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# PLANNING COMMISSION

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

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Approved by Planning Commission  
on January 7, 2009 w/corrections.

Date of Meeting: November 5, 2008

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, November 5, 2008, at 7:02 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
Sean Sullivan	Member at Large, Ward 3
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

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

Staff Members Present:

Albert Elias, Urban Planning and Design, Director  
Chris Kaselemis, Urban Planning and Design, Planning Administrator  
Viola Romero-Wright, Principal Assistant City Attorney  
Linus Kafka, Principal Assistant City Attorney  
Adam Smith, Urban Planning and Design, Principal Planner  
Rebecca Ruopp, Urban Planning and Design, Principal Planner  
Irene Ogata, Urban Planning and Design, Project Manager  
Ramona Williams, Urban Planning and Design, Secretary  
Cynthia Jacobs, City Clerk's Office, Recording Secretary

**2. MINUTES FOR APPROVAL: September 17, 2008**

It was moved by Commissioner Sullivan, duly seconded, and passed by a voice vote of 10 to 0 (Commissioners Cheney and Watson absent), to approve the minutes of September 17, 2008.

**3. MINUTES FOR APPROVAL: October 1, 2008**

Chair Rex asked the Attorney, if the October 1, 2008, minutes needed to be approved.

Viola Romero-Wright, Principal Assistant City Attorney, explained the minutes did not need to be approved because no meeting was held.

**4. RECOGNIZING SERVICE BY FORMER PLANNING COMMISSIONER ROBERT PATRICK**

Chair Rex stated former Planning Commissioner, Robert Patrick, was not in attendance, so the item was moved to a later time..

**5. JEFFERSON PARK NEIGHBORHOOD PLAN (PUBLIC HEARING CLOSED)**

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.

Albert Elias, Urban Planning and Design, Director, recalled the Public Hearing for the Jefferson Park Neighborhood Plan held on September 17, 2008. He stated after the public hearing was closed there was discussion regarding the issue of potential, more intense use along the arterial and collector streets in the area, so they focused their efforts on that issue as opposed to the entire Plan.

Rebecca Ruopp, Urban Planning and Design, Principal Planner, recalled the Commissioners spoke about the issue Mr. Elias raised and asked for the motion to be written into staff's memo. Ms. Ruopp stated, based on the Commission's discussion, the motion was written to say, "recommend that a study be done to further inform the Land Use Policy direction for major streets and route streets of arterials and collectors immediately adjacent to and within the neighborhood, with particular attention to whether those areas along the arterials and collectors currently zoned for single family uses, should be considered for some additional residential and or nonresidential uses".

Ms. Ruopp stated a map was provided to the Commissioners that clarified the arterials and collectors under discussion in the motion. She said since that time, the Jefferson Park Steering Committee met to discuss the Planning Commissions' proposed motions and provided a response in the letter presented in attachment 'C'. She asked the Planning Commission's permission to allow Robert Schlanger, Co-Chair of the Steering Committee, to say a few words on their behalf.

Chair Rex stated even though the Public Hearing was closed, it was appropriate to hear from the committee because the Commission was asking for that item specifically.

Ms. Ruopp said, at the last meeting, Dyer Lytle spoke but he was out of town which was why Robert Schlanger would speak.

Robert Schlanger, Vice President of the Jefferson Park Neighborhood Association and Co-Chair of the Steering Committee for the Neighborhood Plan, stated from a practical aspect there was very little place for any type of development to occur in the neighborhood. Campbell Avenue was out; the entire row of houses had been developed. The Grant Road Plan had been unveiled as to what would be demolished. Half of the houses along Jefferson Park on Grant would be lost, leaving the other half of the houses in a historic district with not much opportunity. He said those who had driven along Mountain Avenue, knew there was virtually no opportunity there, it was all residential and all of the houses faced residential streets, nothing faced Mountain Avenue. He said the same went for Park Avenue. He stated there was possibly something along Euclid, although it was currently zoned R-1. He said the problem with older historic neighborhoods was that there was not much to lose, if you started chopping away at it like they had already done, there was hardly anything left. He said the flavor of the neighborhoods would disappear if we continued chewing away at them. He stated there was a possibility of O-1 in the future along some of the streets, but because of the way the Neighborhood Preservation Zone (NPZ) was written, O-1 fell out of the protection of the NPZ. He said he spoke against this at that time because he thought it was short sighted and until that was corrected and the O-1 could stay within the constraints of the NPZ, they would lose control of it and could get something like Goldberg and Osborn, which was thankfully going away with the Grant Road re-alignment.

Mr. Schlanger said in the letter from the Steering Committee their main point was that they did not understand how they could ever plan land use in the City by doing it in small chunks. He stated their recommendation was to do a regional plan for growth and infill; reconvene their committee to see how it would affect Jefferson Park; and if there was something they needed to do with the plan to conform to the overall study then that would make sense. He stated to just look at Jefferson Park, which was a small area, was how you ended up with hodgepodge zoning and did not see it as a way to look at regional growth.

Mr. Schlanger stated the whole intention of the NPZ, which was passed by the Mayor and Council, was to protect very fragile inner city neighborhoods. He stated when it passed, the Mayor had some concerns, he wanted something even handed, something to indicate where development should occur to compliment protecting the neighborhoods. He said Council Member Uhlich presented a motion, which was passed, for staff to return in ninety days with a modification of development regulations that addressed relief to development standards in the downtown infill incentive district. He said the purpose was to encourage densification, pedestrian oriented development, urban neighborhoods that served downtown and the University of Arizona (U of A) while upholding sustainable design principals, which was what he thought he heard the Commission talking about. He explained that Jefferson Park was not in the downtown infill incentive district and already had a study done to identify the downtown infill district and that was where the

Mayor and Council intended to direct the densification and infill projects. He said this was to offset the preservation to the neighborhoods. He stated that the Steering Committee felt things needed to be done on a more regional, not a spot basis.

Commissioner Williams said a couple months ago, there were some objections from a few of the Commissioners regarding the collector streets. He asked if it was still an issue regarding development and felt it should be discussed.

Commissioner Holland stated he recalled discussion to allow more intense use of collector streets running north and south. He stated one argument was increasingly the densification which arguably created more variety. The counter argument was a more variety of use, more vitality, and so on. He said the counter argument was if you increased the intensity the chances they would remain residential went down and diversity and intensity of use quickly move away from residential into other things. He said the streets in question were collector streets through the heart of the neighborhood.

Chair Rex added, on the Neighborhood Plan, there was a recommendation to reduce Park Avenue from a collector to a local street. She said discussion of the study was to be able to understand whether it should be reduced or increased not just increased. She said she saw the outcome going either direction; not necessarily a densification. She said she felt, in terms of the language, that was what had transpired. She said the way staff had written it, the last sentence “currently zoned for single family use should be considered for some residential and or non-residential uses,” She said to say the word “additional” means that it could be more intense but it did not give the option of being less intense.

Chair Rex said she appreciated and agreed with the way the neighborhood pointed out that it needed to be a regional review, not just for the neighborhood. She said we could not take it neighborhood by neighborhood; it had to be an entire area. She said when the NPZ was done, they were looking at zones around the University and the zones did not overlay with the infill district or with specific neighborhoods. She said there were discussions about making it specific neighborhoods and that was how they ended up with two plans, Miramonte and Jefferson Park. She said the purpose of the study was to allow the review to see whether it was going to more or less intense or the same.

Commissioner Sullivan said concerning the scope of the study, he wanted staff to clarify an assumption he made. He said if the Commission directed staff to move forward with such a study, would it not be solely focused on the area that fell within Jefferson Park. He said the arterials and collectors extending outside of Jefferson Park would be included in the study to make it more holistic and it would not be a piece by piece study. He said, for example, Park Avenue from Grant Road through University Boulevard, up to 22<sup>nd</sup> Street and into the Lost Barrio area, was a wider corridor, an extension off of University Boulevard. He said he was concerned about tying this to looking at a city-wide study for feasibility. He stated he knew it was an area that had potential for mixed use of development for a different type of development because of its proximity to the U of A and for pedestrian use, mixed commercial use. He said that the plan protected the character of the neighborhood and allowed staff to study opportunities along arterials and collectors.

It was moved by Commissioner Sullivan, duly seconded to recommend approval of the Jefferson Park Neighborhood Plan with the inclusion of the staff language.

Chair Rex asked if he was referring to the new staff language in 1.3.1 as opposed to alternative language that the neighborhood had written in their letter. She also verified that his findings were that it supported the neighborhood and asked what his second point was.

Commissioner Sullivan stated she was correct about the new staff language in 1.3.1 and that his second point was that it would protect the character of the interior of the neighborhood and allow a study to be done to identify opportunities along the arterials.

Commissioner Williams stated a valid point was made in that it was difficult to look at one neighborhood in an isolated fashion and to see how the arterials and collectors would coincide and develop with the adjacent neighborhoods. He said if this was looked at in isolation, the full picture would not be seen and felt that was a concern. He said, unfortunately, that was what happened with so much of the City of Tucson. They did not have a big master plan when the development occurred and it had become a haphazard situation. He said he felt this was the opportunity to take a broader look at it and see what was appropriate for the surrounding neighborhoods so there was some kind of cohesion and further planning than in just a small neighborhood.

