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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: December 3, 2008

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, December 3, 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
Joseph Maher, Jr.	Member at Large, Ward 6
Shannon McBride-Olson	Member, Ward 2
Sean Sullivan	Member at Large, Ward 3
James E. Watson	Member, Ward 4
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

Eric R. Cheney	Member at Large, Ward 2
Brad Holland, Vice Chair	Member, Ward 6
Rick Lavaty	Member at Large, Ward 1
William Podolsky	Member at Large, Ward 4
Thomas Sayler-Brown	Member, Mayor's Office

Staff Members Present:

Albert Elias, Urban Planning and Design, Director  
Jim Mazzocco, Urban Planning and Design, Planning Administrator  
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  
Irene Ogata, Urban Planning and Design, Project Manager  
Ramona Williams, Urban Planning and Design, Secretary  
Yolanda Lozano, City Clerk's Office, Recording Secretary

**2. MINUTES FOR APPROVAL: November 5, 2008**

Minutes were not available at this time. No action taken.

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

Chair Rex presented Robert Patrick with a Certificate of Appreciation for eight years of service on the Planning Commission from July 7, 2000 through July 6, 2008.

**4. LANDSCAPE CODE AMENDMENT, LANDSCAPE BUFFER AND SCREENING SECTION (PUBLIC HEARING – CONTINUED ITEM)**

Irene Ogata, Urban Planning and Design, Project Manager, stated that in staff's memo to the Planning Commission she tried to answer some of the issues presented at the last meeting. She said the one item not included was the examples of parking lots in Pima County. She gave a slide presentation that included some parking lots within the City of Tucson and Pima County. She said another point in the code itself was the one tree for every four parking spaces. She said there was a companion piece of the Development Standards that staff was seeking revisions to.

Ms. Ogata said that the City had been using the one tree for every four parking spaces concept such as in the Hardesty Police Station. She said they used the grates in their parking lot, instead of the planter islands. She said the Rincon Market did an expansion to their north parking lot and it also has one tree for every four parking spaces using the planter islands. In her PowerPoint presentation, she reviewed a photo of the older parking lot before the expansion which showed one tree for every five parking spaces.

Ms. Ogata stated that an unexpected example of parking spaces was the Burger King on Speedway and Columbus whereby they have one tree for every three parking spaces. She said they were using more of the island and buffer area for their trees rather than a separate triangle or smaller island. She said that at the Safeway on Broadway and Campbell, they redid their parking lot as well as the facilities, and have one tree for every four and a half spaces and used the small islands which were a minimum of four feet wide and six and a half feet in length.

Ms. Ogata said that in Pima County, which has had the one tree for every four parking spaces, used a minimum of a four-by-four parking island at La Encantada, which was adequate, but probably not providing a thriving space for the root zone. She also showed the area of River Road and La Cholla in Pima County where one tree for every four parking spaces was used in conjunction with the combination of the planter island and four-by-four.

Chair Rex stated that at the last meeting, the Commission had voted on the bufflegrass portion of the Land Use Code (LUC) Amendment and felt that was taken care of even though bufflegrass was mentioned in the document they were currently dealing with.

Ms. Ogata stated that they did move on Division Eight, which was the Native Plant Preservation regulation. She apologized for not mentioning before that Division Seven, Landscape and Buffer Screening, buffleggrass had been in the document but not addressed. She said in Division Seven, under Plant Cover/Dust Control, there was also a section regarding buffleggrass eradication. She said this was to cover the buffleggrass for those projects not required to have a native plant preservation study.

Chair Rex asked if there was a need to make modifications to the previous vote on buffleggrass which dealt with Division Eight and they were now dealing with Division Seven.

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

Commissioner Sullivan said that in the staff report on page two of five, item four dealt with seventy-five percent of trees being of native species which said, "Staff supports the option of including this requirement in the Development Standards for parking lots." He said he wanted to clarify native species and that all the plants identified on the list of drought tolerant vegetation was not native. He said seventy-five percent of the species used from the approved list would be native. He wanted to know if that was how staff understood it and what they supported.

