



PLANNING COMMISSION

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

Approved by Planning Commission
on April 15, 2009, with corrections
in **bold**.

Date of Meeting: March 4, 2009

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, March 4, 2009, at 7:06 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
Mark Mayer	Member, Ward 5
Shannon McBride-Olson	Member, Ward 2
William Podolsky	Member at Large, Ward 4
Thomas Saylor-Brown	Member, Mayor's Office
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

James E. Watson	Member, Ward 4
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Staff Members Present:

Albert Elias, Urban Planning and Design, Director
Jim Mazzocco, Urban Planning and Design, Planning Administrator
Linus Kafka, Principal Assistant City Attorney
Chris Kaselemis, Urban Planning and Design, Planning Administrator
Aline Torres, Urban Planning and Design, Lead Planner
Glenn Moyer, Development Services Department Administrator
Patricia Gehlen, Development Services/Neighborhood Resources Section Manager
Mark Lopez, Information Technologies Specialist
Ramona Williams, Urban Planning and Design, Secretary
Yolanda Lozano, City Clerk's Office, Recording Secretary

Chair Rex stated the agenda was being modified. The Parking Reduction Text Amendments, Item #6, on the agenda was being moved for discussion after the Executive Session.

2. MINUTES FOR APPROVAL: February 4, 2009

Commissioner Maher stated he had three corrections to the minutes as follows:

1. Page 9, Paragraph 4, Line 1, strike through “going back to” and insert “prior to.”
2. Page 10, Paragraph 6, Line 1, strike “Sean” and insert “Swan.”
3. Page 17, Last Paragraph, Lines 7-8, strike “either expanded it or excluded part of the” and insert “did not follow that.”

Chair Rex stated the corrections would be verified against the recorded tapes to ensure that the corrections reflect what was actually said.

It was moved by Commissioner McBride-Olson, duly seconded, and passed by a voice vote of 10 to 0 (Commissioner Watson absent) to approve the minutes from the February 4, 2009, meeting as verified against the tapes. The corrections were as follows:

1. Page 9, Paragraph 4, Line 1, no correction made. Upon review of the recorded tape, the wording “going back to” was the actual wording used.
2. Page 10, Paragraph 6, Line 1, strike “~~Sean~~” and insert “**Swan.**”
3. Page 17, Last Paragraph, Lines 7-8, strike “either expanded it or excluded part of the” and insert “did not follow that.” Upon review of the tape the wording, “either expanded it or excluded part of the” was the actual wording used, but a section was inadvertently left out. The following is the correct verbiage used and the minutes have been corrected; “involve other members ~~there was a~~ **and sectors of the community which did not happen. He said he had seen this** certain kind of direction from the Mayor and Council, but it ended up coming the chute in a whole different fashion that either expanded it or excluded part of the direction.”

3. EXECUTIVE SESSION [Pursuant to A.R.S. § 38-431.03(A)(3)] Proposition 207

RECESS: 7:09p.m.

RECONVENE: 7:55p.m.

ROLL CALL: All Commissioners present as they were at the beginning of the meeting (Commissioner Watson absent)

Chair Rex stated, before discussions on the Parking Reduction Text Amendments, Council Member Trasoff was present to speak to the Commission.

Council Member Trasoff stated she appreciated the time given to her to speak and that she appreciated the thought and consideration the Commission had given to this item. She said it was something that evolved from her office which was why she wanted to

attend the meeting to give the Commission a few minutes of understanding of where it came from and why.

Council Member Trasoff stated the Commission was probably familiar with the updating of the Certificate of Occupancy Ordinance. She said what came out of those conversations was the awareness, time and time again when talking about small businesses, that the biggest road block was parking in almost every aspect of everything they were trying to do with businesses and the *Land Use Code*. She stated, a few weeks ago, the Mayor and Council was trying to look at an economic stimulus and how to help the community get more jobs and people back to work in a variety of ways, in jobs that were good and meaningful. She stated that was where the parking reduction amendments came from as an economic stimulus because of all the work that had been done for years trying to find ways to rekindle the downtown and midtown areas. She said there were so many buildings that were antiquated and empty. Some were empty not because they were not good solid buildings, but because new regulations were in place that made them obsolete solely by lack of parking.

Council Member Trasoff said they had tried to figure a way through this and what was really important in the approach they tried to take was that they wanted balance. She stated they wanted to encourage that older buildings be used, it was green, sustainable, and important. She said they also wanted to have the economic stimulus of jobs from new, small businesses. She stated she knew the Commissioners were familiar with the statistics used by everyone in that eighty-five percent of jobs came from small businesses and could not be ignored. She said there were also the construction jobs in remodeling of the older buildings in order to put them to use, which was a positive use of some of the out of work construction people. She stated the other side of this, in her mind and of equal importance, was that as this was being done, we needed to be sure the neighborhoods abutting these businesses were not destroyed.

Council Member Trasoff stated, as the Commission went through the process, they would find that things were very carefully considered, for example, the restaurant issue. She said restaurant and bars create unique kinds of problems. She said the Mayor and Council wanted to do something that made sure they were protecting the neighborhoods. She stated that was carefully worded into the request.

Council Member Trasoff said there were two things in looking at how to deal with neighborhoods. One was making sure there was mitigation called for in certain kinds of instances, or as the guidelines were put in place, there was not have a fall back of, "you do not have to have enough parking, and it is okay if you just go park in the neighborhood." She said that could not be the fallback for parking. She said the flip side was, if you had old buildings that were empty, that was a blight, which had a negative impact on the neighborhoods. As buildings were vacated, there was graffiti and people, not quite appropriately, that moved into the buildings, which also created problems for the neighborhood. She said those were the balances they had tried to bring to this. She then stated, if the goal of sustainability as a community was added, we needed to look at the special circumstances. She said if you were on a major roadway, if there was mass transit, and if you were in a population center, they wanted to encourage people out of

their cars and use mass transit or walk to a business. She stated, as the City's transit system is expanded, we will be able to do that more and more.

Council Member Trasoff stated those were the thoughts that went into making changes to parking reduction. She said one final thought she wanted to share was that originally, they were going to present this as something to be done, but they had asked that there be a one year sunset so that it was something they could do and say it was for one year. If it worked well, it could be extended and extended. If they ran into problems and there were unexpected consequences, by having a yearly review of it and not having it as a pro-forma, that gave them the ability to step back and say, "Okay, we need to adjust it this way or that way or we need to get rid of it." She said, eventually, this would allow for the possibility, through planning and as they looked at parking community-wide, realizing that there could not be the same regulations on the east side as there was for the downtown area, and as a parking plan was developed, this might disappear and become part of the overall parking approach that was in the *LUC*.

Council Member Trasoff said they wanted to do something right now because of the dire state of the economy and the fact that there was a need to get businesses back open, operating, and hiring people and the need to get people working on the construction side of it, but, at the same time not lose sight of the fact that neighborhoods needed to be protected. She said that was the approach she had wanted to share with the Commission so that everyone understood what the Council was trying to accomplish. She stated the Mayor and Council looked forward to the recommendation that evolved from the Commission.

Council Member Trasoff thanked the Commissioners once again and stated that the more brains working on these types of issues, the more the Council could be sure that all sides were being looked at and make sure they did not have unexpected consequences.

6. PARKING REDUCTION TEXT AMENDMENTS (Continued Public Hearing)
(Item taken out of Order)

Chair Rex stated this was a continuation of the Public Hearing. She asked if any Commissioners had any questions or comments.

Commissioner Williams stated he had a couple of questions. He asked if staff knew how many Certificate of Occupancy (C of O) requests had been denied because of parking issues within the last year.

Albert Elias, Urban Planning and Design, Director, stated he did not have that information, but as mentioned before, this came about from discussions with members in the community dealing with the C of O issue. He said the community was consistently raising the point that parking was an obstacle in obtaining a C of O and that perhaps they might be able to answer the question better than he could.

Commissioner Williams asked if any had ever been denied at all because of lack of parking.

Mr. Elias stated he thought the way it normally worked was that a property had an empty tenant space, someone approached the owner about going into that space, they check into the status of what it would take to get their business in there, and when they find out they have to bring the site up to parking regulations in order to move in to that space, they just move on and find another space.

Commissioner Williams asked staff if they knew how many older buildings there were that were vacant and did not conform to the current parking regulations or how many new buildings appeared to meet all the parking regulations and due to the economy were vacant.