Chair Rex asked staff if that type of language regarding the broader issue could be included in the Plan since the Plan was referencing the Jefferson Park Neighborhood Plan.

Mr. Elias stated it was a strategy in the plan and strategies were intended to help illustrate policies, which were the real fundamental land use direction and the fundamental policy said the areas along the arterials and collectors were to stay residential. He said the strategy based on Commissioner Sullivan's motion was that a study should be conducted to explore other possible land uses including mixed use along the arterials and collectors. He said he was asking for clarification from the Commission, if the intent of the motion was for the study to be broader than just Jefferson Park. He said for example, to include the larger area that was originally discussed with the Mayor and Council regarding the neighborhood protection zone, called the University of Arizona Pilot Overlay Area, the two mile area around the university, if that was the intent, some area more of that scale, they could certainly convey that when they transmit the Plan to the Mayor and Council.

Commissioner Sullivan stated including the two square mile area around the University would be prudent. He said they would have to look at it a little broader to understand what kind of land uses would be appropriate; it could not be solely focused on the neighborhood.

Chair Rex said, the current language states, “major streets and routes immediately adjacent to and with in the neighborhood”. She asked if the two mile area would be covered by this or would the language need to be modified.

Mr. Elias said he wanted to be clear on what the intent of the motion was. He said what the Commission wanted the Plan to say was that the study should be conducted and as part of the study there should be public participation. He stated one of the expectations staff wanted was to have stakeholders, including neighborhood people and property owners be involved in reviewing the study. He said whatever came out of the study, whether it was up planning, down planning, or leaving the existing Plan policies the same, any change would require a plan amendment which was a separate process, that would come back to the Planning Commission for recommendation, and would ultimately go back to the Mayor and Council for recommendation. He said what the Commission was doing was simply setting the stage for that to occur in the future and there was no presumption regarding the outcome of the study. He said the Commission was merely suggesting, as one of the strategies, that the study within the two mile area occur and explore the possibilities along the arterial and collector streets.

Chair Rex asked if the particular language, because it was in Jefferson Park’s Neighborhood Plan, would be particular to them and in a cover letter from the Planning Commission to the Mayor and Council they would say that their expectation would be to encompass the two mile area.

Commissioner Maher said simplistically stated was the Commission proposing that Jefferson Park have an open mind in terms of the studies specific to the neighborhood or regionally when it all came to pass. He said he was curious which section of houses along Grant Road were being demolished, since he had driven the area a couple of times, whether it was the east or west portions. He said more importantly, he was curious if there would be an open mind towards the study. Personally regional studies, in his mind, would ask or request more intensity and were they ready for it as the City developed and as Grant Road and Euclid Avenue changed over time. He said he was disappointed there was still confusion over the O-1 zoning which was meant to be utilized with the existing house, converted into a one person office and retain the same intensity. He said Mountain and Park had a few two-story apartment complexes, and was still of the opinion if you were going to have intensity it would at least be on the streets that were appropriate for the intensity and leaving the interior of the neighborhood untouched. He said he was still curious from statements made if there would be an open mind after the study.

Commissioner Lavaty said he agreed with Commission Maher’s opinion. He asked staff if the City’s General Plan had a specific policy encouraging more dense development along arterials and collector streets as did the University Area Plan.

Mr. Elias said there were broader policy direction in the General Plan regarding allowance for more intense use along arterial and collector streets. He said there was a more specific policy in the University Area Plan related that said, “Consider the conversion of residential uses on arterial streets to residentially scaled offices under the guidance of general design guidelines and through the analysis of characteristics outlined

in office and commercial development policy three.” He stated that was more specific to O-1 type residentially scaled office use along arterial streets, which was more specific than the General Plan Policy. He said the Neighborhood Plan Policy in Jefferson Park which stated, “preserve the traditional character of the neighborhood by ensuring that future land use is consistent with existing land use,” was more restrictive and therefore that would be the applicable land use policy the way the plan was currently written. He said basically, what it was saying, was to leave it the way it was unless there was a plan amendment.

Mr. Schlanger said the portion of Grant Road being demolished was from three houses west of Park Avenue to Mountain, and then he personally would have Grant Road frontage. He said the two streets in question, Mountain and Park, did not have any development of the sort described until you left the neighborhood, so it was not within the boundaries of the neighborhood where the higher density occurred. He said as you moved towards Speedway on Park, there were some shops and some commercial uses. He said there was a run down strip center that was vacant for some time until the Council office, several years back, put a great deal of pressure on the owner to clean it up. The strip center was sold and was now a car wash, which did not give him the warm fuzzy feeling they envisioned. He said that was not the kind of infill they wanted unless it could be controlled. He stated that Park and Mountain bisected the neighborhood, cutting it into thirds, which was the interior of the neighborhood. He said it was not really an arterial so to speak. He said Grant, Campbell and Euclid perhaps, but Park and Mountain bisected the neighborhood. He said, in his opinion, he would not be open to losing another single house, houses as such were not being built any more, and it was the last remaining fabric of what Tucson meant to a lot of people. He said he did not want to see any more of those types of houses go away as they were already under severe strain because of 207 and the inability of the Council to change any kind of R-1 definitions to prevent two story, seven bedroom houses in the backyard in R-1. He said they were already up against that and did not need any more nor could they handle anymore. He said it would turn the neighborhood into student slum and cause the neighborhood people to go somewhere else. He said he personally would not be open-minded.

Commissioner McBride-Olsen asked if they would be more open to having 1.3.1 left in if the word ‘collectors’ were taken out of it, so that the study simply involved arterials. She said she believed that the intent of the Planning Commission was to try to mitigate the harshness of the statement in 1.3.2, which said, “Recommend against any conversion of residential uses along the adjacent arterials”. She said the conversion along the arterials would really protect their neighborhood more than they thought and having office use along those arterials could be protection for them. She said a plan amendment would not be in the best interest of the neighborhood.

Mr. Schlanger said he understood, but until regulations were tightened up, since the City recently lost the case in court on the demolition, nothing to prevent people from demolishing buildings and apparently there were loop holes wide enough to drive a mini dorm through that allowed something like Goldberg and Osborne to be built in the first place. He said everything needed to be even handed, if the regulations were tightened up and there was faith in the City process, then he personally would be in favor of O-1. He

stated that along Grant Road, there were mostly rentals and he would rather have a dentist or lawyers office than a rental unit.

Commissioner McBride-Olsen said in the conversion from residential zoning to office zoning there was the process of change in zoning where you could attach conditions to the rezoning. She said there was more control there than perhaps Mr. Schlanger was thinking.

Mr. Schlanger said, as part of their planning process in putting the Neighborhood Plan together, they wanted to have some mechanism of attaching conditions to DDO requests. They were told by the attorney's office it could not be done.

Chair Rex stated it had to be a full rezoning in order to get it. She said the way it stated, because only residential zones were added under the NPZ, they did not have any way of having input on what got rezoned, so their only recourse was to say they could not support rezoning because it was no longer part of the NPZ.

Commissioner Lavaty said he did not have any problem with the language looking for a study, but was afraid what was being looked for was a feel good paragraph that was not going to accomplish anything. He said there was no reason to study increase density in an area that was not going to accept it under any condition and recommended we go back and look at the strategies originally brought forward in the first draft. He said he thought requesting a city-wide study was a good thing, but was well beyond the scope of the Commission's work and the document. He said if the neighborhood was not interested in any change along those streets, then there was no reason to include the requirement for the study within the Plan.

Chair Rex asked if it was a substitute motion.

Commissioner Lavaty said it would be a modification to the motion if it was acceptable to the original maker.

Commissioner Sullivan said he wanted to leave his motion as stated.

Chair Rex stated the motion was to include the language and what Mr. Lavaty was proposing was to take it out, which would make his request a substitute motion. She said if the Commission was going to do that, then there would need to be a second.

Commissioner Lavaty then said he wanted to propose his recommendations as a substitute motion to adopt the Neighborhood Plan without the study language being proposed by staff. Motion died for a lack of second.

Chair Rex stated it appeared the Commission was getting down to the nuts and bolts of the language regarding the study to the point where they could feel confident that it was something the neighborhood and Commission could support. The motion was to have the language with a cover letter to the Mayor and Council and that the study area be the two mile area around the University.

Ms. Ruopp suggested and asked if the Commission would modify the language to say something to the affect of, recommending a study be done to further inform the land use policy direction from major streets and route streets in an area that includes Jefferson Park. She said it would allow a scope of work to be done, that could be a bigger area, but Jefferson Park was still in there, which was the concern about whether the strategy had something to do with the Neighborhood Plan. She said it broadened it out from the wording currently in the document. She said she was still working on, in terms of the end of the sentence, to try and get the balance flavor the Commission was talking about, that suggested there was no preconceived outcome of the study. She said she felt getting something into the document that suggested it could be a larger area, that may not be totally defined as of yet, was something she thought they wanted to do to have something that made sense.

Commissioner Sullivan, as the motion maker, was agreeable. He was asked to phrase exactly what the motion would read.

It was moved by Commissioner Sullivan, duly seconded, to recommend approval of the Jefferson Park Neighborhood Plan with the inclusion of the staff language to recommend a study be done to further the Land Use Policy direction for the major streets and routes in an area that is contiguous with Jefferson Park with particular attention to those areas along arterials and collectors currently zoned for single family use to be considered for residential and/or non-residential uses. Motion passed by a voice vote of 10 to 0 (Commissioners Cheney and Watson absent).