Mr. Elias said that the plant list had a number of different trees. He said, the way he understood it was, the idea to require seventy-five percent of the trees that went into an area to be native. He said, in order to implement that, it would require a change to the Development Standards. He said changing the Development Standards was an administrative process and did not require action by the Planning Commission or the Mayor and Council. He said they were prepared to include the option in the Development Standards and there had been quite a bit of discussion on the subject. He said there was a difference between what went into the code, which was under the Planning Commission's purview to make a recommendation for the Mayor and Council to act upon and the other aspects that were clarifications to the Development Standards which was something his staff could do administratively.

Commissioner Maher asked staff if it was noted as an option and not mandatory as far as the seventy-five percent use of native trees.

Mr. Elias said his understanding was that the suggestion was for seventy-five percent of trees in the parking lot be native.

Commissioner Maher asked if it was a suggestion of mandatory as opposed to optional. He said it was his understanding that native trees were not exactly user friendly as a person walked by them in a pedestrian situation. He said he thought that on Aviation Parkway the mesquites and some of the native trees are being removed because they had not grown to expectation and had been more of a nuisance than anything else. He said he hated for this to be a mandatory requirement when the trees were not the most user friendly trees.

Commissioner Williams said he believed there were a lot of really good species of trees that were not native to Arizona that were perfectly acceptable. He said in some cases and situations they would be better than a native species. He said there were times when you had a smaller area and if you did not continue to prune Palo Verde trees or mesquite trees, they tended to want to go down and created a problem. He said there were trees like the Chinese pistachio that had big trunks on them and a big shade canopy. Even though they were not natives, the idea was to reduce the heat island affect. He said there were other species of trees that could do that as good, if not better, than a native tree. He said he did not necessarily think mandatory was what they wanted to do.

Commissioner Williams also spoke about the impervious concrete. He said he did some study and research on it and felt that sometimes it worked and sometimes it did not. He said it appeared to him that it had a tendency to plug, as the debris flowed over it plugged the pores up in there. He said what you thought you were getting was not necessarily what you got in the final outcome during the longevity of the porous concrete. He said he did not feel it was a good alternative. He did, however, like the four to one ratio of trees per parking space and felt it was a good thing to support.

Commissioner McBride-Olson had some questions about the curbs in the water harvesting and how it worked. She asked if the curbs helped the water harvesting because it appeared that there was no way for water to get into the curbed wells.

Ms. Ogata stated the current standard required curbs or some sort of barrier to be so that cars did not hit the trees. She said they would be requesting for the curbs to be either bumper stops rather than four-sided curbs so that the water could get in or to provide cuts in the curb.

Chair Rex asked if there was any further discussion. Hearing none, she asked for a motion to close the Public Hearing.

It was moved by Commissioner Sullivan, duly seconded, and passed by a voice vote of 7 to 0 (Commissioners Cheney, Lavaty, Podolsky, Sayler-Brown, and Vice-Chair Holland absent) to close the public hearing.

It was moved by Commissioner Williams, duly seconded, to forward the LUC Amendment, Landscape Buffer and Screening Section, per staff's recommendation, including the Division 7 – Bufflegrass with the exception of taking out the impervious concrete and that native species be recommended not mandatory to the Mayor and Council for approval.

Chair Rex asked if there was any further discussion.

Commissioner Maher stated he was confused. He asked if the porous concrete asphalt mixture was meant to be an option and not mandatory. He asked why they would be against it.

Chair Rex stated that it was not that they were against it. She said currently, the way the LUC was written, it allowed pervious concrete. The issue was the way the

Development Standards show graphics that show a particular size and shape of an alternate tree well. She said it was her understanding that the graphics were being taken away and it meant that someone could pave the entire lot with pervious concrete and it would be allowed under the current LUC. She said it did not mean that it could not be used, it meant that the Commission was not recommending it as a design option, specifically the tree wells.