Mr. Elias stated it was very situational. He said in older parts of the City you could find quite a few nonconforming situations which were typical along a lot of the arterial streets and in what he called the center of the City, pretty much anything that was built from 1960 and previous to that. He said he thought, in recent times, there had not been new spaces built that did not have a lessee because commercial developments could not go forward and get their financing without having spaces that were fully leased up. He said, for the most part, you would see very little of that, although you did see it in bigger projects where there was an economy of scale in building larger buildings, but there were not a lot of new retail spaces, that were not leased up.

Commissioner Williams stated he had seen quite a few spaces in the newer strip malls with half of them vacant. He said it appeared there was adequate parking, but the buildings were probably not being filled because of the economy, which was what prompted his question to staff if they had an idea about it so that the Commissioners could get a feeling of how critical it was to move the amendment forward or if it was not critical, maybe it should be further reviewed.

Commissioner McBride-Olson stated she was wondering whether or not Commissioner Williams' request was valid or not. She said she did not think it took much more than driving down almost any street in Tucson to see how many empty buildings there were that were not occupied and had problems being occupied because of parking, especially on major streets. She stated it was a difficult, legitimate point and did not feel they needed statistics to go forward with the amendment.

Commissioner Maher said as an architect who worked on these types of projects, they always had to validate whether there was appropriate parking for that complex and for that particular use. He stated where they got into trouble in terms of trying to designate that particular space and get it leased, was in a situation where there were multiple uses that perhaps had to meet different formulas. He said it was not a matter of what was out there or what had not been done, they also had to validate and confirm there were parking spaces for the empty stores. He stated it was a complex situation the Commission was trying to solve after about ten years and agreed with Commissioner McBride-Olson that they were off the issue in terms of what was being discussed. He said they needed to simplify the parking code.

Chair Rex stated Development Services Department (DSD) did not always see all the requests for a C of O. She said if the project had a design professional, architect or

engineer, who looked at the project first, the request for a C of O never got to the City because they had already been told not to bother or if they really liked the property then they could go and see if there was a way of dealing with the parking. She said there were so many of them that did not even get that far and the properties continued to be vacant because there was no point in trying.

Commissioner Mayer stated he had a number of questions that were somewhat a rehash from the previous month, but after listening to the discussion, looking at the minutes and doing further review, he was really back where he started from, and wanted to talk about the “elephant” in the room. He said he thought the Commission and most people in the audience were pointed in the same direction of addressing the parking problem. He stated where differences might fall was in how they went about it. He said the main thing was that there was some agenda material, draft language of the *LUC* and interspersed in between that, was an application submittal policy related to Section 3.3.3.11. He stated he would submit the first two portions of that were regulatory provisions and that there were some people, including his colleagues, that had been citing provisions as if that would be the code provisions. He said he thought he knew the answer but asked if the language of applicability for zoning criteria would be in the provisions of the *LUC*.

Jim Mazzocco, Urban Planning and Design, Planning Administrator, stated they would not and that they were meant as a policy document for how one would submit a document to show they had a legitimate prior use that could be used on that property. He said currently, this was a policy that was kind of like an unwritten policy in DSD. He stated this was a problem when they discussed it with the Metropolitan Pima Alliance (MPA) group and found, if you talked with certain people, say the more senior staff at DSD, it was very clearly delineated of what you could or could not do. He said if you talked with more of the counter staff at DSD, it was hit or miss if you got it clarified. So one of the things staff wanted to do, and DSD agreed, was to put it in writing if a use was brought in that was previous to a current use, what constituted adequate documentation. He stated this policy was reviewed with the MPA and DSD and both felt if a use was submitted under these criteria it would be adequate.

Commissioner Mayer stated he was having trouble with it because there was talk about previously approved uses. The language was in the policy, but not in the proposed code language.

Mr. Mazzocco stated they had talked about taking out the word approved and making it previous uses.

Chair Rex asked Mr. Mazzocco to talk about the clarification page that was handed out regarding some of these issues.

Mr. Mazzocco stated, in the packet for the meeting, a “draft” text amendment was sent out. Since that time, staff received some commentary for clarification on it. He said at the beginning of the meeting, staff handed out a sheet with clarifications and none of it was of a very significant, substantial change in the meaning on what staff was trying to do, but he hoped it clarified the confusion. He stated one of those had to do with terms

that the *LUC* used and terms staff got in the habit of using when talking with the Committee. He said one of the terms they started using with the Committee was bars and restaurants and it pervaded the three text amendments. He stated when they talked about bars and restaurants with the Committee, staff meant them in the most generic fashion and what they found, as they got near the deadline for the amendment, was that those terms were not really used in the *LUC* per say to define a group of uses. What the *LUC* did call bars and restaurants was food services and alcohol services. He said staff wanted to make what was presented in the draft consistent with what the *LUC* said.

Mr. Mazzocco said, in Section 3.3.8.6, Parking Reduction, there was an entire section on warehousing storage and wholesaling. Again, that was a discussion that was held with the subcommittee and what they found, when you actually looked at the parking formula, the language that was being recommended was more restrictive than that of the parking code which was less restrictive so that section did not need to be in the amendment because it was not useful.

Mr. Mazzocco stated they also clarified, for industrial uses, that there was one use, salvages and recycling, that had a formula of one to five thousand and if it was not mentioned in the amendment, it would have a formula of one to one thousand and they did not want to inadvertently give them a boost where it was not meant to.

Mr. Mazzocco said, in Section 3.3.8.6(c), that was a “may” that should have been turned in to a “shall.” He stated what that phrase was about was that when you did a reduction plan and you were next to a residential area; you needed to do a mitigation plan. What was said in the document was that you “may” be required to do a mitigation plan, but what was actually meant was that you “shall” do a mitigation plan.

Mr. Mazzocco stated they had gone through Section 3.3.3.11 with DSD staff and to UPD’s surprise, the terms they thought were generic terms, actually had specific meaning in the *LUC* and that they needed to clarify that was not what they had meant. He said the term “new use” was actually defined and had a specific meaning in the *LUC*. When used by UPD the meaning was not what it meant in the *LUC*, but a different use, a use that was coming in that was not there before that would generically be called “new use” but the *LUC* took that term away from them and decided to define it as something very specific. He said, as they went through the section, they found other things that if they were better worded, it would be clearer. He stated if he had had the time, he probably would have given the Commissioners a fully rewritten section, but instead what UPD did was they went through some of the issues they had run into and clarified the language of what was meant so that they did not get any unintended consequences.

Commissioner Mayer stated this was the first time he had seen the sheet and did not get a copy when it was distributed earlier. He said it still went back to prior discussions on the proposed use that it may be calculated based on the prior use of the same or lesser parking intensity. He said the issue he raised at the last meeting was, “a prior residential use.” He stated the response was that it could only be a “use allowed in the current zoning, but single family dwellings were allowed in the commercial zone.” So, there was not a basis to say that it had to be something allowed by the current zoning, furthermore, that was not in the language in the document. He said it seemed to him, and

maybe some people had it in their mind what that meant, but in terms of time or spectrum of uses, the wording “prior use” was unlimited. He stated if there were residential uses that required no parking or hardscape paving, and that was what was there sometime in the past, then that could be invoked by the current applicant, which did not seem to be addressed since the last meeting.

Mr. Mazzocco stated he thought it meant what it meant and that you could use a prior use of that current zone but it had to have a parking lot related to it. What it also meant was that the use had occurred in the past, so that property had been used for that use in the past, it was not introducing a brand new use on the property, it was just allowing a use that had been there before to use that property again. He said in the current code it did not allow you to do that. He stated if you had a furniture store, for example, that had a one to four hundred square foot parking formula, you could only use that use again or something that had that type of formula or a more restrictive formula than that. He said if that particular use had had an office, a less restrictive formula, then that property could be used for an office too because it had been used as an office in the past. He said that was the only issue, that there were uses in the past that used that building and parking lot, and now were prohibited from using it because of current code regulations, this would allow those uses to come back and use that property again.

Commissioner Mayer said it did not say a prior use of the same land use group or something that suggested it was a prior use that was the same or very similar to the use being proposed.

Mr. Mazzocco said it was spelled in the document policy. He stated when a previous or prior use was being used; documentation had to be submitted showing that the prior use for that building and parking lot had been there before. If that case can be made to the zoning administrator, then you could use that building, that parking lot, for that previous use that had been documented before.

Commissioner Lavaty asked if some of the discussion by the Commissioners could be deferred until after the Public Hearing since there was a pretty large audience who had already waited through the executive session and were present to speak.

Chair Rex asked if there were any objections, hearing none, the public hearing was declared open.