Commissioner Williams asked to speak regarding the meeting, in general, and before moving on to the next agenda item. He said that he had not received his packet of information until 4:00 p.m. prior to the meeting. He stated that he worked until 6:00 p.m. each day and had about fifteen to twenty minutes to review approximately an inch thick of materials. He said it was not sufficient time to review materials in an appropriate fashion and be expected to make good decisions. He said the Commission was moving motions ahead without the proper opportunity to read and review the materials which was wrong. He said he thought nothing in general should be moved forward at this meeting, until they have had the opportunity to properly read and review so that good decisions could be made. He asked that materials be delivered to Commissioners by Friday the week before the meeting.

## **6. LANDSCAPE CODE AMENDMENT (PUBLIC HEARING)**

Irene Ogata, Urban Planning and Design (UPD), Project Manager, gave an overview and presentation regarding the Landscape Code Amendment. She presented amendments to the Landscape Code as a result of the study session held approximately two months ago. She said the amendments dealt with the Landscape Buffer and Screening (Division 7) and the Native Plant regulations (Division 8).

Ms. Ogata said in the Landscape Buffer and Screening section there were two items; one had to do with increasing the parking lot and the other with screening wall materials. She said there were still some questions about the screening and wall

materials, therefore, staff was withdrawing that portion of the amendment, but continuing with the number of trees per parking space and the native plant regulation.

Ms. Ogata gave the Commissioners a refresher regarding the number of trees per parking space. She said staff was proposing a change from one tree for every ten spaces to one tree to every four parking spaces as a direct result of the Mayor and Council's direction in regards to reducing the urban heat island. She said discussion at the study session centered on trees in the parking code, and existing parking lots. She said the Land Use Code (LUC) affected only new development or re-development with certain expansions. She said the Urban Planning and Design (UPD) Department was currently looking at the parking lot code and existing parking which was a separate process.

Ms. Ogata said the other area of concern was that by increasing the number of trees per parking space, staff did not want to make it difficult for developers to include it in their plans. She said what staff was willing to do was decrease the unpaved area per tree in the parking lot, but said they were working concurrently with Development Services Department (DSD) in revising the Development Standards, which again was a separate process.

Ms. Ogata stated, in general, what staff did not want to do in reducing the unpaved area parking lot, was to create a situation where the trees had difficulty in their growth rate. She presented a graph which showed a direct relationship between unpaved areas and the canopy or trunk size of trees. She said as the unpaved area became smaller, so did the tree canopy, which was not what they wanted to do in the parking lots. She said, in proposing a change to the Development Standard, they were decreasing the current requirement of unpaved area per tree planting, thirty-four square feet, by fourteen square feet per area. She said, surrounding the unpaved area, was a ten by ten or approximately eighty-four square feet of porous paving with structured soil underneath the paving. She said structured soil was weight bearing so when the porous paving is laid on top, it would handle vehicle travel or parking.

Ms. Ogata said there were a question regarding porous paving, whether or not it was specifically allowed or in the code. She said there was a section in the Vehicular Surface Materials that stated asphalt and asphalt concrete was acceptable. She said that the Commissioners should have received a letter from the engineer administrator of DSD that clarified the concerns. She said porous concrete or pervious asphalt was included under the definition of asphalt and concrete surface materials for vehicular areas.

Ms. Ogata stated, in the amendment for Division 7, there was also reference to buffleggrass in the Plant Cover/Dust Control (3.7.2.7) section. She said they added wording in that section stating buffleggrass had to be removed in new developments which led her into the changes to Division 8 – Native Plant Preservation. She said there was a section as to why the issue of buffleggrass was important to the community and that it was a regional problem. She said a study was conducted in Avra Valley this past summer, where the City of Tucson's Water Department had a piece of land that was covered with buffleggrass. She said the forest service was particularly interested in how hot buffleggrass burned. She said most plant materials burn at maybe seven to eight hundred degrees Fahrenheit. She said what the study showed was that buffleggrass burned as high as

fourteen hundred degree Fahrenheit. She said in terms of safety in urban area and the plant materials, the language was inserted in the Native Plant section because it was about preserving the Sonoran Desert vegetation and what happened when buffleggrass was present, it would burn all of that and the saguaro cacti.

Chair Rex asked if there were any questions by the Commissioners before opening the public hearing.

Commissioner Saylor-Brown asked for clarification on a couple of items. He said it stated, in the document, that in a vehicular use area, there would be one canopy for every four motor vehicle parking spaces. He said the current code had a requirement that a tree had to be within forty feet of a car.

Ms. Ogata stated that was correct and that that would stay in the code.

Commissioner Saylor-Brown asked if the recommendation on the pervious concrete pavement applied as well to the PAAL (Parking Area Access Lane) driving surface. He wanted to know if the Fire Department had reviewed staff's recommendation to give their input regarding the materials used. He said he was not familiar with the material and the Fire Department, structurally, had major concerns with anything other than asphalt.

Albert Elias, Urban Planning and Design, Director, said staff had consulted with the head of DSD's Engineering Section who was a professional engineer and determined that this type of structured soil underneath porous concrete was functionally equivalent to regular asphalt or regular concrete. He said he did not know if he consulted with the Fire Department but that was his determination based on his application of these types of materials in parking situations.

Chair Rex opened the Public Hearing and stated there were two people who had filled out cards to speak.

Merrill Peterson spoke stating he had problems with putting in trees because they need maintenance and water and during the height of the day, they only shaded the area under them and not really the cars. He said that putting up covered parking was a better way of creating shade and did not eat up a significant amount of land. He said, within the City limits, the City could charge for covered parking by installing parking meters. He said he felt citizens would be willing to pay an extra twenty-five cents or a dollar or something to that affect and it could be a revenue generator for the City. He said aside from having to take the money out of the meters, there would not be any maintenance for the meters as opposed to having to maintain the trees. He said in Tucson, people loved parking in shade and felt people would be willing to put money into a meter as opposed to trying to hog a tree.

Joan Lionetti stated she was a member of the Mayor and Council's City Landscape Advisory Committee and the Executive Director of Trees for Tucson, a major urban forestry program since 1989. She said she was also a member of the original task force formed by the Mayor and Council in 1990 and a founder of the National Alliance

for Community Trees. She said the community needed to address trees as a major asset from an economic, social and environmental standpoint. She said personally, she felt far better driving into a parking lot and finding a tree to get under than some of the urban heat islands that the City continued to create. She said a member of the review of landscape codes very appropriately said that parking lots in the City were really designed for Fridays, the day after Thanksgiving, when it was the biggest shopping day in the country, and not for the other days when one just went out and wanted to park. She said she felt it was time trees be installed in parking lots and urged the Commission to support the change in the code.

Michael Toney said the engineering of the parking lots where the water drained was pretty important. He said people had done studies on trees and spoken at various committees and said trees are expected to last over fifty years because they cover the parking lot with impervious structure. He said he wondered about bricks going side ways also. He said structuring the parking lot zigzag was a way to spread the water around which sounded like a good concept. He said he did not want to see the bulldozing of native desert vegetation trees, Palo Verdes or whatever they happen to be, when the parking area was being initially cleared. He said they should be dug up and moved to a different location so that it could serve as a canopy tree.

Dave Eschhoffen stated he was a resident in Tucson since 1974 and loved it but hated the heat in the summer which was unbearably hot. He said whenever he went to a parking place in the daytime and knew he would be there for a while; he looked for a place under a shade tree. He said he was in favor of more trees than the idea of paying for parking. He said he already paid enough and tried to avoid parking in metered spaces. He said the City needed to green up the environment.

Chair Rex stated she did not have any more speaker cards and asked if there were additional questions or comments before the public hearing was closed.

Chair Rex said she had some concerns herself regarding the letter from Jim Vogelsberg, Development Services Department (DSD), Engineering Administrator, about the porous paving, but did not have any information from hydrology department on how the porous paving worked in conjunction with the hydrology. She said she was supportive of the trees but was concerned about making sure the trees lived. She said she was not yet to a point of comfort that was needed for the ordinance.

It was moved by Commissioner Podolsky that the Commission forward to the Mayor and Council the issues covering buffleggrass and the issue in Division 7 covering square footage.

Chair Rex asked if he was continuing the Public Hearing to hear from the public considering the additional information being requested. She also asked if the public hearing could be continued for a certain portion of the amendment or did they leave the entire item open.

Ms. Ogata stated she had forgotten to introduce Ann Audrey from the Office of Conservation and Sustainable Development (OCSA). She said, in terms of the question

on hydrology and porous paving allowing water to soak down into the tree area, Ms. Audrey was available to provide answers to their concerns.

Chair Rex again asked if the Commission could close the public hearing on a portion of the item or leave it open to get additional information.

Linus Kafka, Principal Assistant City Attorney, said that was the subject of their sidebar discussion and had agreed that they could parse them and close the public hearing on one issue, forward it on and keep the hearing open on the other part.

Chair Rex said she wanted to hear from staff members on both issues; the buffleggrass and the trees.

Joseph Linville, Development Services Department, Lead Planner, stated he did not have additional information regarding buffleggrass and asked if there were specific questions relating to that or the questions regarding the survivability of trees in the parking areas.