Mr. Elias further clarified the comments that Commissioner Williams made in his motion regarding the native species and the porous concrete paving really referred to the Development Standards and they were not part of the code amendment itself.

Chair Rex stated that for her understanding, the specific motion was changing the LUC from one to ten trees to one to four trees and adding the small section about the buffleggrass under the dust control. She said that was it, nothing under the Development Standards and recommending those graphics not go forward.

Commissioner Sullivan said, understanding that the Planning Commission was not there to make recommendations for administrative changes to the aspect covered by including mandatory percentages of native trees; he asked if the recommendation to exclude it had any bearing.

Mr. Elias said what he and his staff would do since there had been a lot of time and discussions spent on the Code portion and development standards of the item, would be to go back and do some more work on the Development Standards as the Code amendment advances forward. He said they would also review, at the administrative level, regarding the native tree issue. He said they would take a look at it and see if there was a better consideration of natives and also look to see if there was a way to provide some flexibility as well.

Commissioner Maher stated that the hand-out and memorandum circulated by Ms. Ogata, in his mind, answered all the questions about the pervious concrete and other issues discussed.

Chair Rex stated that they had asked staff to research those items and they came back with the answers as Commissioner Maher was referring to.

Hearing no further discussion, Chair Rex asked for a voice vote of the motion. The motion passed 7 to 0 (Commissioners Cheney, Lavaty, Podolsky, Saylor-Brown, and Vice-Chair Holland absent).

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

Adam Smith, Urban Planning and Design, Principal Planner, said since this was a continuation of the Public Hearing, he was limiting his presentation to the revisions made to last month's draft and comments on the review and approval procedures.

Mr. Smith stated there were three main changes to draft, the first of which was to the area of detention basin. He said the new provision read that detention and retention basins were required to comply with the City's storm water detention and retention manual. He said that the basin should be designed to not require a safety barrier.

Mr. Smith said the second area of change was in the definition of natural undisturbed open space. He said he reconciled the differences and definitions between that and the body of the draft ordinance and in the definition section.

Mr. Smith said the third area, which was not discussed last month, was in barrier free access. He said in discussions with a staff member from the Development Services Department (DSD), they felt that the section on barrier free access needed to be clarified and that the standards only apply to access of functional open space. He said they were concerned that the section could be read to supersede the Inclusive Home Ordinance which was approved about a year and a half ago and was included in the International Building Code that the City uses.

Mr. Smith said the fourth area was in the area of review and approval procedures. He said the changes were in numerous places throughout Attachment A. He said last month, it was the Planning Commission's recommendation that all FLDs, regardless of sight area, obtain a public hearing approval. Therefore, the draft was revised to reflect that change. He said staff had an alternate recommendation for the area. He went through what the Planning Commission's recommendations looked like; neighborhood meeting, public notice of application, staff review and obtains a recommendation from the director of development services and then through the zoning examiner for a public hearing and consideration. He said there was an appeal procedure at the end of the process where an appellant had fourteen days from the date of the decision to file an appeal.

Mr. Smith stated staff was recommending the procedure he outlined in his PowerPoint presentation to the Commission. He said that the procedure in place prior to October 2006, was purely an administrative review and approval process, was a flawed process that did not have a public review as part of it. He said staff was suggesting a procedure that would require a neighborhood meeting at the beginning of the process prior to any application being submitted. He said there would be notification on three separate occasions; one for the neighborhood meeting; one for when the application is submitted; and one when the notice is sent out with the director's decision. He said it would go through an administrative review and approval process and an appeals option similar to what the Planning Commission was recommending that allowed appellants fourteen days from the date of the decision to file an appeal.

Mr. Smith said that the staff's rationale for the recommendation is that notices would be provided three times throughout the procedures thus giving the public adequate notification of the proposed project; the impacts on subdivisions; and adds time – a minimum of four months and many times longer for the process. He said it increases uncertainty and in the two and a half years that the FLD had been looked at, there was never an expressed demand for public hearing for FLD's over five acres.