Wayne Swan stated he was present to speak in support of the amendment/modification to the *LUC*. He said one thing he did not want to lose sight of was the fact that a lot of the centers were built before the *LUC* came into existence. In the earlier codes in Tucson, retail sales were not broken down into a zillion categories of parking and if the strip retails were going to be used again as neighborhood centers and sustainable, walkable neighborhoods for Tucson as they once were, then consideration needed to be given to the parking ratio of one to three thirty three across the board for any use except for large bars and restaurants, which seemed to be a problem for neighborhood mitigation. He said, in any event, as an architect he had done six or seven Board of Adjustments (BAJ) since the *LUC* had been in existence, and almost every time, he argued parking ratios and could not think of a single center where they had come in to do

a BAJ that they had to rethink that BAJ and go back to a previous time. He stated BAJs took time, four, five, six months, which costed a lot of money for the business owners to do.

Mr. Swan said, as an architect and speaking to Commissioner Williams comments directly, he saw many clients that were pretty much concerned that Tucson did not want to have business, did not want to have a good viable business community. He stated he thought the reverse of that was true, but we needed walkable, sustainable neighborhoods and a form based-type code system that made the community stronger. He said transportation and planning needed to be combined to make the community better and stronger. He stated he was a native Tucsonan, looking for positive development in the city. He said he has argued this many times and what had happened was that there was a broken document in the *LUC* that needed fixing.

Barry Kitay stated he had a project that was very suited for what was being discussed. It was located at the southeast corner of Oracle Road and Limberlost. He said the project was built in 1972 which at the time was in the county limits. He stated his family owned and operated the Handy Andy Stores during that time. They operated a twenty-six thousand square foot home improvement center at this site and had no parking problems other than maybe at the biggest sale of the year they might have been short a space or two but were able to accommodate that use very nicely. He said in the last fifteen years they had furniture stores in the space. The last furniture store moved out two and a half years ago and he could not get another furniture store looking to rent space because they were all closing down. He stated he had a retail user that has wanted to go in there but could not even get to a C of O because he could not get a permit to do anything on the site, so he was stuck. He said he had lost over a quarter of a million dollars in rent because he could not do anything. He has tried talking to staff about doing a BAJ, but they could not recommend approval for a change of parking for the site so he did not move forward with it. He stated he has been extremely frustrated by this process and would really appreciate some help as quickly as possible. He said he had a tenant and had been negotiating with them trying to get them into the space, but needed help. He stated the neighborhood was so far back from this location on Oracle Road that cars would not be parking in the neighborhood or disturbing them. He urged the Commission to give him a hand and amend the code as quickly as possible.

Chair Rex stated she understood one of the attributes of Mr. Kitay's project was that he was anticipating increasing the landscaping and asked him if that was true.

Mr. Kitay stated he was going to remodel the center and make it look a whole lot better than it was by adding landscaping and bringing it up to the neighborhood and other retail centers.

Commissioner Podolsky asked if Mr. Kitay knew what the existing ratio on the center was or what ratio was needed and would the proposed change make it work for him.

Mr. Kitay stated he did not know the existing ratio, but the one to three thirty three would work for him.

Commissioner Mayer stated he was familiar with Mr. Kitay's center which was built in 1972. At that time, it was in the County limits before the annexation north of Roger Road. He asked if the root of Mr. Kitay's problem was that it was built based on relatively lax Pima County regulations at the time it was originally constructed relative to the City regulations.

Mr. Kitay stated he did not know if they were lax, because at some point they worked for them and they did not have parking problems. Today, they did not meet parking code and it had turned into an obsolete facility because of the current code. He said it was annexed and built based on the Pima County code current at that time, but today it did not meet code.

Chair Rex stated that was because the last approved use was one to four hundred parking and he was looking at one to two hundred parking, but had enough parking to be able to accommodate the interim one to three thirty three.

Rich Rodgers stated he spoke at the last meeting about the fact that the *LUC*, as it pertained to existing buildings, did not work. He said it would be a kin to everyone closing their eyes and thinking happy thoughts, then opening their eyes and finding out that the buildings were still not up to code. He said probably, the worst aspect of the code, was the parking requirements. He stated, therefore, he strongly urged the Commissioners to take action on the amendment, pass it, and hopefully this would be an interim step until the existing code could be radically overhauled or, better yet, thrown out and adopt a standard zoning code.

Colin Zimmerman, Director of Public Affairs, Tucson Association of Realtors, stated hopefully the Commissioners received a copy of their proclamation and he would not re-read it. He did say the association represented over six thousand realtors in the City of Tucson including residential and commercial realtors. He said, as an association, they represented both sides of the industry. They represented commercial realtors trying to make deals and property owners with private property rights. He stated, as an association, they felt reusing existing buildings was core to the City's growth and moving forward. He said without the reuse of these buildings, or the ability to move businesses in, they could not move forward as a City. He stated Council Member Trasoff was right on so many points she made and wanted to echo them. He said it was sustainable, green, and needed. If mass transit was going to work, if the City was going to grow, if tax dollars were going to be kept in Tucson, then approval of the amendment was needed, and needed now, so that people could move businesses quickly into vacant offices and revitalize the City of Tucson.

Ruth Beeker stated she was representing the neighbors who attended the mandated meeting held on February 19, 2009. She said they were asked to attend the meeting to meet with some of the people that were proponents of areas they had concerns about. She said the meeting did not go so well because they were there by themselves for the majority of the time. One person attended representing the proponents who had worked on the original writing of the document and stayed for one hour. She stated they had a lot of time to talk to Adam Smith, Urban Planning and Design, Principal Planner,

and to each other. She said she was present, as the others chose not to, to talk about a couple of points that she would like to have considered.

Ms. Beeker said first she would like to comment on what people before her had spoken about. She said she did not believe that neighborhood groups were up in arms about any of this. She stated it had been portrayed, at some levels, that they did not have any voice in it, which was true. She said the document went pretty far before it ever got to the neighborhoods. However, they had been looking at it and there were three points she wanted to make specific to the document in reading it.

Ms. Beeker said the first was at the bottom of the first page, which was now being referred to as different use, replacing an existing use. She stated Part C talked about being able to go back not just to the prior use, but to any prior use that property had. She said people who lived in older established neighborhoods had some problems with how far back could one could go. If you looked at older neighborhoods, they were built out not to be the automobile dominated society we had today and so there was some concern, if going back, how far back would you go, 1930, 1925, or in her neighborhood were you going back to 1950. She said she thought in any neighborhood you looked at, if you looked at the houses and they had one car carports or garages; you could safely say that neighborhood was not build for the automotive age. She stated it was built when there was one car per family, not three, so there was concern that there was not a date on how far one could go back. She said she did not think this had any impact at all on the neighborhoods that had been built since 1970 for example, but did think for midtown neighborhoods that were older neighborhoods it could become a problem. She stated an alternative plan was to put in a date and also a mitigation plan as is in the other two.

Ms. Beeker stated that in the mitigation plan under page 3 it stated development adjacent to residential uses, the second option, Part 3 said the plan would be reviewed each year for the first three years. She said perhaps this was not relevant now if the Commission was going to go with Council Member Trasoff's suggestion that it all be sunsetted at the end of a year. She said, as they looked at that, the question became who would be reviewing it and how would it be reviewed. She stated those details were important to them as a neighborhood and that they had a pretty good guess that if anybody was going to report problems, it would be the neighborhood representatives who were going to know there was a problem there. She said she did not think there was anyone from the City staff that would drive around to see if this all worked out okay.

Ms. Beeker said, with that being the given, which was how most things in the City seemed to come back, was if the neighbors did not like it, they needed to speak up and take care of it. She asked that the neighbors and the neighborhoods who attend the original mitigation meetings be given, as neighbors, written documentation on how or what the process would be on the responsibility of the neighbors if in case there were any problems and to whom they should contact so that they could be the eyes and ears for the City in giving a heads up if this was not working out well.

Ms. Beeker stated the last item they would like to have the Commissioners take a look at was in the individual parking plan Part B, number eight, which stated that proposed shared parking could be located within an existing parking location up to one

thousand, five hundred feet away. She said they felt that was pretty far away, more than a quarter mile away, for a situation where they were asking people to walk. She stated she believed that worked for the downtown area where they had the expectation that when they parked their cars, they would be walking. She said it did not work for the Walgreens that had recently been built in the Miramonte neighborhood, which was her neighborhood, located on Speedway a little east of Country Club. She stated if anyone knew that area, they would say that someone who wanted to build like that could say their shared parking was down at the Catalina Methodist Church close to Tucson Boulevard. She said she did not think that would work for them and felt if there was going to be shared parking, it needed to be reduced to five or six hundred feet so that indeed one could expect somebody would park there. If it was kept at the current amount, and there was a need for shared parking, people would not go to the shared parking location, rather, they would go into the side streets where they could walk easily to that particular area.