Commissioner Sullivan asked, concerning management monitoring, what DSD's take was and if indeed it was going to be part of another process since it was not spelled out directly in the LUC was it going to be established with some kind of uniform way to eradicate buffleggrass and call for a specific time to continue monitoring after it had been eradicated.

Mr. Linville stated he did not think the code currently outlined how it would be administered. He said maintenance and monitoring would be a requirement.

Ms. Ogata stated there was a buffleggrass working group that had been in existence for about three years. She said they were currently in formation, with the help of the Southern Arizona Leadership Council, a non-profit buffleggrass coordination center. She said through the center there would be region-wide uniformity on how things were mapped and monitored. She said the City did not have it yet, but it would eventually end up in the Development Standards.

Commissioner Maher stated he was a bit confused and asked if the preference for the porous asphalt meant to be just in the squares, rectangles around the trees or was there a preference to do the entire parking lot. He said, in looking at the diagrams, was staff suggesting porous around the trees themselves and not necessarily the entire area. He said he assumed Mr. Vogelsberg addressed whether it was equal and structured soil, and the entire parking lot was done, it would support the twenty-five tons of the fire engine that they were so worried about.

Ms. Ogata said the porous paving itself would be the minimum, ten by ten square feet, with the structured soil underneath. She said a question had come up whether or not that made sense. She said it could be, since a maximum was not listed, that the entire parking lot itself could be a porous paving. She said the City of Tucson, at the zoo project, had a parking lot that was entirely porous paving. She stated in order for the

survivability of the trees, they were saying that there was a minimum of eighty-four square feet of structured soil surrounding the tree.

Mr. Elias said there was some question whether or not porous concrete or porous asphalt was allowed by the code. He said that Mr. Vogelsberg tried to clarify that from his perspective, that yes it was allowed because he saw it completely equivalent to asphalt or concrete.

Commissioner Maher asked about the additional trees; was there a mandated size and was it meant to be trees of low water use.

Ms. Ogata stated, in the Development Standards, it did not require a minimum size of trees.

Mr. Linville said the current Development Standards established that fifteen gallons was the minimum size for trees required per the code.

Commissioner Maher made a statement, especially since he was a member of the Trees for Tucson Committee; they had put in about sixty thousand trees over the last fifteen years. He said if you were ever in an area where there was a group of trees and a little bit of breeze, it crated somewhat of a micro climate. He said he thought, in staff's report; it was referred to as an evaporation sort of technique. He said, with all due respect to one of the speakers, the metal covering for fifteen thousand spaces was expensive just to get a little bit of shade that did not do the same affect as trees aesthetics and the health reasons that micro climate would produce for very little cost in his mind especially if only porous concrete around the trees themselves and not necessarily the entire scenario. He said there were other materials that could be used around the trees that was of metal grate or some other aspect. He said he fully supported the idea of more trees but what was disappointing was some of the widening of roads over the years whereby trees have been deleted and seemed like they either had or did not have trees in parking lots and the landscape buffers seemed to disappear. He said it was too much blight and the City needed to move on away from so much blight and. He said he fully supported the amendment.

Vice Chair Holland encouraged staff and everyone involved with the planning, in conjunction with the Grant Road project, to investigate some activities going on at the Botanical Gardens and the cooperative agreement between the Botanical Gardens, Fry's Shopping Center, WalMart Neighborhood Store and all the business surround the Grant Road/Alvernon intersection. He said there was a critical mass of people talking about how to make the area lower crime, more livable, and more sustainable. He said people were coming across with great ideas and hopefully there was an opportunity for some deep pockets for people to begin experimenting or installing prototype designs. He said if anyone was interested in seeing how those concepts worked out in real life rather than just looking at them on paper, he felt they would find some willing participants, CPSA who might contribute some of the labor and maintenance, Botanical Gardens could work with some of the designs, and Fry's and WalMart were interested in making their parking lots greener and more sustainable to the extent that anyone working in committees could invite them and note that their input and cooperation would be appreciated.

Ms. Ogata stated that Nancy Laney, Executive Director of PBG was on the Landscape Advisory Committee.

Vice Chair Holland stated they had discussed this and he too was a member of the Botanical Gardens Board. He said he felt a direct appeal to the business owners on that intersection would be great.

Ms. Ogata asked if the Commission would like to hear from Ann Audrey because they were, in conjunction with the Rainwater Harvesting Ordinance, working on Development Standards and porous paving.

Ann Audrey, Environmental Coordinator, Office of Conservation and Sustainable Development, apprised the Commission on the recently adopted commercial water harvesting ordinance that was approved by the Mayor and Council in mid-October. She said she felt it would be relevant for the sites in which the tree to parking space ratio would likely be applied. She said the ordinance required new commercial developments to make fifty percent of their landscape demand use harvested rain water. She said this meant that the runoff from roof tops, parking lots and sidewalks at these commercial facilities would be funneled and sloped towards depressed planting areas in order to get a sufficient concentration of rainfall into the soil around the trees to meet the fifty percent requirement. She said there was a lot of variability in the percent of landscape per hardscape at different commercial facilities. She said for a Walmart, it might be five percent landscape area, for an office complex area, it could be fifteen or twenty percent, for more sights where the landscape was considered in a very desirable amenity, it might be higher than that. She said depending upon the ratio between landscape and total sight area, the fifty percent goal may or may not be achieved to support the landscape at that level with water harvesting.

Ms. Audrey stated the ordinance addressed the contingency and read the following clause, "For facilities that have a lower ratio of landscape to irrigation area that would be able to achieve the fifty percent offset, in that case, the following provisions from the adopted ordinance would apply." She said section 6-182.C, the Director of Development Services Department may authorize alternative compliance with Development Standards when conditions of topography sight soils a ratio of landscape area to total sight area would make strict adherence to standard provisions unreasonable in the alternative compliance advances the spirit of this article. She said that was an important clause because every commercial sight was different and would allow some sights specific response to the design of each commercial sight. She said the important part of the ordinance was that the fifty percent level could generally be achieved with passive water harvesting, where tanks were not required. She said the goal of the ordinance was to create maximum flexibility for the facilities so they avoided the cost of expensive tanks and could do this passively.

Ms. Audrey stated that the nature of passive water harvesting was that it created localized depressions and areas that drained directly to the detention basin now drained to towards the landscaping and the surplus went to the detention basin. She said, at the same time, soil moisture sensors would be required in the soil which would control the start up and shut off of the irrigation controllers. She said it would no longer be a timer

dominated system, but a system dominated by responses to soil moisture. She said, by virtue of the new ordinance, the total paradigm of sight design for commercial sights would be reversed from what it currently was and because of the newly created topography, in a passive way which the irrigation system could respond to soil moisture, there was great potential that many of the sights would exceed the fifty percent requirement in years with even normal rainfall. She said the ordinance only assumed nine inches of rainfall per year and took into account local variability. She said if in some cases, the presence of one tree per four parking spaces, made that ratio of landscape area to total area such that the fifty percent could not be met, then there was an alternative position written into the ordinance that a facility could take without variances and without Development Standard modification requests. She said the ordinance was pretty facile and that the Development Standards would reflect that as well.

Ms. Audrey stated, from the perspective of the OCSD, the value of parking lot trees for heat island mitigation carbon sequestration, the creation of micro-climate was an important factor. She said Phoenix was already realizing the heat island affect and Tucson was on the cusp of beginning to realize it. She said, from both the water harvesting and the urban climate perspectives, OSCD was in favor of the change. She said, in terms of buffleggrass, it was a huge problem that was growing exponentially. She said she thought the City was in the processing of reviewing an MOU to join in with all the other jurisdictions to collectively address the issue with mapping and treatment systems and trying to create a synergy of the jurisdictions to address it effectively. She said, currently, the City did not have a mechanism to prevent the proliferation of buffleggrass on private lots. She said if it was done with weed control, the heads were cut off and buffleggrass was a perennial grass so it is not controlled but simply releasing the seed head so that it can blow around better. She said she felt very strongly that the City needed a more powerful mechanism to get buffleggrass under control. She said, on some urban lots, the longer you waited the worse it got and was more expensive to treat. As it was, buffleggrass needed to be treated for multiple years; it was a fire danger, and a public health hazard. She said she and OCSD were strongly in favor of the initiative.

Commissioner Sullivan stated he fully supported both issues. He said he felt the City was doing itself a great service getting on board regionally to fight buffleggrass. He said if it was left alone, it was something that would negatively impact not only the environment, but the local economy, which the natural desert landscape depends on in many instances. He said concerning the trees in the parking lots, it was his opinion, that we lived in one of the most unique and beautiful places on the planet, the Sonoran Desert and it was time that we made bigger strides to embracing that. He said he fully supported putting in a land use code that only native trees are utilized at a minimum of seventy-five percent of native trees be used. He said he was not sure if anything such as this was in the books, but not draught resistant trees native to the Sonoran Desert.

Chair Rex summarized the discussion by saying Commissioner Podolsky suggested that the buffleggrass item be moved forward, the trees item needed additional information that would warrant leaving the public hearing open, and the six items brought to the table by the Commissioners; 1) insufficient review time and the need to appropriately review them, 2) fire department's review of porous concrete, 3) actual hydrology review, 4) copy of Water Harvesting Ordinance, 5) additional information on

the Grant/Alvernon plans, and 6) examination of looking at seventy-five percent native trees – was it an appropriate item to add. She said she was not hearing that anyone had a problem with the quantity of the trees, but the issue of having appropriate information to make proper decisions to move the item forward.