Mr. Smith stated most importantly, the FLD addressed the deficiencies of the Residential Cluster Project (RCP). He said it now requires functional open space, enhanced landscape requirements, privacy mitigation, and architectural variation, all of which were not required prior to the amendments to the RCP. He said staff felt, by addressing some of the deficiencies, it removed a lot of the uncertainty and fear that there may be of the unknown with a RCP project. He said they were still maintaining an appeal procedure for this.

Bruce Plenk, Solar Energy Coordinator, City of Tucson, said that last year Tucson was chosen as one of twenty-five solar America cities based on the past work that the City had done in installing solar energy on City facilities and solar land. He said one of the things they were undertaking and part of a two year grant from the Department of Energy was to figure out ways of enhancing the likelihood of gravely expanding the application of solar energy and solar hot water in the City of Tucson. He said he was present to make a very narrow and pointed comment that they appreciated the work that the planning staff and the Commission had done to incorporate section 3.6.1.6c in the FLD which is entitled, *Solar Access and Passive Solar*. He said the point of it was to assure that as developments are platted, that one building did not preclude the opportunity for solar energy at a later time by shading or by some other obstruction. He said the encouragement of passive solar was a significant aspect of that too. He said last summer; the Mayor and Council adopted a solar ready ordinance which the solar hot water aspect of that was recently adopted. He said the stakeholder group was on their way in developing the code changes or development standards. He said they were happy to see that the planning staff saw to include solar access and encouragement of passive solar in the draft and encourage the Planning Commission to adopt those recommendations.

Chair Rex also noted that in section 3.6.1.1h – solar access and passive solar orientation is also mentioned.

Chuck Martin stated he wanted to reiterate his concerns about having definitions in the code twice which he stated at last month's meeting. He said his understanding was that this section of the code would not be reviewed by Clarion Associates when the amendments to the Code are reviewed. He said he felt there was potential for issues in the future. He said that if all RCP's were going to be treated the same; he supported staff's alternate method of review. He also spoke about garages not facing the street and side garages that would protrude from the front of the house.

Chair Rex asked staff if discussions were held at a Planning Commission meeting or Infill Subcommittee Meeting regarding garages and access.

Mr. Smith stated there was nothing in the draft that precluded side entry, it was just that no more than fifty percent of the units could have the side façade of the garage protruding from the front living area of the house. He said you could have a house, where the façade of the garage is flush with the façade of the living area, and still be a side entry garage. He said he did not see anything in the draft that precludes or limits side entry garages. He said he would be happy to speak to Mr. Martin to see if the language could be tweaked. He said to him, and how he interpreted it, it did not limit those types of garages (page 16, 3b).

Commissioner Maher said he thought what Mr. Martin was talking about was if the garage was a little forward and not flush to the front of the house and had a side entry, it sets up a little entry from the front of the house that would preclude it from being protruding and coming in from the side if the driveway was right in front of the house.

Mr. Smith stated that could be done so long as you did not have more than fifty percent of your project having that set up.

Commissioner Maher said, in a cluster type project, that was the most desirable arrangement and this suggestion, in his mind, limited it when looking at the literal suggestion of it protruding or not. He said he was still stumped by the language.

Jim Mazzocco, Urban Planning and Design, Planning Administrator, stated he thought the way it was written it did preclude side entry garages. He said if you wanted side entry garages to be exempted from that, that phrase could be added.

Chair Rex stated that the way it was written, half of the garages could be that way.

Commissioner McBride-Olson said that the spirit of the language was that they did not want to have so much garage dominant design. She said it was her feeling, that the side garage entry with the garage protruding to front was not so garage dominant depending on how the building was designed. She said this could be done and that the other fifty percent of the garages would have the garage flushed with the front of the house and facing the street.

