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# PLANNING COMMISSION

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

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**DATE:** December 3, 2008

**TO:** Planning Commission

**FROM:** Albert Elias, AICP  
Executive Secretary

**SUBJECT:** Proposed Flexible Lot Development (formerly known as Residential Cluster Project) Land Use Code Text Amendment

**Issue** – This item is a continuation of the public hearing from the November 5<sup>th</sup> Planning Commission meeting. The Flexible Lot Development (FLD) is an amendment to and renaming of the Residential Cluster Project (RCP) ordinance. The objectives of the proposed amendments are as follows:

- To make the process and regulations more consistent and predictable;
- To codify the policies and guidelines that staff have developed over the years to address the deficiencies in the RCP ordinance; and,
- To seek more amenities and improvements from projects in exchange for design flexibility.

**Recommendation** – Staff recommends that the Planning Commission forward this item to the Mayor and Council with a recommendation to approve the Flexible Lot Development text amendment with the administrative review process described in Attachment D.

**Background** – The RCP was enacted in the mid-1980's to allow greater flexibility and creativity in the design of residential development than the standard subdivision regulations. Approximately 85% of subdivisions submitted to the City use the RCP development criteria.

In January 2005, the City initiated an infill strategy that included creation of the Neighborhood Preservation Zone ordinance (adopted June 10, 2008) and amendments to the Land Use Code (LUC) regarding Mixed Use development and the RCP (both in progress).

In July 2006, Clarion Associates prepared an analysis of City processes involving mixed use and infill development. The analysis gave recommendations on open space and design issues related to RCPs.

On October 24, 2006, the Mayor and Council amended the RCP ordinance to require a Zoning Examiner public hearing for projects 5 acres or less in response to concerns regarding residential cluster projects' compatibility with the surrounding neighborhoods.

Between February and July of 2008, the Planning Commission's Infill Subcommittee reviewed the draft text amendments. On July 23, 2008, the Infill Subcommittee forwarded the draft FLD to the Planning Commission for a study session.

The Planning Commission discussed the draft text amendment in a study session at their August and September meetings. Some of the issues raised during the study sessions include the maximum permitted slope of detention and retention basins, qualifications for the Design Examiner position, and the review and approval procedure for FLDs 5 acres or less.

**Stakeholder Input and Feedback** – Since 2006, staff has continued to work on additional revisions to the RCP. To assist in developing the revisions, City staff worked with an ad hoc committee of developers, consultants, and neighborhood representatives.

**Amendment Summary** – The draft FLD proposes to amend the current ordinance in five significant ways:

1. Functional open space (Section 3.6.1.5.C; pgs. 9-11): Functional open space is active or passive recreational amenities that directly benefit residents of the FLD. Examples of functional open space amenities include trails, playgrounds, picnic areas, and swimming pools.

The RCP ordinance does not require functional open space. Consequently, staff frequently has to negotiate with applicants to provide functional open space amenities.

The Flexible Lot Development proposes to require functional open space of every FLD project. The amount of functional open space required of FLDs 5 acres or less is based on the density of the project. The denser the project, the more functional open space on a per unit basis that would be required. For FLDs more than 5 acres, the amount of functional open space being proposed is 269 square feet per unit. The proposed functional open space requirements are based on service area analysis guidelines found in the City of Tucson's Parks and Recreation Ten-Year Strategic Plan.

2. Privacy Mitigation (Section 3.6.1.6.A; pg. 12): Multi-story projects adjacent to existing single story residences would be required to provide privacy mitigation. Proposed mitigation includes a prohibition from locating balconies and windows (except clerestory) overlooking neighboring properties.
3. Landscaping (Section 3.6.1.6.B; pg. 12 & 13): In addition to the requirements of Section 3.7.0 (Landscaping and Screening Requirements), one canopy tree every 40 feet of pedestrian circulation system would have to be provided. Trees may be redistributed elsewhere on the project site if the 40-foot requirement could not be met.
4. Architectural design requirements (Section 3.6.1.7.B; pgs. 16 & 17): In an effort to prevent monotony in design, architectural variation requirements are proposed that would limit the percentage of units with a garage dominant appearance and would require architectural variation of elevations along arterial and collector roadways.
5. Design Examiner (Section 5.1.12; pgs. 24 & 25): A new position called the Design Examiner is proposed to assist in the review of FLD applications. The Design Examiner's primary review responsibilities would be architectural design plans, privacy mitigation plans, and transition edge treatments. The Design Examiner can be an architect or landscape architect.

**Other Issues**

Previously approved RCPs: The developers and consultants within the stakeholder group have requested an exemption from the revised FLD requirements for previously approved RCPs and RCPs currently under review.

To this issue, staff offers the following response:

1. Per Section 4.1.7.2 a tentative plat is valid for one year from the date of approval. This amendment does not affect a plat during this time.
2. If the one-year limit lapses, applicants may request a Protected Development Right (PDR) from the Mayor and Council as currently permitted by Arizona Revised Statutes and the City's Land Use Code (Sec. 5.3.10). If approved, an applicant may complete his or her project as approved without having to comply with regulations adopted during the time since the project was originally approved. The duration of a PDR is 3 years for non-phased projects and 5 years for phased projects.
3. Staff recommends that the revised FLD not go into effect until 6 months after adoption. This would allow RCPs currently under design sufficient time to submit their projects under the current RCP regulations without having to incur the time and expense of redesigning their project to meet the FLD requirements.

Review and approval procedures (Section 3.6.1.3; pgs. 5 – 7 & Chapter 23A-35; pgs. 21 & 22): On November 5, 2008, the Planning Commission discussed whether all FLDs, regardless of site area, obtain public hearing approval from the Zoning Examiner. Currently, public hearing approval is only required of FLDs that are 5 acres or less. Staff recommends against a public hearing approval process. Staff recommends an administrative process comprised of a pre-submittal neighborhood meeting and a public notice to the neighborhood allowing an appeal to a public hearing prior to approval of the FLD plat. See Attachment D for more details on staff's recommendation and rationale.

Staff does not have a strong objection to the public hearing for FLDs that are 5 acres or less. We believe the administrative process is more efficient by allowing non-controversial FLD plats to proceed while slowing controversial ones for more scrutiny on appeal to a public hearing. The administrative process alerts a developer to take note of neighborhood concerns and work to address them as best they can to avoid an appeal to a public hearing.

The developer/consultant stakeholders are opposed to a public hearing approval procedure on the grounds that it adds costs, adds about four months to the process, and creates the possibility of having to abandon a project if denied. The neighborhood representatives recommend that the current process remain in place for two years after adoption until the proposed amendments can be evaluated for their effectiveness. Staff has not received comments from neighborhood representatives regarding the expansion of the public hearing approval requirement to FLDs over 5 acres.

Staff expects this issue to be discussed by interested parties during the public hearing.

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Attachments:

Attachment A: Summary of Revision Made to the October 29, 2008 FLD Draft and the Proposed Text Amendment (includes amendments to various sections in the LUC, Chapter 23A-35)

Attachment B: Redline Version of the Residential Cluster Project Ordinance

Attachment C: Terminology Changes

Attachment D: Review and Approval Procedure Alternatives

Attachment E: Letters from stakeholders

Attachment F: Excerpt from the Stormwater Detention/Retention Manual

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