Commissioner Wissler asked if there was any research or evidence that UPD had with respect to the survivability of the trees in parking lots.

Ms. Ogata stated there was research that showed the average life span of trees in parking lots which was seven years and that their growth rate was about a quarter what they could grow in a parking lot. She said the other part of the research was that with structured soil and porous paving, the canopy size of the tree, increased substantially especially with structured soil. She said the data came from Cornell and UC Davis Universities. She said she thought the U of A had started to use structured soil as well for those reasons and most of the plants coming forward on their facilities were doing that. She said the City was using structured soil on the Fourth Avenue Underpass and would see how the growth rate of trees would happen in the southwest.

Ms. Audrey stated that a Development Standard was being created to elaborate on the commercial water harvesting ordinance. She said in order to accomplish the water harvesting proposed, there would have to be engineering designs which showed that adequate amounts of water was being lead into the subsurface of the soil to serve the trees. She said the use of structure soil on vertical French drains, the pre-treatment of planting areas beyond what was typically being done now, definitely needed to be part of the Development Standards. She said currently, parking lots were very aggressively compacted, tree holes might be augured in, and that was not sufficient to accomplish water harvesting goals. She said it could be assumed that the pretreatment would be different in the future than it had been in the past. She said the Commercial Water Harvesting Ordinance did not take affect until June 1, 2010, and in the meantime, there would be some pilot studies and very close work between DSD consultants, engineers, and landscape architects along with OCS D to test some of the approaches to make sure they worked.

Commissioner Maher asked if porous concrete or asphalt would be hand-in-hand with the water harvesting. He said he had not heard that stated, but was obvious if you had detectors in the soil.

Ms. Audrey said the point of porous pavement was to create a bigger receiving area, spaciosly for the harvested rainwater. She said PAL would not necessarily be porous because you wanted high run-off from the area, which was coefficient with the concentration of rainfall in the infiltration zone around the roots of the plants, shrugs, and trees. She said there was much for everyone to learn, there was currently water harvesting installations around town and the use of structured soil had occurred in other jurisdictions and applications. She said she felt the City could gain enough knowledge from existing information and be able to do some testing to verify that this approach would work. She also said she did not think the City wanted to create a completely porous parking lot unless the root zones of the trees could potential get underneath the other parts of the porous paving. She said a zone needed to be created that was right for

the amount of infiltration for the root zone of the trees, but not necessarily larger than that.

Vice Chair Holland pointed out that the commercial rainwater harvesting did not require porous pavement but was an option available.

Mr. Elias said he thought he understood the items in question. He said more time to review materials, providing a copy of the water harvesting ordinance, trying to learn more about the Grant/Alvernon proposal, and any research regarding survivability were all clear. He asked for clarification regarding the fire department review of porous concrete or asphalt.

Chair Rex stated it was not so much the porous concrete, but of trees and parking lots, and clearances. She said they would probably have something to say about porous paving as well, but in particular they often had something to say about clearances. She said this was something that was happening in parts of the City as part of rezoning, but at the same time, if they were talking about a City-wide ordinance, then the Commissioners needed to understand how it impacted all of the departments.

Mr. Elias said UPD would consult with the fire department to see if they had any concerns about clearance. He said the other item that needed clarification was hydrology review.

Chair Rex stated there were two different aspects, one being the paving, but also when you had structured soils, how was the water under the parking lot, not just the aspect of the water from the trees, but also the water from under the parking and whether or not, from a hydrological point of view, that was something that would work if you were doing it by just a portion of the porous paving or did it need to be a bigger area. She said maybe that information had already been reviewed because of the rainwater harvesting ordinance, but that was not information given to the Commission.

Commissioner Maher asked if the Commission was speaking to having a soils engineer to review the information. He said they were typically hired for projects anyways in terms of parking lots and foundations. He said he was confused on how far the Commission wanted to go in terms of concerns of typical, technical reviews for commercial projects.

Chair Rex stated one of the things she was interested in was making certain that an ordinance be brought forward where the trees could survive and what was being proposed could actually be executed. She said there was no point in having an ordinance, a land use code, which said you could have this type of tree well and no one built it. She said she wanted to have things in the ordinance that were actually useful when making modifications to the LUC. She said whether or not there was literature research done or discussions held with the soils engineer, it was probably a good idea.

Commissioner Maher stated he thought some installations had been in town if test cases were what the Commission was looking for. He said perhaps maybe that was the issue and that you could never predict what clients would pay for or not in terms of

installations whether it was cost effective or whether the entire scenario in the overview of a project made more sense for more square footage. He said the project at Swan and Pima had one hundred thousand gallons of retained water underneath the parking lot and was cost effective to do that. He said he guessed the amount of gallons put underneath the project was underway and could never be predicted what parameters for a specific project. He said, at some time, they needed to actually understand what the term “sustainability” meant, rather than just using it and pretending everyone did. He said it needed to be put in realistic terms and acted on. He said the initial cost might be a bit higher unless it was cost effective in some fashion to do some of those matters, but he did not know if there was any replacement for aesthetics in terms of what was done. They could not be afraid of new materials and new techniques. He said he was also curious regarding the fire department’s clearance of trees, which if they were talking about the trees themselves, it sounded more of a maintenance issue. He said if he remembered correctly, the fire department always inspected every project once a year and they put tree maintenance on their list so that their vehicles could be pulled through.

Mr. Elias said the other resource the City could look at would be Pima County. He said they have had the requirement of one tree per four spaces for years and they seemed to have been able to implement the ordinance effectively. He said UPD would certainly check with them.

Ms. Ogata said the City had adopted the Arizona Department Water Resource’s (ADWR) list of plants which was currently being used.

Mr. Elias said he had one more issue for clarification. He said staff, originally in this case, did not propose any change to the tree plant list. He said Commissioner Sullivan made the suggestion that consideration be given to seventy-five percent of the trees being used be native. He asked if the Commission was requesting UPD to create an additional LUC amendment that addressed the issue.

Chair Rex stated, the way she interpreted it, was that it was a separate LUC amendment, but this was an opportunity to look at it.

Commissioner Sullivan asked if it would be possible, somewhere in the section, to state that seventy five percent of all trees would be native. He said that would be something that could be inserted now and move forward as a recommendation.

Mr. Elias said it was possible to write in text amendment that would accomplish the request. He said, his only point was that, it was not what they were working on and if the Commission wished for UPD to do that, they could certainly do it but it was not what was advertised in association with the current text amendment. He said if that was what the Commission wanted UPD to do, they could certainly come up with language to that affect.

Chair Rex said if UPD was going to be providing information, for example on what Pima County was doing, could the Commission also get information on the typical percentages of native trees versus non-native trees if there were any examples of that and

to get an idea of what had been done and whether or not it was an appropriate ordinance to ask for.

Ms. Ogata said this was an option that could be included in the Development Standards. She said it would be a revision to the Development Standards not to the LUC. She said, to the LUC, they were asking about the increase of the number of trees per parking spaces. She said the Commissioners' concern was a different process, the Development Standards. She said the issues on hydrology and porous paving were related to the Development Standards not necessarily what was being requested as far as the language of the LUC. She said it was an option they could put in the Development Standards and they were working concurrently going through the LUC process requiring the seventy five percent of native trees in parking lots.

Chair Rex said the whole reason they were asking for the information was to make certain, when they went to the one to four instead of one to ten, the trees were more likely to survive. She said there was a lot of information that applied to the Development Standards, but the part that applied to the LUC amendment was to give the Commission a certain comfort level that said it was possible and the City would be able to move in that direction so they could fully support moving forward the one to four.

Ms. Ogata said, as a landscape architect, the reason why the configuration of the ten by ten was proposed, was to not reduce the thirty-four square foot unpaved area for the survivability of the trees, and it was not uncommon among the profession that a ten by ten area was much more preferable than a four by four. She said the County currently required only a four by four, sixteen square feet. She said UPD was saying, in order to survive or create better conditions for trees, the ten by ten was the minimum requirement for survivability. She said the structure of both the parking lot as well as using porous paving in sidewalk had not compromised the nature of the paved surface. She said maybe she was not clear as to why UPD was requesting the porous paving and hoped it all made sense.

Commissioner Maher asked what the minimum area currently was in the standards for tree wells.

Ms. Ogata responded by saying currently in the code, Division 7, the minimum unpaved area was thirty-four square feet.

Commissioner Maher said essentially it was six by six, five by five, and a little larger than what the County provides for their trees.

Ms. Ogata said that the option still remained. She said if they wanted to go to the option of using the porous paving and a smaller unpaved area, the City was actually increasing the space for the tree well.

Commissioner Maher said it was still an option, an incentive to utilize the porous concrete or other means around the trees. He said, at this point in time, they were only talking about more trees and bufflegass burning at fourteen hundred degrees.

Chair Rex said there was currently a motion in place.

Viola Romero-Wright, Principal Assistant City Attorney, stated as a point of procedure, she did not believe the motion maker issued findings with the first part of the motion which was to forward Division 8 with a recommendation of approval. She said that findings needed to be added to the motion.