Ms. Beeker said those were the three items that were still in the ordinance that they wanted addressed. The mitigation plan in the document, she believed, would give them the voice, protection and assurance that this amendment was something that they would be able to have a say in as they worked through the process.

Commissioner Lavaty asked Ms. Beeker if her objection to 3.3.3.11(c), which was basically any previous use, as far as she was concerned could be taken care of with the inclusion of the provisions in the Development Adjacent to Residential Use page, Item D, which stated if it was within three hundred feet of property zoned R-3 or lower, then they would have to do a mitigation plan, or did she feel it would be better to put an end date as far as previous use or with the requirement of property being considered for this within three hundred feet of any residential zone do a mitigation plan.

Ms. Beeker stated it would certainly be better than what was currently there. She said the question, she thought as people were looking at this, was could something happen that the neighborhood could say it was not in their best interest and could really cause problems coming into their neighborhood and certainly anything that was in there that would say you talked to the neighbors about this so that they had a voice before the problem arose and could be prevented. She said in their established neighborhoods, the zoning did not match what was on the ground which was probably true in most neighborhoods. She stated there were areas that were residential in what had been built out there, but it was no longer zoned R-1, R-2, or R-3 and may be O-3 or C-2 and, that in established neighborhoods, the City had come in and taken over. She said her neighborhood was sort of like a crossword puzzle and tying it to an R-3 zone might not be the answer if there was residential and the City had declared it as C-2, but there were people basically living in single family homes because that was what had been built. She said there was not a good alignment in established neighborhoods between the zonings and what was there on the ground at the time the zoning was done. She stated that would be her only reservation about tying the two designations.

Chair Rex asked if she was saying that it should be tied into a date so that occupancies before a certain date were not eligible.

Ms. Beeker stated the question really was how far back could you go when you think about how much parking someone put in to their building and would that be considered sufficient parking today versus what it might have been in 1950.

Commission Lavaty asked if the inclusion of the Development Adjacent to Residential Use requirement for the mitigation plan specified residential uses rather than a specific zoning would that improve matters for Ms. Beeker.

Ms. Beeker stated probably, if there were businesses everywhere, then it would not be impacting the neighborhoods as there would be no people living around there. She said their concern was simply to protect the people who had their property that was residential and were living there not to have any surprises, such as here was a bakery or something and at the time did not have much parking at all and now we wanted to go back and make it a bakery again, was it appropriate at this time, given what the configuration of the parking in that area was to have it occur. She said that was basically what the concern was, it was not closing out businesses, not saying it was an appropriate business to be there, but saying was the traffic that was going to be generated by this use appropriate for this location at this time. She stated they did not feel there was any guarantee that this was what the building was back in 1930 and could give justification for it, that it may be an appropriate use with the land being their appropriate for the amount of parking needed today.

Chair Rex asked if it was conceivable that if the adoption date of January 1, 1968, of the Tucson Zoning Code was used, for building uses before that time, you could not go from a use today to a use, again using the previous example if in 1950 you had a bakery and was there until 1967, and in 1967 it was changed to a furniture store and had been a furniture store ever since, so what Ms. Beeker was saying you could not go back to the bakery, but could go back to the furniture store. But, if that bakery were there in 1970, then you could go back to it because we would be looking at a time, when in the zoning code, there was a parking code. So anything that had a parking code associated with it.

Ms. Beeker said she thought that would be preferable to what we currently had in terms of being protective.

Chair Rex stated that it was a time issue and asked Mr. Mazzocco how they could incorporate something of that nature into this iteration.

Mr. Mazzocco stated, basically, it was a “from” and “to” situation. The “from” being the current time which would always be moving and the “to” did not move in time and would be this date no later than this date, which would be a way of handling it. For example, if the date of January 1, 1968 was used, you would stop that moment in time and any use that occurred since that date could be used on that property.

Vice Chair Holland stated part of the discussion just held was also splicing in a within “x” hundred feet of residential would require a mitigation plan which met with some support. He asked Commissioner Lavaty if that was still on the table.

Commissioner Lavaty stated we pretty much had the within “x” number of feet of residential and his intent, when they got to that point, was to change within three hundred feet of R-3 to within three hundred feet of residential use.

Vice Chair suggested to Commissioner Lavaty, without trying to make things too complicated, that making a date certain that was the “from” that they start working forward to, did he want to add, “or two iterations whichever is less” or something like that because of these properties that had been through three or four zonings.

Commissioner Lavaty stated the records of who was in what building, do what or when were not always accurate and we would be introducing some ambiguity there and did not have a problem with a point certain and thought that would take some of the ambiguity out of the ordinance.

Chair Rex stated that was one of the reasons she felt better about a date certain rather than a use because the uses were all so difficult to establish when they were not matching to the zone.

Michael Guymon, representing the Metropolitan Pima Alliance (MPA) thanked the Commissioners for the opportunity to speak. He said many of his comments were pretty much made by Council Member Trasoff earlier in the evening. He said he echoed her sentiment and pointed out that she was not the only one on the Council that was hungry for these types of amendments/changes, you name it. He stated Council Member Glassman had asked that impact fees be suspended for twelve months. Council Member Scott had asked that impact fee payments be deferred. He said Council Member Romero at the next meeting was going to ask that protected development rights be part of the equation. He stated all of these instances were representative of that the Mayor and Council was trying to find ways to promote economic stimulus and promote development in existing buildings. He stated, as the Commissioners were probably aware, the Mayor and Council, on February 10, 2009, asked him (MPA) to head a twenty member economic stimulus stakeholders group and would be making their recommendation, which was also part of the Commission’s agenda for discussion. He said they would be making their recommendation to the Mayor and Council on March 10, 2009, and what the recommendations were was the topic of discussion at a meeting held on March 5th.

Mr. Guymon stated he wanted to point out again that the Mayor and Council was very hungry for these types of changes. He said when it came to use, as heard from Mr. Katay, his use was an appropriate use, continues to be an appropriate use, and the parking had historically been okay, besides the fact that along arterial roads, there were circumstances where the City had come in and widened or taken space away and modifications to allow those uses to continue because those business owners were subject to something the City felt needed to be done. So, there needed to be allowance for that. He said when it came to mitigation, he thought that Council Member Trasoff was correct in that we needed to create and promote some sort of balance. Balance between what was trying to be accomplished, sort of simplifying the processes, but not do it in a way that would adversely affect the neighborhoods. He said he apologized, but some of the things being mentioned when it came to mitigation, you may as well turn the C of O processes into rezonings. He encouraged the Commission to move the item on to the Mayor and Council

so that this can be done as well as some other elements the Council was obviously very hungry for.

Michael Ebert stated he was present to speak as a generalist. He said he was a broker and that they needed a system that was a lot simpler and quicker. He stated, when it came to leases, people looking for a new location, did not have nine months, a year, or a year and a half. He said they needed a simpler set of rules to follow and stated he liked the language that Mr. Elias had been working on with his staff, it was a small portion, but got them where they needed to be with the parking problems, which were huge with older buildings. He stated everyone needed to be more respectful, lenient, and forgiving of older buildings, they were built to meet certain standards and a certain code, when they were built. He said if you tried to put a date, when they were no longer meeting code, going back that was a problem and basically, we were condemning all of those buildings prior to that date, whatever it was. He stated the sunset clause mentioned by Council Member Trasoff, brought up another issue. He said what would happen in a year, if you went back to the old code, all of those buildings would be beyond or underneath code and lawsuits would be filed. He said the thing with rules was that it diminished property rights, there was no such thing as a community that did not get its basis from industry, and we were denying industry to older buildings and small business owners by setting sets of rules.

Mr. Ebert stated his job, he thought, was to make it as simple as possible, to get a process that worked so that they could have somebody in their place of business in thirty to ninety days which was all they asked.

