording.

Commissioner McBride-Olson said she felt the same thing applied, not just in the individual parking reduction, but also for the parking reduction plan where it stated you would not cause excessive drive thru traffic or habitual parking within adjacent residential neighborhoods. She said if a plan was approved and caused additional parking to neighboring commercial uses, it was not necessarily a violation, but a plan that was clearly not working.

Mr. Elias stated staff would take a look to see how they could make it work better. He said he saw the point and the difference between commercial uses impacting commercial and/or adjacent areas versus doing everything the plan said and the plan did not work for whatever reason.

Mr. Kafka stated he was reminded of another proposed tactic dealing with 207. He said, in any case, where an ordinance allowed for an application for relaxation, staff could request that the applicant sign a waiver of any 207 claim so that if there was an event or instance, six months down the road, and the neighborhood discovered there was

a negative impact and it came to a request for modification of the mitigation plan, if a waiver had been signed, then an amendment or modification to a mitigation plan would not trigger a 207 claim.

Commissioner Maher asked if a traffic engineer really needed to address some of the issues regarding the mitigation plan. He said some of the issues might not be traffic counts and could be addressed by a professional.

Mr. Elias stated the reason staff included the provision that a parking reduction request should be submitted by the traffic engineer was that there should be some professional and or technical rationale for a new ratio. He said the new ratio would be because of the unique characteristics of that use. He said the idea was not that they were talking impact as much as what the unique traffic generation characteristics of that use were that made it different, special and unique from other uses.

Chair Rex stated the document also said traffic engineer or similarly qualified transportation consultant and approved by the director. She said, if it turned out that there was a fairly minor situation the architect could handle, that would be fine. But if you had a larger complex where you had hundreds of parking spaces, then the traffic engineer would be someone you would be dealing with. She said, therefore, it could be the design architect already working on the project or a qualified consultant as approved by the director.

Chair Rex said in Section 3.3.8.7, Item #3, where it stated, "Expansions of religious uses ..." should say "religious uses" only not the "expansions of" because you might have an existing religious use that was sharing space and not planning on expanding. She asked staff if they had received any comments from the Development Services Department (DSD) regarding the document.

Ms. Torres stated staff had not received anything substantial from DSD, but that they had spoken with them and have sent e-mails back and forth, but nothing official had been submitted. She said staff was assuming DSD was concurred with what UPD had put forward.

Mr. Elias said staff would continue to keep DSD informed as the draft evolved, which might trigger some more feedback from them. He said DSD saw a lot of this "stuff" every single day and might have a good sense of what was more or less problematic. He said UPD had good involvement with DSD so far and they would continue to work with them.

Commissioner Sayler-Brown stated, as the document developed, he was going to be looking very closely at it because his biggest concern was how it would all be interpreted. He asked if he was correct to assume that new construction might be able to get a parking reduction if the criteria was met as stated in the draft on individual parking reduction.

Mr. Elias stated he was correct, that this was the once place that referenced new construction.

Chair Rex asked Commission members if there were any other comments or questions. She said staff was looking at holding a public hearing at the next meeting.

Commissioner Saylor-Brown asked staff if the draft would be developed, in more detail, before next month.

Mr. Elias stated that was what staff was going to try to do. He said the study session helped them to identify specific areas raised by the Commission that could be tweaked in the draft. He said as it evolved, staff would explain the changes to the Commission.

Commissioner Lavaty asked if they would be in violation of the *Open Meeting Law*, if they asked staff to e-mail drafts in progress as staff moved forward in making changes to individual sections.

Mr. Kafka stated there was some pretty specific language in the *Open Meeting Law* about communication to members of the Commission. He said there were some exceptions when it was the whole group at once, but he was not sure about the specifics and it was best to hold on to the changes until the next meeting.

Chair Rex asked if the changes were going to be presented to the *LUC* Committee in a meeting and was it possible to have some of the Commission members attend, not enough for a quorum, to listen in on the discussion.