Chair Rex said that they actually backed up and said it was a suggestion not a motion. She said, at this time, Commissioner Podolsky needed to convert the discussions into a motion. She said there would be two parts.

It was moved by Commissioner Podolsky, duly seconded, and passed by a voice vote of 10 to 0 (Commissioners Cheney and Watson absent), to close the Public Hearing for Division 8 of the Landscape Code Amendment with a recommendation of approval forwarded to the Mayor and Council on all issues pertaining to bufflegrass and information obtained from staff and as a result of the public hearing, and to continue the public hearing for further clarification regarding issues pertaining to Division 7 of the Landscape Code Amendment.

**7. FLEXIBLE LOT DEVELOPMENT (FLD) LUC AMENDMENT (PUBLIC HEARING)**

Adam Smith, Urban Planning and Design (UPD), Principal Planner, gave a presentation and update regarding the “draft” Flexible Lot Development (FLD) LUC Amendment. He said the amendment was broken up into three parts. The first part was background information regarding the amendment, including the process that got the amendment to its current stage. The second part was an actual overview of the FLD which was similar to the presentation given approximately three months ago. He said he hoped it benefited the new Planning Commissioner and people in the audience who were not familiar with the FLD. He said he would then conclude his presentation with what staff estimated were the three outstanding issues that UPD wanted feedback on.

**What is Flexible Lot Development?**

- Amendment to the Residential Cluster Project (RCP) ordinance that has been in effect since the mid-eighties
- Provides greater flexibility in designing residential subdivisions in exchange for common open space, architectural variation, and enhanced landscaping.
- Applicable to infill lots and natural area lots
- Eighty-five percent of all submittals were filed under the RCP regulations

**City’s Rationale for Amending the RCP**

- To make the process and regulations more consistent and predictable
- To codify policies and guidelines that staff have developed over the years to address deficiencies in the RCP ordinance

- To get more from projects in exchange for flexibility

### **Background**

- January 2005: the Mayor and Council initiated an infill strategy which included creation of the Neighborhood Preservation Zone (NPZ) and amendments to the LUC regarding Mixed Use Development and the RCP ordinance
- October 2004: the Mayor and Council amended the RCP ordinance to require a Zoning Examiner public hearing for RCP projects five acres or less

### **Review of Draft FLD**

#### Stakeholder Group (neighborhood representatives, developers and consultants)

- Since 8/07, staff met with stakeholders nine times
- Routinely e-mailed drafts for review and comment
- Notified of Infill Subcommittee and Planning Commission meetings

#### Development Services Department (DSD)

- Met formally several times
- Frequently corresponded about specific issues
- Routinely e-mailed drafts for review and comment

#### Planning Commission Infill Subcommittee

- Since 7/07, the subcommittee met seven times to discuss the draft FLD

#### Planning Commission

- Since 9/07, the Commission discussed the draft FLD at eight meetings
- September 17, 2008, draft FLD was forwarded to a public hearing

### **Significant Changes to the RCP and Major Points of Discussion**

#### Functional Open Space

- Active or passive recreational amenities for use by residents and guests of a residential development
- Examples: trails, playgrounds, picnic areas

#### Functional Open Space Requirements (FLD projects five acres or less)

- Projects less than thirteen dwelling units per acre equals one hundred nine square feet per unit
- Projects thirteen dwelling units per acre or more equals one hundred sixty-one square feet per unit.

- Rationale: UPD looked at the City's Parks and Recreation ten year Strategic Service Plan which included national standards on the amount of open space that should be provided per one thousand people. They also used the most updated census information to derive the numbers. A very important aspect of the analysis for the functional open space numbers was to compare them against those approved RCPs that were seen as model projects. The last thing staff wanted to do was to consider anything that would make the model RCPs difficult or impossible to get approved.
- Reviewed two charts that showed model projects, both for five acres or less and more than five acres which included total acres, number of units, density (RAC), common area provided (SF), and draft FOS requirement (FS). In many cases, in the chart showing five acres or less, the amount of functional open space provided far exceeded the minimum requirements of the RCP. He also reviewed model projects via slides that met and did not meet the functional open space requirement. For more than five acres, many of the projects provided more than enough common area and included significant amounts of natural undisturbed open space. He said there was allowance in the "draft" FLD for trails and utilities as needed with natural undisturbed open spaces.

### **Privacy Mitigation**

Multistory residents adjacent to existing single story residential with R-2 or more restrictive zoning must:

- Not orient or locate features such as windows or balconies that overlook the side or rear yards of adjacent single-story residences
- Submit a Privacy Mitigation Plan demonstrating adequate measures have been taken to mitigate for a neighbor's privacy

### **Architectural Variation**

- Applies to projects with twenty or more single-family detached residential units.
- Elevations of units along collectors and arterials must be architecturally varied. The same elevation could not be repeated more than every fourth lot.
- No more than fifty percent of units within a project may be designed with garage dominant appearance. This meant the units which had garages protruding closer to the street than the front living area of the home.

### **Landscaping**

- One canopy tree every forty feet of pedestrian circulation system.
- If every forty feet could not be achieved, equivalent number of trees must be distributed within the project site along pedestrian circulation systems and functional open space areas.

### **Design Examiner (new position would need to be created)**

- Architect or landscape architect
- Appointed by the Mayor and Council
- Reviews FLDs for compliance with architectural variation, privacy mitigation, transition edge treatment and any other areas as needed
- Does not make final determination but forwards recommendation with findings to the director of UPD for final consideration

### **Outstanding Issues**

- Review and approval procedures for projects five acres or less

Mr. Smith discussed the flow chart on the current process which included a neighborhood meeting, staff review and recommendation, public hearing, and final recommendation by the Zoning Examiner. He said this was the same process the Infill Subcommittee recommended be continued but re-evaluated in two years. He said feedback staff had received from developers and consultants, regarding the process, were that the procedure added considerable cost to a project, was time consuming, and lacked a certainty of outcome from the process.

Mr. Smith said in response to the feedback, staff prepared a couple of alternatives that were being presented to the Commission for their consideration.

Alternative #1 – Administrative Review and Approval of Tentative Plat – this procedure was in place prior to a change two years ago by the Mayor and Council. It was an administrative review and approval of the tentative plat with no preliminary development plan required.

Alternative #2 – Hybrid of Current Process and Alternative #1 – this is where a neighborhood meeting would be held, administrative review and approval taking into consideration comments made at a neighborhood meeting, and an appeal process.

- Detention/Retention Basins

The draft currently required slopes for retention/detention basins to be no greater than four to one. Feedback received revealed that at a slope of four to one, the slope was so shallow that we ended up with detention basins that were too large or would take up to much of the area, particularly on infill FLDs.

In response, staff prepared a couple of alternatives and recommended going forward with either one of them simply because every site is a little different and had its unique characteristics, from its configuration, size, soil types, and slope of the topography of the site. All of these things would affect the size of the detention basin.

Alternative #1 – Add a provision stating “basins should be designed to not require a safety barrier.” Within the Stormwater Detention/Retention Manual, that was roughly a four to one slope without the safety barrier. Because of the word “should” it would allow flexibility for slopes greater than a four to one, but sent a clear signal that the intent was to create basins that did not require safety basins or a maximum slope of four to one.

Alternative #2 – Add statement in the draft that would require compliance with the Stormwater Detention/Retention Manual, require the maximum of the slope to be two to one unless it was an underground basins, and prohibit use of chain link fencing.

- Effective date of FLD

This does not affect the text of the FLD but would be inserted into the implementing ordinance that accompanied the FLD as it went to the Mayor and Council. Staff received concerns, particularly from the Southern Arizona Home Builders’ Association (SAHBA), that within the last couple of months, there were a number of people with approved RCPs that were fearful when the FLD regulations were approved, they would have to redesign their projects to meet the FLD standards at considerable cost.

Staff recommends:

- ★ Make FLD regulations effective six months after time of adoption to allow those projects currently in design to have time to finish completion of the design and get it submitted to the City and be reviewed under the current RCP regulations.
- ★ Maintain the entitlements of tentative plats that are submitted or approved prior to the effective date of the FLD for two years.
- ★ Inform developers of the Protected Development Right (Sec. 5.3.10) provisions in the LUC. This is currently in effect and has not been used but allows applicants to request that their development rights for their project be locked in for a period of time. The LUC limits the time to three years for single-phase projects and five years for multi-phase and requires approval from the Mayor and Council.

Vice Chair Holland asked what constituted a tentative application to get the extended time frame on a project.

Mr. Smith stated that a project would have to meet the submittal requirements for the development plat which was in the Development Standards. He said no one could bring in a napkin with a sketch on it. All the submittal requirements in the Development Standards would have to be met.

Vice Chair Holland asked if the requirements were substantial enough to prevent gaining the system, putting a placeholder and would it apply only to those persons who

already had approval at the time of passage. He said for those that did not, would they have the six month window to get the approval.

Albert Elias, Urban Planning and Design, Director, stated he was correct.