Jason Wong thanked the Commissioners for allowing him to speak on the issue. He said Tucson had a lot of existing older buildings that had limited parking. In conjunction with the limited parking and the current *LUC*, the buildings had a severe restriction on usability; a prime example was Mr. Katay's property. He said everyone could drive down Speedway, Grant, Broadway and other streets and be able to say which properties could not be used because of limited parking. The buildings were in a state of disrepair, needed painting, had broken windows, and graffiti. This gave Tucson a big eye sore. He stated if the parking requirements for these types of properties could be reduced, they could bring new life to the properties, encourage better use, and walkability. By having the income improve on these properties, the owners could afford to spend money to have them repaired and renovated, which would create tax revenue and jobs. He said Tucson businesses needed this parking reduction and strongly encouraged the Commissioners to look closely at the amendment and accept it and forward a recommendation to the Mayor and Council.

Tom Warne stated, in general, he echoed Council Member Trasoff's comments and as he said at the last meeting, it really got down to the health of the neighborhoods. He said he has had some personal experience on this issue while developing the Main Gate, which was now approximately six hundred fifty, thousand feet. He stated there were parking garages, but the garages also had students parking there who attended the University of Arizona (U of A) and people attending UA presents. He said there was less parking in the West University neighborhood, which he worked closely with and was close to for the last sixteen years, than there was when he initially started because of the

proper mitigation, permit parking, Pork Chops, non-entry so cars really did not pass through, but yet the West University Neighborhood supported the development unanimously through the years. He said it could be done effectively, but then the Main Gate was not what was being discussed, which in the near future will be approximately eight hundred fifty, thousand square feet, just a couple of blocks. The talk was about the Grant Roads, the 22nd streets, the deterioration, not of all the neighborhoods, but so many of them, high crime rates, high costs and lack of sales tax and employment which was not happening.

Mr. Warne stated, if you took Fourth Avenue, the café at University Blvd. and Fourth Avenue, which went into a direct shop, could not become a coffee shop again. He said those were very real life experiences seen today that were working and were on bus routes. He said almost of all the buildings being discussed were on bus routes or bicycle routes and if you took Fourth Avenue, look at all the businesses that were there, they did not have any parking at all,. He said he did not know what the sales tax was this area generated, but on the Main Gate, just the new portion of the sales tax and not the increased business that was happening in the older businesses, was about 2.7 million dollars not counting the hotel which was well over a million that came in every year. He said that was the issue they were talking about in this town. Take a look at Fourth Avenue and say, "how does that work." He said at first, and as close as he was to the West University Neighborhood, there was definitely problems with parking and overflow and so on, but now it worked because of the mitigation that was done and the vacancy rate was very low on Fourth Avenue which was something we wanted in Tucson. He said a lot of his friends told him that before the Main Gate, their property taxes were a lot less on their houses and now they were higher because of the increased values to the neighborhood. He stated he just wanted to point out that there were real life experiences of success and also everyone in the room should visualize driving down 22nd, 29th, Grant Road, parts of Oracle, Broadway, we all knew what was going on and that that really was the inter-core of our City. He said, otherwise in his view and personal belief, we were going to push people further and further out because of the parking regulations so buildings would be built out, houses would go up, stores and other businesses would be constructed that could have the parking and it would just deteriorate the inner-core of the City.

Tonya Strozier, Arizona Academy of Leadership Charter Schools & Young Leaders Preschools stated she wanted to share, from a small business, young entrepreneur educator perspective, that she encountered an incredible amount of issues just trying to establish the small organizations she had, four charters schools with the hopes of expanding and offering more preschools in the City, which meant additional revenue for the City of Tucson. The challenges she had faced definitely had to do with parking. She stated her organization liked to work and partner with a lot of churches and because there was not an opportunity for them to have a shared use, they had a huge issue. She said even though no one was at the church from Monday through Saturday, they could not use it because of parking. She stated that seemed like it would result in under developed real estate which meant a loss of revenue for the City because they could not share in that space. She said she just wanted to share with the Commissioners what her experience had been and hoped that as a result of this ordinance some real changes could be made to

allow small businesses, such as herself, to continue to grow and expand in a City that they all loved.

Commissioner Podolsky asked a question about shared parking. He asked Ms. Stozier if the way it was proposed in B-8 for shared parking as fifteen hundred feet away from the proposed location of the business, would that distance work for her or did she see that distance to be too far.

Ms. Stozier stated adequate parking was already there at the church and they were looking at being able to use it but at different times.

Chair Rex asked if there was anyone else wishing to speak on the item.

It was moved by Commissioner Lavaty, duly seconded, and passed by a voice vote of 10 to 0 (Commissioner Watson absent) to close the Public Hearing.

Chair Rex announced the Public Hearing was now closed and asked if the Commissioners had any discussion.

Commissioner Mayer stated the Mayor and Council had requested that this item be returned to them and that was why he supported the motion to close the hearing. He said there were some significant problems with the way things were progressing, but at the same time there was a lot of political weight behind it. He stated he wanted to suggest a procedure, if in case a motion was made and seconded and because of the discussion that had taken place, there might be some amendments tweaking the motion. He said upon the second he wanted to make a Substitute Motion and if seconded, the discussion could continue and have the vote on the Substitute Motion. He said if the vote failed, then he would vote on the main motion.

Chair Rex stated she did not follow what Commissioner Mayer was trying to say and asked him if he was making a motion.

Commissioner Mayer stated he was trying to set up something so that they could proceed the most smoothly as possible.

Linus Kafka, Principal **Assistant** City Attorney, asked if it was an anticipatory substitute motion and if so, a motion was needed first.

Chair Rex stated there was no motion on the floor at this time.

Commissioner Maher stated he had a few things he wanted to discuss. He thanked Ms. Beeker for her dedication and volunteerism for the Tucson. He said he liked her comment about the distance factor although in his mind that was probably a very unique situation where that happened. He stated as an architect he dealt with these types of situations and had been dealing with this type of obscure code for some time. He said the key in understanding was that the documentation criteria had been utilized to help with the older properties, therefore, he did not agree with the date situation because the documentation helped prove in some fashion that they did exist and there was a

legitimate use. He stated if she was speaking of properties that were commercial and now were back as houses, again in his mind, that became a very unique situation. He said it seemed that the only uses that were really parable, from what he could best tell by asking around or personal experiences from working in Tucson for twenty-five, thirty-five years, was restaurants. He stated restaurants had been excluded, even some of his favorites around town, that seemed to be a problem child with the neighborhoods. He said it would be nice to walk to a restaurant or bar and then walk home rather than trying to drive to it. He said he thought those had been excluded as well as medical and personal service that had a higher ratio. He stated the crux of the matter was in trying to utilize buildings that were struggling with an extremely complex code that had too many categories to deal with and in trying to verify each time that there was parking substantial and you cannot ignore the vacant space that had to have a calculation for that became A real troublesome and timely thing where if there was a commercial property you could move them right in and take care of it.

Commissioner Maher said regarding the aspect of mitigation, if it was near R-3 or less or single family, we could not hold up a code that was very appropriate for ninety-nine percent of the City when we had a couple of unusual cases that just need to be addressed in some fashion perhaps in the future. He stated he thought staff had done an excellent job in this first step of helping with a complex code everyone had been struggling with for years. He said he was also amazed about some of the commentary made and questions asked and the history of what had occurred. He stated there had been too many codes for too much time over the last thirty, forty years. He said he worked on properties from the fifties and sixties that were legitimate properties and from what he could best tell, all of these commercial properties were on major streets. He said disappointedly, he thought, if we had a couple of cars parked in the wrong spot, it could not defray us from trying to do the right thing right now and start to correct the code.

Commissioner Maher stated he too lived in a historic neighborhood and the entire commercial around them had no access to the neighborhood, they barely had access to the side streets that came into the neighborhood. He said that had been a fact for some time for a lot of the development in trying to decrease that type of parking and access points. He said with the exception of the distance factor, which was probably going to be extremely strange, he wanted to make a motion to approve the parking text amendment as is with the exception of changing the fifteen hundred to six hundred and did not or would not accept any friendly amendments concerning the differences of uses or dates because he thought that defeated the whole purpose of trying to address the older buildings that were in need and had been for sometime. He said it could not be emphasized enough the mitigation, the regulations in the Tucson Code and *LUC*, Department of Neighborhood Services (DNR) in terms of filing complaints that protected the neighborhoods. He stated his neighborhood association was very active and if they saw a car out of place, they called somebody, they did not bother the police because they were understaffed as it was, but they did file a complaint with DNR or what have you.

It was moved by Commissioner Maher, duly seconded, to approve the text amendment as is with a minor change of fifteen hundred to six hundred feet.

A friendly amendment was made by Commissioner Podolsky by asking Commissioner Maher if he was acceptable to leaving the fifteen hundred feet as is because it was not really a great distance to walk.