Mr. Elias stated what staff was trying to do with the *LUC* Committee was to keep them in the loop with regard to the substantive amendments, like the parking reduction, and certainly their input would be useful, but the level of detail that the Planning Commission would get into would be far greater than what the *LUC* Committee would have. He said one reason was that they were a larger group and second, they did not have the familiarity of the *LUC* that the Commission had because of working with it every month. He said the committee was trying to catch up to the big picture and frankly they were at a disadvantage with regard to having specific ideas. He said the Commission was in more of a position to provide the most effective feedback with regard to what was being discussed.

It was moved by Commissioner Maher, duly seconded, to set this item for public hearing in February.

Chair Rex asked if there was any further discussion on the item.

Commissioner Williams said he felt they needed more time on the item before setting it for public hearing and would like to see another study session.

Chair Rex called for the question and stated there was a motion and second on the floor. She then asked for a voice vote, seven were in favor of setting the item for public hearing and February and two opposed.

Chair Rex asked, as part of the review process, did the neighborhoods have sufficient opportunity to review the draft and provide comments either at the public hearing or prior to. She said she felt this would be useful.

Mr. Elias said staff would make every effort to get the word out so that all groups were aware of the public hearing and where they could find the draft document to review.

Ramona Williams, Urban Planning and Design, Secretary, asked for the record, since this was not a roll call vote would Chair Rex clarify who the no votes were. The votes were as follows:

Aye: Commissioners Lavaty, Maher, McBride-Olson, Podolsky, Sayler-Brown, Wissler and Vice Chair Holland

Nay: Commissioner Williams and Chair Rex

The motion to set the Parking Reduction Text Amendment for public hearing at the February meeting of the Planning Commission passed by a voice vote of 7 to 2 (Commissioners Cheney, Sullivan and Watson absent).

8. SELECTION OF CHAIR AND VICE CHAIR (ACTION)

Chair Rex stated this item was on the previous agenda and was continued to January's agenda because the Commissioners asked if she could continue as chair. The question was deferred to Linus Kafka, Principal Assistant City Attorney, because the rules specifically stated that the position was a one year term and may not be re-elected for successive terms.

Mr. Kafka confirmed what the rules stated, but he said, according to the rules of the Planning Commission, they also had the power to suspend rules. He said the recommended course of action to take, if it was desired for re-election of the current Chair and Vice Chair, was to vote to suspend Rule 3A, then proceed on an election or re-election based on the outcome of the action taken.

It was moved by Commissioner McBride-Olson, duly seconded, and passed by a voice vote of 9 to 0 (Commissioners Cheney, Sullivan and Watson absent), to suspend Rule 3A of the Rules of Procedure of the Planning Commission.

Chair Rex announced that Rule 3A was now suspended and asked for consideration of the question to re-elect her as the Chair and Commissioner Holland as the Vice Chair.

It was moved by Commissioner Sayler-Brown, duly seconded, and passed by a voice vote of 9 to 0 (Commissioners Cheney, Sullivan and Watson absent) to re-elect Commissioner Rex as Chair and Commissioner Holland as Vice Chair.

9. OTHER BUSINESS

a. Mayor and Council Update

Albert Elias, Urban Planning and Design Director, reported the Mayor and Council voted to approve the *Jefferson Park Neighborhood Plan* on December 16, 2008, and did so in a manner that was consistent with the recommendations of the Planning Commission.

Mr. Elias also reported that the *Flexible Lot Development (FLD)* and the *Landscape Code* amendments would be scheduled for public hearing and consideration by the Mayor and Council the first part of February.

b. Other Planning Commission Items (Future agenda items for discussion/assignments)

None

c. Update on Water and Wastewater Study Oversight Committee by Planning Commission Members

No report given.

10. CALL TO THE AUDIENCE

None

11. ADJOURNMENT: 9:39 p.m.