Commissioner Lavaty stated he had some questions regarding the flowchart in the document under section 3.6.1.3(d). He said, although the flowchart did not reflect the particular option of involving a neighborhood meeting and that the Mayor and Council approved the final plat, was it the final or tentative plat. He said, currently under the RCP, the density booths and the RCP options were considered a by-right process so that even if they went past the Mayor and Council, Mayor and Council did not have the option to disapprove unless they could “unreasonably withhold approval.” He asked if the new process would be treated in the same fashion or would it be more like a rezoning request where the Mayor and Council were free to treat the application as they wished,

Linus Kafka, Principal Assistant City Attorney, responded that his understanding of the FLD would be the latter; they would have more leeway to consider it not of right.

At this time, Chair Rex announced the opening of the Public Hearing.

Ruth Beeker, President of the Miramonte Neighborhood Association, stated she represented a mid-town neighborhood which had and has had vacant and under utilized land. She said they have had numerous RCPs less than five acres, some very good. She said this past month, Rob Poulus won five awards. In 2004, Milestone Builders was given a Best of Tucson Award for its infill project. She said that same year; one RCP was approved by the City which she would nominate for the “booby” prize. She said the ordinance being presented would not prevent anybody from building prize winner. It would not even stop mediocre projects, but it would stop the “booby” prizes that they have had to live with in their neighborhood. She said she believed by providing the privacy mitigation, defining what had to be functional open space, and giving an opportunity for the neighborhood to actually know what was being put there, they had put together an ordinance which was much improved. She said the current RCP for five acres or less required a neighborhood meeting. She said she hoped that it would be continued until the two years were up to see if the new ordinance really caught problems that might be encountered.

Ms. Beeker thanked the staff for tolerating her badgering of them to get the RCP rewritten. She also thanked members of the Infill Subcommittee for allowing people who attended to be true participants in the discussions. She said she attended each of the seven meetings where the ordinance was refined, the last being July 23rd. She said she was puzzled that no one from the building community made the same commitment as she did. She said she found it irritating that the SAHBA weighed in at the eleventh hour, September 10th to be exact, with a sixteen point reaction. She said she found this to be the SAHBA process over the last four years where Lori Lustig had been at the microphone saying, “Gosh, Gee, we haven’t had a chance to think about this at all.” She said she had no objections to SAHBA looking out for its own best interest, but the sixteen issues should have been raised and resolved during the Subcommittee meetings that she attended. She said she realized SAHBA had a new government liaison and hoped the

new appointment would bring a new approach to cooperating with the community and, in the future, SAHBA members chose to be part of the process when it was ongoing.

David Godlewski, Government Liaison for SAHBA, said he understood and appreciated the concerns expressed by Ms. Beeker. He said he thought they were valid concerns and has committed to helping make sure SAHBA was involved very early in the process, continued to work the City, members of the community, and the Commission as ordinances are being developed. He said they recognized the time and hard work that went into crafting the FLD ordinance. City staff, Albert Elias, Jim Mazzocco and Adam Smith should be commended for their dedication and willingness to work with stakeholders during the process. He said the members of his association supported the common goal of a sustainable and vibrant Tucson. He said they shared a commitment to a community where residents enjoy a high quality of life and support building homes that were desirable for their consumers and the community at large.

Mr. Godlewski said, as the Commission was aware, SAHBA could not support the FLD ordinance at large. He said SAHBA believed the open space mandates would prevent high density urban cores, the City needed to accomplish public transportation goals, the ordinance over regulates their architectural creativity and could stifle innovative products young urban professionals were seeking. He said had concerns with the approval process for projects of five acres or less which came with increased costs and uncertainty and also the timing of the ordinance. He said, obviously it was something that had been worked on for quite some time, but they did not think the concerns about the future of the industry, particularly in Tucson, were over exaggerated. He said there was no building going on. He asked the Commission to allow SAHBA to work with staff on the applicability of the ordinance on approved RCP projects so that they could preserve the spirit of the ordinance while recognizing the hardships of area homebuilders and hoped to have open dialogue on the issue with staff and the Commission as it was presented to the Mayor and Council. He said SAHBA was genuinely committed in working with the City as well as the Planning Commission to find projects they shared in common and work to achieve common goals.

Chuck Martin thanked the Commission for the opportunity to work with the Infill Committee and City staff. He said his comments on the ordinance were more for clarity than anything else. He said Mr. Smith had already taken care of a lot of them and had incorporated them into the ordinance. He spoke about the definition for functional open space on page eight of the document. He said he thought the City had tried to hard to put definitions in the definitions section of the LUC. He said his concern was that it may be different or end up different than another definition of functional open space. On page ten, he said Mr. Smith had addressed the detention/retention requirements of the four to one slope. He said he did not know if it was preferable to reference the Stormwater Detention/Retention Manual and those requirements so that there would be no conflict between the LUC and the ordinance. He said, on page eleven, under Privacy Mitigation #5, it stated that a privacy mitigation plan must be included with the preliminary development plan submittal dependent on which process was used. He said there was a submittal to the neighborhood and the City and was not clear as to when the submittal occurred in the process. On page sixteen, Garage Placement, Item B – he said it seemed if text could be changed to say, “no more than fifty percent of detached residential units

throughout the FLD shall be designed with front entry garages,” it would allow flexibility for side entry garages, which he felt would get away from the concept of the garage fronts facing the streets. He said that might clarify whether side entry garages would be allowed.

Michael Toney he did not know, but people had to realize if they were going to do something like incorporate rainwater harvesting into a design, it was a matter of having a prior facility with the most essential characteristics and would flow naturally like water. He said if people were aware of what needed to be done, initially to set up rainwater harvesting, it was not that expensive. It meant taking the time to structure doing something that would enhance the environment which had been so devastated. He said there was nothing in the amendment about grading already naturally vegetated land and asked what would be done with that. He asked if they would be wiped out or time taken, if needed, to relocate the plants. He said he thought it would be more expensive to go out and try to do it the other way. Otherwise you would have the degradation of putting in smaller plants and wasting time before they matured. He said if the terrain had variations of topology, the surface area was being increased and it increased water retention because it was not flat and caused more water and vegetation to occur. He said he did not think it was a good idea to lock into RCPs if there was not going to be development due to the market and economy which had terrific impact on the whole development scheme. He said everyone needed to be willing to take the time, take tips from other committees who were doing extremely detailed studies.

Chair Rex announced there were no other speakers and that the Commission was looking at continuing the Public Hearing to the next meeting if necessary in order to have the opportunity to cover some of the questions that were brought forward. She said what she heard so far was that there were continued questions about the public notices, when, how and how often, and comments expressed by Mr. Martin and asked if staff was able to respond to any of them.

Mr. Smith stated, in regards to placing the definition of functional open space within the FLD ordinance itself, his thoughts were that currently, functional open space was only a requirement of the draft FLD. He said in order to try and consolidate as many of the applicable standards as possible, staff was supportive of leaving the definition where it was as opposed to removing it and just putting it in the definition section. He said, however, as the Commission was aware, the reformatting of the LUC was going to take place in short and maybe a decision would be made to consolidate the definitions into one section at the back of the code. He said in regards to referencing the Stormwater Detention/Retention Manual, it was one of the alternatives staff presented earlier. He said as far as clarifying when the privacy mitigation plan would be submitted, the plans were seen, not as a separate plan in process from the preliminary development plan, the tentative plat, or even a building plan process, rather just another submittal requirement of the procedures. He said he hoped, during the preliminary plan process, that a privacy mitigation plan would also be shown to a neighborhood. He said he guessed, technically, it would not be required to be submitted to a City for review and approval. Regarding the garage placement of re-wording it to say, “Shall be designed with no more than fifty percent of front entry garages”, he said staff did not have any objections to it. He said there was a scenario where a side entry garage had a solid wall that was protruding from

the front living area of the house, it was still a side entry, but also protruding. He said on page sixteen of the document the way it was currently worded said, "No more than fifty (50) percent of detached residential units throughout the FLD shall be designed with garages that protrude from or are flush with the front wall of the living area or front porch of the house." He said the way that was worded, he felt it would apply to both front and side entries and you could not have a situation where a side entry garage would be protruding from the front as well. He said it was inclusive enough to address Mr. Martin's concern.

Chair Rex stated the issue of the public notices did not seem to be getting resolved easily. She said the point made by Commissioner Lavaty that they did not have the same public notices for over five acres and the understanding that there were not any, it was quite conceivable that you could have an infill development that would affect existing neighborhoods that would then be afforded no public notice whatsoever. She said she felt it was something that should be looked at. She said regarding the issue of the length of time it took to get through the process, that was their opportunity to overlap some of the procedures so that when mitigation plans were being pointed out, whether or not they could be brought to the front of the project so that they could be included instead of going through another iteration.

Mr. Smith stated that privacy mitigation plans and architectural variation plans would be filed along with the application for tentative plats or building permits depending on the review. He said, in that regard, it cut down on the review process. He said there would be the Design Examiner that was dedicated to those aspects of the plan and it was staff's hope by requiring the two additional plans it did not equate to prolonging or adding review time. He said there was also a thought that by creating greater certainty in what would be asked of an applicant would help expedite the review and approval of the projects. He said, under the current system in the RCP, there was a high level or degree of negotiations going on between staff and the developers. The developer may be submitting one plan and crossing his fingers that it was okay with staff when in fact there may be additional months spent negotiating other aspects of it. He said, hopefully, with the FLD staff was ridding the process of that type of back and forth that went on because the developer would have a clearer idea of what was expected.