Commissioner Maher asked if he was thinking in terms of walking or being driven and dropped off because it was a little bit of a distance to walk.

Commissioner Podolsky stated he personally did not think walking fifteen hundred feet was a great deal of distance and did not know what everyone else's take was on it. He said he was thinking of moving for approval of the amendment without any modifications.

Commissioner Lavaty stated he liked the change from fifteen hundred feet to six and felt if it was left at fifteen hundred, what would primarily be created was people using shared parking agreements for spaces that their customers were never going to occupy. He said he thought within the six hundred feet it was at least visible to the business and they could use signage and directions to direct people pulling in to the main lot over to the shared lot and felt if we started reaching beyond that it would be a mechanism to allow an escape clause into the rest of the mitigation.

Commissioner Williams said he had a couple of things he wanted to discuss. He said he thought it was imperative that the applicability be incorporated as part of the *LUC* because as it stood now it was not and could be changed at any time and/or whim. He said that was a critical component that needed to part of the *LUC*. He stated the section on page 1, B.2 Landscaping and Screening stated you could remain as is, so if they were weed infested, they could remain as such. He said one of the speakers made an important point in that he did not mind improving the property by putting in landscaping to make it more attractive. He said he felt a lot of that needed to be done in some of the neighborhoods with older buildings in that they did needed to bring them up and make them more attractive as part of the neighborhood and felt these were things that needed to be incorporated as well.

Commissioner Mayer stated he wanted to go ahead and make his substitute motion at this time. He said he would like to make a couple of brief comments. He stated there was a lot of talk about the *LUC* being a problem. He said there were problems with the *LUC*, but Clarion Associates were dealing with them in terms of formatting and so forth. He stated the actual ordinances that were an issue were the 1992 not the 1995 *Land Use Code* and the original one in 1969 that went through some changes and more specificity in 1992. He said a lot of the problems were not new and certainly the current economic situation was triggering it for some individuals and were extremely important right now. He stated he did not have any question that these problems needed to be addressed, particularly Mr. Ebert's comments about having to do so many calculations on multiple centers every time and holding things up. He said the one thing he found that was totally missing from the ordinance was unlike the Incentive Infill District materials there was no trade-off in terms of the public's interest at all. He stated if there was really significant monumental problems with parking that were to be addressed with reductions on some of the older properties, then incorporation of some tradeoffs in terms of other things that were much more readily achievable. He said rather

than to talk about that more, he would just make his motion and also do the findings to try to put forward what he thought should really be the way we should be going, understanding that there was a huge gravitational force from the Mayor and Council to get this item back to them.

Substitution motion by Commissioner Mayer, duly seconded, that the Planning Commission forward the draft *LUC* Parking Amendments to the Mayor and Council with a recommendation for denial in its current form and send the amendments back to the Planning Commission for an expedited review of parking requirements limited to development that existed prior to the first comprehensive parking ordinance adopted on March 24, 1969. Further, that the Planning Commission recommends that such review focus on; 1) the adaptive reuse of such older developments and 2) an incentive zoning scheme where compliance with current parking requirements that can only be achieved to disproportionate cost to the overall development maybe reduced if applicable landscaping, sign code, transit, pedestrian, and other less costly public goals are met. The findings are; 1) when current parking requirements are triggered for development that predates 1969 compliance can, in some cases, only be achieved through additional acquisition, demolition, and/or administrative procedures that are cost prohibitive, 2) development that predates 1969 was often nonconforming as to other requirements that represent sound public policy and conformance to such requirements was more readily achievable than strict compliance with current parking requirements, 3) broad reductions in parking requirements put the public at risk as to added traffic congestion and impacts on adjacent residential and non-residential properties and as such any such reduction should be measured and balanced by other public benefits.

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

Commissioner Williams stated it was imperative that these types of regulations be balanced out, and that you just could not give everything away and get nothing in return because it was not in the public's interest to do so. He said that was why he had made the point about landscaping and that things needed to take place to spruce up some of the older buildings and felt it was a critical component. He stated if a business was able to put a little bit of money into that and get the building leased out or rented, it was in everyone's best benefit, but you just could not give away the farm and get nothing back in public benefit.

Chair Rex said, particularly on the discussion of the weeds, when a building had tenants, it was less likely to have weeds. She stated there was also the portion in Section 3.3.3.11 (B)(2), that the parking landscaping scheme may remain in their current configuration, however the DSD director may require improvements where public safety hazards exist. She said there were already ordinances about weeds and under the condition of this; she felt it was already covered. She stated the second aspect about trade-offs was that there were huge trade-offs; 1) the public would end up with buildings that were no longer vacant, which was a good thing particularly in terms of supporting the neighbors because it was much better to have a body nearby than a vacant building and 2) particularly in Sections 3.8.6 and 3.8.7, there were mitigation plans and we had trade-offs, so those had already been established as well. She said, for those reasons, she was not able to support the substitute motion.

Commissioner Maher stated the substitute motion really just complicated what the Commission was trying to do in simplifying the process, as well as, involving other aspects that would be later addressed. He said the motion also talked about a time factor or timeline and that could not be done. He stated the key was that they were dealing with uses and there were plenty of checks and balances for this situation, but to provide an overwhelming, unnecessary discussion brought forward by Commissioner Maher defeated everything the Commission was trying to do at this time and trying to set up a swift change, an obscurer, disappointing *LUC*, this aspect of it and make it more readable, giving away the farm, he was not sure there would be a farm to give away unless something was done to take care of things at this time. He said he could not support the substitute motion and that it was an antithesis to everything they had been discussing for the entire amendment.

Commissioner Williams stated as the amendment was written, he felt it needed modifications/changes. He said in its current form, he thought there were a lot of issues that would come up, unexpected consequences associated with it. He stated it was unfortunate that a good motion was not made to go forward with the necessary changes and that the original motion maker would allow for friendly amendments. He said he thought that was where the problem lied.

Commissioner Lavaty stated, without objection, he was calling for the question on the substitute motion.

Chair Rex called for the question and stated what the Commissioners were voting on was the substitute motion provided by Commissioner Mayer.

Upon roll call, the results were as follows:

Aye: Commissioners Mayer and Williams

Nay: Commissioners Lavaty, Maher, McBride-Olson, Podolsky, Sayler-Brown, Wissler; Vice Chair Holland and Chair Rex.

Absent: Commissioner Watson

Substitute motion failed by a roll call vote of 2 to 8.

Chair Rex stated they would now return to the original motion made by Commissioner Maher to approve the text amendment as is with a minor change of fifteen hundred to six hundred feet.

Commissioner Maher stated he would accept the friendly motion to return to the fifteen hundred feet and keep the amendment in tact as is and do something that was not done enough in this town, perhaps, to have a little bit of trust in terms of what was being suggested and the administration of that by competent staff and called for the question.

Vice Chair Holland stated the amendment was not perfect, but was unwilling to let perfect become the enemy of good at this point. He said a better amendment than good would be the six hundred instead of fifteen hundred. He stated he would support a six hundred and not a fifteen hundred. He said one of the discussions that had not occurred was sort of the triangulation between the three powerful sources that were happening. He stated they had heard from the neighbors, who he, of course, sided with as a neighbor, they had heard from the business people with whom he empathized and sympathized with as well. He said neighbors need people who were going to have businesses come to their neighborhood. He stated what was not factored in, which he thought was the wild card, was their clients, the patrons that came. He said there had to be a certain learning curve for people who were going to frequent their favorite establishments, figure out how they would get there, and then what they would do once they arrived. He stated he did not think people would walk fifteen hundred feet and that he had seen people drive around parking lots, for fifteen minutes, trying to find a parking space that was eight spaces closer than ten. He said fifteen hundred feet would not cut it and to him that would not be the thing. He said he believed that six hundred was reasonable for people who wanted to share for parking spaces that already existed. He stated at the end of the day, he found it really hard for him to reconcile as someone who was concerned about the planet and the community that he could not simultaneously argue for more asphalt and a greener community.

Commissioner Podolsky stated he was somewhat puzzled as to where they are in the amendment.

Vice Chair Holland stated he would not support fifteen hundred feet but would support six, in other words, he would support the friendly amendment to the motion and not the original motion.

Commissioner McBride-Olson asked Mr. Mazzocco what the fifteen hundred square feet was based on.