Commissioner Maher brought up another interesting point. He said if it had to be mandatory language in order to address this situation, what the Design Examiner would do. He asked if there was flexibility on his part somewhere in the ordinance to look at the layout and determine whether this concept of the protruding garage with the side entry was okay for the entire complex.

Mr. Mazzocco stated that the Design Examiner did not deal with this issue. He said they dealt with privacy mitigation issues and architectural variation alternatives. He said those were the two main things that person dealt with. He said regarding the garage side entry, it was a separate issue that would be reviewed when the architectural variation is submitted. He said, in the case of the side entry, it would be part of the fifty percent protruding from the face of the house. If they did not want them in the fifty percent, that would be the time to declare them exempt from the fifty percent.

Chair Rex said to keep in mind that the draft also said fifty percent of detached residential units. She said if you wanted to have a back-to-back unit that had those, then it was no longer detached; therefore you could continue to do that.

Mr. Smith said that it was brought up during a stakeholder process by another developer who developed town homes where they had two attached units with a parking courtyard in the front; this would not apply to such a project. He said this was a project that the developer had built at least one or two of them within the City and concerned that it would prevent him doing further projects with similar design in the future. He said this

would not prevent that from happening. He said, as Commissioner Rex said, if it was an attached product, this would not apply.

Mr. Martin said that there was a project on Fort Lowell that had side entry garages that faced each other with a parking easement and were detached units. He said he felt that project turned out well because none of the garages faced the streets. He said that was what he was thinking of and should have explained it better.

Commissioner Maher said he was still curious about the Design Examiner's forte in the process whether there was architectural review and he was in a back room looking at some of those applications. He said he was confused when we say flexibility.

Mr. Smith stated that the flexibility was in the areas of minimum lot size and setbacks primarily. The Design Examiner looks are areas of privacy mitigation, architectural variation and may also look at functional open space and making a recommendation as to whether the appropriate amenities have been provided for the type of residential mix anticipated for that development. He said the Design Examiner does not have the authority to grant variances to the requirements. He is making recommendations and it is the director of Urban Planning and Design (UPD) who is making the final determination on things like privacy mitigation, recommendations and then those recommendations are forwarded on to DSD.

Commissioner Maher asked if they got past the fifty percent rule, would it be a variance. He asked about flood plains in terms of those regulations, would there be some flexibility in terms of addressing those issues.

Mr. Smith stated yes to the fifty percent rule. He said that the FLD did not propose any changes to the flood plain regulations. He said if it was permitted to include a functional open space amenity within the flood plain area or a natural undisturbed space area, it would count toward satisfying their functional open space requirements and would be some flexibility in working with the Design Examiner and staff with the planning department where and how those amenities are provided.

Commissioner Maher applauded the alternate recommendation and said it did not pursue the path of bad design, bad construction, lousy contractors, or people who did not follow plans.

Bonnie Poulos stated she had been involved in the changes to the LUC when it was first remanded back to staff for review and revisions about two and a half years ago. She said she still had some problems with the way the ordinance was written. She still disagreed with the idea of density bonus for things like affordable housing because she did not think there was any guarantee anywhere in the City Code that guarantees that affordable housing will remain affordable. She said instead it was a way for people to buy houses cheap and sell them high. She said she thought that the ordinance revision had been vetted by the public. There were a number of subcommittee meetings and a number of revisions by staff. She said she felt it was time to move this forward to the Mayor and Council. She said she believed in its entirety and felt it was a far better use of an option for development than the Residential Cluster Project. She said they have come

along way and respectfully asked the Commission to vote for or against it or make changes but send a recommendation to the Mayor and Council.

It was moved by Commissioner Sullivan, duly seconded, and passed by a voice vote of 7 to 0 (Commissioners Cheney, Lavaty, Podolsky, Sayler-Brown, and Vice-Chair Holland absent) to close the public hearing.

Chair Rex asked if there was any further discussion.

Commissioner Williams asked a question on low income housing. He asked if density bonuses had been done and how effective was it.