Chair Rex asked staff if they would be able to combine the two alternatives listed in Attachment A, in regards to the stormwater detention/retention basins to say, "Detention and retention basins shall be designed not to require safety barriers as per the Stormwater Detention/Retention Manual."

Mr. Smith stated they could. He said he remembered a concern, a couple of months ago, expressed by a Commission member regarding the use of chain-link fencing that it was not very good aesthetic to use around the basin. He said if that could also be included, it might capture what the concerns were. He said on the wording, keeping the word "should" it would not create a requirement, but rather a strong guideline for people developing their projects.

Commissioner Williams said there was some wording that could be added because the Stormwater Detention/Retention Manual allowed for basins that had steeper

than four to one slopes that did not have security barriers. He said that was where the problems began when you put in the security barrier, they were hidden way and became mosquito infested. He said it should be worded so it did not just require the barrier, but putting in the slopes. He said maybe saying something like, "the detention/retention basin shall or should have slopes that do not require security barriers as outlined in Section 3.6. of Development Standard 10-01.1. He said this would give it flexibility with the slopes.

Commissioner Williams commented it was good that undisturbed open space was put back in the document. He said the whole idea behind the FLD was to not allow property to be graded, done nothing with, and call it open space. He said it did not do anything to the property, nor preserve the natural vegetation, but they got credit for it. He said the idea was that there were gives and takes. He said taking was making sure there were undisturbed areas with natural vegetation being preserved. He said he was glad to see it was put back in to the document.

Commissioner Lavaty said he was still concerned with public input and notice on the projects. He said he had concerns with the current RCP process for a number of years and was involved in a few projects where the buy-right process and lack of notice or notification for public input had caused problems within a neighborhood. He said he was talking about projects greater than five acres and that there were a number of City infill neighborhoods where three lots could be put together and then you had six acres. He said it was not that hard to envision a project of more than five acres. He said he felt, regardless how good the Design Examiner was or who the Development Director was, one person should not be making the call. He said it never went past a neighborhood, the Zoning Examiner, or the Mayor and Council. He said what he was hearing from staff was that a lot of the new requirements were being consolidated to at least anticipate streamlining the current process time, which required quite of bit of negotiation with City Staff. He said he felt the trade-off for that would be mandating one neighborhood meeting and one public hearing with the Zoning Examiner. He said he did not know the feelings of the other Commissioners on this subject, and was not certain how the Mayor and Council would look at it, but he was fairly certain how Peter Gavin, Zoning Examiner, would look at it. He said he thought the same kind of process could be done as with what was being done with less than five acres, to bring it back for review in a specified time. He said, if the development industries' position was that larger projects were going to be out where someone cared and sailed right through and if that was the case, we were talking about minimal time and delay by going through the public hearing process. He said if Mr. Gavin held the public hearing and no one showed up who opposed the project that was a short public hearing. He said, by the same token, a six acre project could be put in the middle of a neighborhood, in the middle of some of the older neighborhoods, or a greater historic neighborhood. He said he wanted to see some discussion on this before forwarding a recommendation to the Mayor and Council.

Vice Chair Holland said he concurred. He said he understood there were issues on how much it cost to get a project up and running, but everyone had to understand that there were people living next to the projects that were going to have to live with them the rest of their lives. He said there was some balancing of equity and what was fair. He said he also agreed that the speed and expediency, the rate of how a project moved

through the system, was controlled by the people who were making the proposal. He said it could be done the hard or easy way and inviting the neighborhood in was only fair. He said there was a lot of control by the stakeholders in how hard or easy the process went.

Chair Rex asked if there was any further discussion.

It was moved by Commissioner Williams, duly seconded, to continue the public hearing to the next meeting in order to address the Commission's comments.

Chair Rex said her understanding of the issues for discussion was to look a little closer at the garage placement; definitions would be left for the Clarion study; combine items one and two in regards to the stormwater detention/retention basins, and to work more on the process to somehow get neighborhood input and a public hearing with the Zoning Examiner for each of the two levels.

Mr. Elias said on the matter of neighborhood input and public hearing, since it was never part of the RCP, he needed clarification. He asked if the intent of the Commission was to require a public hearing for any FLD.

Commissioner Lavaty said by preference that would be his choice. He said he thought if a mechanism could be built in for neighborhood meetings and a process where the Mayor and Council could truly get involved in the approval the way they did in a rezoning, there may not be an absolute requirement for a public hearing, but he thought the special exception process which was already in existence and laid out process that everyone was familiar in following and being used in smaller FLD was the most expeditious way to go.

Mr. Elias said, to be clear, did he want the process currently in the ordinance for less than five acres to be expanded for all FLDs.

Commissioner Lavaty said he did.

Commissioner Maher asked why it was not included before for the larger projects and stated he was confused.

Mr. Elias said that no public hearing was required for any subdivision or RCP prior to October 2006. He said it was in October 2006 that the Mayor and Council required the public hearing for the less than five acre RCPs.

Commissioner Maher said, with the assumption, it truly was in infill project in a neighborhood that might be affected as opposed to the larger ones.

Mr. Elias said they would structure the FLD so that the current requirement for less than five acres be extended to all FLDs.

Commissioner Williams said on pages eight and nineteen of the FLD, the definition for functional open space was not the same and felt staff wanted them the same.

Chair Rex said the fourth item of concern was to verify definitions were the same.

Mr. Smith apologized and said that was an oversight on his part. He said the definition on page nineteen was a previous definition that had since been amended and that the correct definition was on page eight of the document. He said it would be corrected for the meeting in December.

Hearing no further discussion, Chair Rex called for a voice vote. The motion to continue the public hearing to the next meeting in order to address the Commission's comments was passed by a voice vote of 10 to 0 (Commissioners Cheney and Watson absent).

## **8. OTHER BUSINESS**

### **a. Mayor and Council Update**

No update to report.

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

No future agenda items were discussed.

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

Commissioner Sullivan announced the weekly meetings had ceased and they have started their Saturday, 9 a.m. to 3 p.m. meetings to begin writing the Phase I report. Presentations for infrastructure pipes, environmental needs, and public comments on sustainability were held. The information will be compiled into one report and work would begin to write a report on findings to address issues as the Committee moved towards Phase II. Phase II would be determining community values and policy recommendations for the City of Tucson and Pima County concerning water and wastewater. He stated there was a lot of public interest and input regarding sustainability, and it was going well.

Albert Elias, Urban Planning and Design, Director, said he received a request to schedule a joint meeting with the Planning Commission and Pima County Planning and Zoning Commission to hear a presentation on the Phase I draft report from the City/County Water and Wastewater Study Oversight Committee (CCWWSOC). He two dates were discussed, February 11, 2009 or February 18, 2009. The joint meeting would be held in the Mayor and Council Chambers at 6:00 p.m. He said both commissions would hold their regular meeting on the first Wednesday and the joint meeting would be on one of the two dates mentioned, with one agenda item to discuss.

Commissioner Sullivan explained that the joint meeting was proposed as part of the public outreach. He said they planned on having three public presentations/open houses that would inform not only the Planning Commission and the Planning and Zoning Commission, but the public as well.

Chair Rex asked the Commissioners to check their calendars to not only look at the 2009 meeting schedule for the Planning Commission but to also choose the date for the joint meeting.

Mr. Elias explained that he needed to know as soon as possible.

Chair Rex asked the Commissioners to e-mail staff their availability for the two dates.

## **9. CALL TO THE AUDIENCE**

Ruth Beeker spoke about changing a small parcel of land from O-1 to N-C, to make the Manley Lumber office into a beauty shop. She said in order to do this and since their Neighborhood Plan was already approved, they were going to have to do a plan amendment to the neighborhood plan, an amendment to the Alvernon/Broadway Area Plan, and a rezoning. She said two of the three steps, when Quebedeaux did their rezoning, took approximately a year and a half to two years. She said with the third step, because they had a neighborhood plan, would require special permission from the Mayor and Council because it could not be amended within two years without it. She said for something that gave their neighborhood a bonus in such a creative way, would take years. She said she would be asking, whomever she could, if some of the steps could be done concurrently. She said from a neighborhood perspective, she could not imagine her neighborhood approving the beginning steps unless the end step was approved. She said everyone had to be in agreement that the rezoning would be an asset to the neighborhood so that the end result would be something they all could live with. She said she did not know what or who should be taking on the responsibility of deciding if some of the steps in the process could be done concurrently so that the people and/or developers do not get caught in the years and years of trying to do something. She said it kept the neighborhood constantly involved when it seemed like something that should be done in three months.

Chair Rex asked staff to look into Ms. Beeker's concern and if necessary bring it back to the Commission for study or review.

Mr. Elias stated, as a point of information, the plan amendment, even if there were two different plans, could be done concurrently. He said the plan amendment process would be separate from the rezoning process; those could not be done concurrently. He said dialogue with the neighborhood could be arranged to not cause further delay, but it was definitely a two step process.

Michael Toney thanked Commissioner Williams for speaking about the grading. He said he had not read about what he spoke on in regards to the topology, more ground space, and more water preserving the natural desert vegetation. He said he would like to

remind the Planning Commission that they had the ability to consider financial considerations and allay the fears of developers in terms of various things that would not be so expensive that could be incorporated in to get something that enhances blighted areas.

**10. ADJOURNMENT:** 9:53 p.m.