Mr. Mazzocco stated the code actually used both numbers. The six hundred was used for an area where you could have parking for your property and the fifteen hundred for a downtown situation. He said, since staff was using this very broadly, they used the higher number. He stated what staff actually thought in reality would happen was that the business would be limited in where they could put parking by the lender. The lender would weigh in whether the fifteen hundred would work for them or not. He said it was there, but probably would not be used very often and if there was one out there that was six hundred and twenty feet, the fifteen hundred would cover it where the six hundred would not. He stated it gave flexibility, but staff understood that parking was not just a zoning issue; it was also a financial issue. He said the financial people would not allow that to happen unless they felt it actually worked on their property. He stated that was going to be the basis of reality for what number was used.

Commissioner Podolsky stated he believed the fifteen hundred would work downtown but the six hundred could hurt downtown since this was a general application. He asked if the wording "up to fifteen hundred feet" worked.

Vice Chair Holland stated, because of special circumstances, he thought downtown would have special treatment anyway. He said he thought that a reasonable argument could be made with parking garages that fifteen hundred might be applicable. He said, in his opinion, he was most comfortable voting for the general and at some later point in time, targeting/aiming for the specific. He said he would vote for six hundred across the board and at some point in time, with a reasonable argument, downtown wanted to come back and say fifteen hundred worked better for them, he would entertain that, but go general and then become specific.

Chair Rex stated she agreed with Vice Chair Holland and that there would be overlay zones that came along. She said until the overhaul of the *LUC* was done, this was temporary; therefore, she did not have a problem with the six hundred.

Commissioner Lavaty stated he had one final question for staff that there had been some discussion on putting a short sunset on the ordinance and asked if it was staff's intention to write that into the ordinance as it went to the Mayor and Council.

Mr. Elias stated yes they had talked about the one year sunset. He said it was discussed at the last meeting, but to reiterate, the idea was that they wanted to see how this amendment worked for a year and also to have the ability to put these provisions in a new reorganized/reformatted *LUC* and affectively, nascent people's desire to use the new reformatted code, which would be one way to do that.

Mr. Elias said, as a further point of clarification, he believed Commissioner Maher's motion said to approve as presented. He pointed out for clarification, the one page handout was to make some of the language clearer and that most of the information was pretty straight forward and did not deal with the intent of the Commission.

Commissioner Lavaty said, given the short sunset, while he actually preferred the six hundred feet, he could go along with either at this point. He said he believed it was time the amendment moved forward to the Mayor and Council.

Commissioner Williams asked staff if it meant that the amendment would come back to the Planning Commission in a year.

Mr. Elias stated procedurally, it would only have to go to the Mayor and Council if they wanted to re-up, so to speak. He said if the Council wanted to give direction to staff to make some substantive changes to it, then probably the correct procedure would be to have it come back to the Commission. He asked the City Attorney if that was correct.

Mr. Kafka stated that if there were substantive changes it would come back to the Commission and if there were substantive changes to parking code amendments as part of the reformatted *LUC* that would also come before the Commission.

Commissioner Sayler-Brown stated he needed some clarification. He said if there was already a sunset provision that they would be working towards, why was there a need for Section 3.3.8.6 (D.3) where it talked about having another review in a year. He said

he was not clear on what happened with that review and that what he heard from the business community was that issues could be raised where the City could be sued if we tell them their uses were not allowed. He stated he needed clarification.

Mr. Mazzocco stated that was written because staff assumed or anticipated the Mayor and Council would continue the ordinance. He said if they did sunset it, it would be an issue because now that property would not have to meet that requirement because it would be gone. He stated they still had their property and mitigation plan which would still be in effect and they would basically become a nonconforming property if the City moved on to a different way of doing things. He said then there was an assumption of continuation in that particular provision.

Commissioner Podolsky stated he wanted to second the motion that was on the floor.

Commissioner Maher stated he accepted the friendly motion if it was to change the fifteen hundred feet to six hundred feet for shared parking.

Commissioner McBride-Olson asked if the motion also included the recommended modification from staff.

Chair Rex stated that the motion did. She asked if there was any further discussion. Hearing none, she clarified that the motion was to forward to the Mayor and Council the proposed parking text amendments as presented by staff with a change to Section 3.3.8.7 (B)(8) from fifteen hundred feet to six hundred feet.

Upon roll call, the results were as follows:

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

Nay: Commissioners Mayer and Williams

Absent: Commissioner Watson

Motion to forward the proposed parking text amendment as presented by staff with a change to Section 3.3.8.7 (B) (8) from fifteen hundred feet to six hundred feet passed by a roll call vote of 8 to 2.

RECESS: 9:39 p.m.

RECONVENE: 9:49 p.m.

ROLL CALL: All Commissioners present as they were at the beginning of the meeting (Commissioner Watson absent)

4. GENERAL PLAN UPDATE (INFORMATION)

Chris Kaselemis, Urban Planning and Design, Planning Administrator, stated this was purely an information item and reminded the Commission that staff was working on the General Plan and wanted to share a few informational pieces with them.

Mr. Kaselemis stated that by State Law, every ten years the *General Plan* must be ratified. The current plan was ratified in November 2001, so by November 2011, the plan would need to go back to the voters to ratify the update. He said the Planning Commission's role was to have two public hearings and make a recommendation to the Mayor and Council. The Mayor and Council would then also hold a public hearing.

Mr. Kaselemis said he believed at the last meeting of the Commission, a presentation was made on the Pima County/City of Tucson Water/Wastewater Study. He said staff had to and was making sure they tied into the study because one of their goals was that they would come into agreement on population growth, water, urban form, land use planning and infrastructure. He said they also stated that land use planning must be integrated with water resources and infrastructure. He stated staff was going to start working more closely with the City Manager's Office, Nicole Ewing-Gavin, to make sure the two were being integrated and not going to separate paths since they were really talking about the heart of the *General Plan* which was land use planning and urban form.

Mr. Kaselemis stated the *General Plan* would be based on sustainability and smart growth which were their overriding principles and that they were organizing their table of contents around them. He said another thing they would be relying on was recent community visioning efforts that had gone on the past couple of years as a basis for the visioning of the *General Plan*. He stated he knew the Commissioners probably either attended or knew of; TREO Blueprint, Tucson Regional Town Hall, the AIA Sustainable Design Assessment Team (SDAT), Community Sustainability Forum and most recently the Urban Land Institute (ULI) on "Crafting Tomorrow's Built on Environment, Conversation on Regional Land Use". He said also was the ongoing 2040 Regional Transportation Planning Process and the City/County Water/Wastewater Study.

Mr. Kaselemis stated what they had heard on many of these efforts was that sustainability and smart growth were important. He said they believed, and what they were currently doing, was going through each one of those efforts, the documentation they had, and were compiling it to find the common themes. He said they were finding that there were a lot of common themes between all the efforts. He said, together with smart growth and sustainability, the vision they had heard from the community would be incorporated into the *General Plan* and they were going to rely on these documents plus other documents that came up in the next year or so.

Mr. Kaselemis said staff was currently working on developing a community participation involvement plan which was something that must be adopted by the Mayor and Council. He said they were also drafting guiding principles which gave all the parameters for all the policies that would be in the *General Plan* and were also drafting policies for each element.

Mr. Kaselemis stated that was the end of his presentation and that they would be coming back to the Planning Commission periodically to give updates, ask for input, and direction at different times.

Chair Rex thanked Mr. Kaselemis for his presentation and the brochures that gave them some information as well. She asked if there were any questions or discussion.

5. MODIFICATION OF DEVELOPMENT REGULATION (MDR) IN THE INFILL INCENTIVE DISTRICT (INFORMATION)

Jim Mazzocco, Urban Planning and Design, Planning Administrator, stated he would **not** spend **too** much time on this issue because there was actually a Sub-committee of the Commission of four members who were working on the MDR. He said, at this time, it was just to let the other Commissioners know that this was moving on and was evolving over time.

Mr. Mazzocco stated that the concept came from a 2006 Downtown Infill Incentive District Plan that was adopted by the Mayor and Council and was based on a statute available to all of the cities and towns in Arizona. He said it allowed for the creation of a district where you could allow for reduced development standards, reduced fees, and other incentives for doing development in what was classified as a distressed area that had about five criteria. He stated staff did that analysis and had an Infill Incentive District. He said what this was actually about was the creation of an overlay zone, an actual rezoning of a district, of that Infill Incentive District that allowed for modification of development standards within that district that encouraged certain types of urban infill. He said the idea, as this area was next to downtown which was a regional job center and the University of Arizona which was another regional job center, was to create that type of urban infill and provide incentives to do it that would supplement those two regional job centers. So, the draft ordinance was created and run by the Land Use Code Committee which was comprised of stakeholders from various parts of the community who were looking at the *LUC* reformat project. He said they had seen earlier drafts of the ordinance and were highly critical of the first draft shown to them in December, that it was too much “stick” and not enough “carrot.” He said they revised the draft ordinance and presented it again in January. At that time, they felt the “carrot, stick” balance was not quite there yet, so they have been continually trying to upgrade the “carrot” part and downplay the “stick” part. He stated what they were also trying to do was to get the draft ordinance to the Infill Subcommittee so that they could look at it and go through it line by line, and then bring it to the Planning Commission for a study session.