Mr. Smith stated that the density bonus option was carried over from the original RCP and was unaware of it ever being used as an option.

Mr. Elias stated that even beyond that, the City had very rare utilization of the density bonus in any event and did not seem to be a goal for any of the users. He said most of the users were interested in the flexibility regarding building set backs more than the density bonus.

Commissioner Williams asked staff what percentage or how many RCP's were used in the past that utilized the density bonus.

Mr. Smith stated he was told approximately two maybe three a year.

Chair Rex asked if there was any discussion regarding Attachment D – the alternative recommendation for notification process. She said this was something new from the last meeting.

Mr. Smith stated it was a flow chart that was seen before but was modified from a previous draft.

Chair Rex said there had been endless discussions, both with the Planning Commission and Infill Subcommittee, regarding notifications and how they happen. She said as part of the rationale there was a two year review by the Commissioners, which was something they had discussed. She said she was glad to see that it was included.

Commissioner Williams stated in the amended or changed process that an appeal procedure was built in. He asked how that process worked.

Mr. Elias said that once the decision is made, the notice is sent to everybody in the notification area. Someone could then file an appeal; such as the applicant or anyone involved in the process, and then it would go to the Mayor and Council.

It was moved by Commissioner Maher, duly seconded, and passed by a voice vote of 7 to 0 (Commissioners Cheney, Lavaty, Podolsky, Sayler-Brown, and Vice-Chair Holland absent) to forward the Flexible Lot Development (FLD) LUC Amendment with Attachment D to the Mayor and Council for approval.

**6. APPROVAL OF THE 2009 MEETING SCHEDULE**

Albert Elias, Urban Planning and Design Director stated as in past years, staff has assembled a meeting schedule for the 2009 calendar year. He said that there was a primary date, which was generally the first Wednesday of the month and they have also provided a secondary or alternate date. He said the reason they did that was because there had been times were the Commission was bumped from the primary date to allow the Mayor and Council to use the chambers.

It was moved by Commissioner Sullivan, duly seconded, and passed by a voice vote of 7 to 0 (Commissioners Cheney, Lavaty, Podolsky, Sayler-Brown, and Vice-Chair Holland absent) to approve the 2009 Meeting Schedule as presented.

**7. PROCESS FOR SELECTION OF CHAIR AND VICE CHAIR**

Albert Elias, Urban Planning and Design Director stated staff put this on the agenda to assist the Commission in taking action next month with regard to the selection of a chair and vice-chair. The by-laws state that each year a chair and vice chair need to be selected. He said previous Commissions have done it various ways and that last year there was a subgroup of the Commission who met and developed nominations which were brought back the following month to the Commission, but it was up to the Commission how they wanted to proceed.

Commissioner Sullivan asked if it was in the rules that there be a change in the chair every year.

Commissioner Williams stated that there was a process of suspending the rules for a meeting in which you could have or vote in the same person as the chair from the previous year.

Commissioner Sullivan asked if they could set up a process that would keep Chair Rex in her position.

The item was continued to the next meeting to allow Linus Kafka, Principal Assistant City Attorney, to review the rules and regulations for this process.

**8. OTHER BUSINESS**

**a. Mayor and Council Update**

Albert Elias, Urban Planning and Design Director, reported that the Jefferson Park Plan Amendment was scheduled for presentation and public hearing at the December 16, 2009, Mayor and Council Meeting.

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

Items discussed for future agenda were as follows:

- Water Harvesting Presentation by Brad Lancaster
- Update on changes coming about regarding the Land Use Code

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

Commissioner Sullivan gave a brief update. The Committee has started with their marathon Saturday meetings. The Committee is currently putting together the initial phase of the reports and chapters 1 and 2 have been completed which are infrastructure and the history of water use. The next chapter will deal with environmental concerns and then a finding of the report.

**9. CALL TO THE AUDIENCE**

None

**10. ADJOURNMENT: 8:05 p.m.**