Mr. Mazzocco said there was a need to get the draft ordinance moving and that the reason was, while they were doing this, the other project they were working on was the Feldman’s Neighborhood Preservation Zone (NPZ). He stated they had been working with the Feldman’s Neighborhood and the Design Manual Committee and were getting close to creating a Feldman’s Design Manual for their NPZ. He said once they had that, once they had trotted out from the neighborhood, they would be bring it through the legislative process the City had for rezoning, going through the Zoning Examiner and then the Mayor and Council. He stated the issue was that they had to be in front of the

Mayor and Council with the Feldman's NPZ at the same time the Infill Incentive District's MDR was scheduled. He said they did not want those two to be out of sync; they wanted them at the same time. He stated this went back to the whole NPZ issue of trying to balance mixed use and neighborhood preservation. He said the main council member who was watching the progress of this and asking that the two be presented at the same time was Vice Mayor Uhlich. He said hopefully that would occur in June or July of this year.

Mr. Mazzocco stated that was the end of his presentation and because of the lateness of the evening, if any of the Commissioners had any questions, he was happy to answer them by email, phone or by attending on the of Infill Subcommittee meetings.

Albert Elias, Urban and Planning Design, Director, stated he had one last comment. He said when they had a draft that they worked through the Infill Subcommittee, the next step was to have a full study session and public hearing with the entire Planning Commission.

Commissioner Maher stated not to delay things, he was extremely curious on how mixed use and the NPZ conflict. He said that was his question and he would be calling Mr. Mazzocco.

7. IMPACT FEE PROPOSAL (INFORMATION)

Albert Elias, Urban and Planning Design, Director, stated that Chair Rex asked that this item be added to the agenda. He said he wanted to provide some background information that on February 10th, the Mayor and Council asked the group to review the idea of suspending development impact fees as a way to spur development.

Chris Kaselemis, Urban Planning and Design, Planning Administrator, stated he did not have a whole lot of additional information other than the handout that was passed out listing all of the stakeholders. He said they had four meetings and another was scheduled for the next day and one for the following Monday. He stated that Michael Guymon, Executive Director, Metropolitan Pima Alliance, who was leading the group and spoke a little bit about it earlier. He said he knew they had formed a small subcommittee of four members at their last meeting and the subcommittee was to bring back a proposal. He stated the meetings were open to the public at the Randolph Clubhouse and between he and Mr. Elias they had attended most of the meetings, as well as Mr. Kafka, who had attended all of the meetings.

Chair Rex stated the Mayor and Council was interested in the Commission's take on this particular item and were specifically asking if there were any additional comments to see if the group felt it was a good or bad idea.

Commissioner Williams said the latest and greatest buzz word had been sustainability and development paying for itself. He said that was critical for any town, to be a viable town, to have the necessary revenues to make sure that it was sustainable and they did not go further and further into the whole, infrastructure deteriorates to the point where there was no money to do it and you kind of fell apart internally. He said

what was done was that impact fees were implemented to try and balance it out because prior to that, the taxpayers had pretty much been strapped with all the costs associated with the infrastructure because development had never paid for itself. He said now, it was finally up where they were trying to get is sustainable where things start balancing out, but were really in the whole with current infrastructure. He stated to suspend the impact fees would just put the burden right back on the taxpayers and go further and further in to the whole. He said he did not know how Tucson could be a sustainable community without development paying for itself.

Commissioner Maher stated he believed impact fees were just for infrastructure at this point.

Mr. Kaselemis replied affirmatively. He said there were also impact fees for roads, parks, police and fire facilities and public facilities in general.

Commissioner Maher said he was under the impression at this point that it was specifically for roads, for increased traffic and asked if it had been broadened.

Mr. Kaselemis stated the City had five impact fees.

Commissioner Maher stated it was doing things that were beyond, and actually should have been part of the General Fund for the most part. He said, if it was just strictly infrastructure, and we had the opportunity, and cheaper by the dozen while doing RTA, for a complimentary project that would help with some of the infrastructure, he would be disappointed if we could not do that because we suspended impact fees. He stated he would be very frustrated in that, but if it was for infill and four out of the five that did not include the Houghton corridor, deferring it or suspending it for those would be appropriate, but not down Houghton with all that empty property. He said they were going to need some money down the way because the Houghton corridor was not being supported by the state, even though it was a state route, the City had to come up with the funds to do anything and everything in that area. He stated it was a tremendous area which was also on hold in terms of the twelve thousand acres Westcor was trying to develop. He said he would support suspending or deferring impact fees in the infill areas, but could not support it down Houghton where there was so much to be down and a tremendous amount of monies to be had.

Vice Chair Holland said he thought that one of the ways the City was in the current financial mess they were in now was that many people did not realize what the real or true cost of a home was. He said he felt impact fees helped clarify what the true cost of a home was, what it cost to live someplace and not just to put up walls. He stated he was opposed to rescinding, deferring, what have you, as long as the City got the money.

Linus Kafka, Principal City Attorney, stated for informational purposes and to build on a few things that had been said, there were some proposals at the state legislature. One was to add categories to impact fees that municipalities were allowed to assess; one would be to include public transportation. He said he did not know how successful that would be but it was out there. Another proposal being floated, although

he had not seen it as part of a separate senate or house bill, but had heard rumors that it would be part of an appropriations package was a state-wide suspension. He stated all of the issues brought up by the Commission had been brought up by the Environmental Stimulus Stakeholders Group who had been discussing these same issues.

Commissioner Podolsky stated he did not know if reducing the impact fee and not eliminating it had been brought up which was something he would be in favor of. He said he thought there had been a friendly discussion at a previous council meeting on the elimination of the fees, but until the first of the year, those fees were at fifty percent and had been absorbed in a robust economy. He said right now, he did not feel it could be said that we had a robust economy, so somewhere between the fifty percent and the suspension would be twenty-five percent in lieu of some of the discussions he heard that they would be delayed until a C of O was obtained, the end user was still hit with those large dollars and felt that did not stimulate growth.

Commissioner Mayer stated he was at the same Mayor and Council meeting when impact fees were discussed and that the main motion from Council Member Scott was on the issue of deferring impact fees. He said that was the motion that passed with allowing the proposed suspension to be discussed as well. He stated the “tail was kind of wagging the dog” in the staff report by saying it was suspension and other things could be discussed, but it was deferral and other things could be discussed. He said he attended two of the three meetings and thought the opinion he would offer was that deferral was a timely and good idea. He said what made sense to him were the benefits described by a representatives from the Gadston Company to a developer not to have their capital tied up while that deferral was taking place, which affected financing and a lot of other things and that there many gains to be had by a developer, by that the deferral, but at the end of the day, the fees get paid and the interest money that was saved that did not include all of the tangible benefits the developer got, would go into a different fund. He stated that was a good approach and also said, very candidly, which was the problem with their discussion earlier in the evening, was that the proponents were talking about just a suspension for a year, but if anyone had been to any of the events that had taken place, he thought we were right back to square one where this was just getting the camel’s nose in the tent, that if it was granted for a year, that group would be back pushing for a permanent suspension. Lastly, he added, Tucson was the last municipality of any size in Arizona to adopt impact fees and that other communities had been doing this for a longer time and at higher rates than the City of Tucson had been doing. He said to have to fight this fight again pained him.

Mr. Kafka stated, as follow-up, the meetings of the Economic Stimulus Stakeholders Group were open to the public and had a public comment period which provided a source for some vigorous debate.

Chair Rex stated one of the question she had was that if twenty-five million dollars had been collected to date, how were those fund utilized, were they used up, and were they in a fund somewhere earning interest.

Mr. Elias responded that not all the funds had been spent to date and that those funds were held in separate accounts for each program and benefit area to prevent

commingling of the funds. He said the City has to continue collecting the amount in order to proceed with certain projects that were in the improvement plan and that currently we were waiting for those funds to get to a certain level in order to go ahead with the project.

Chair Rex asked if there was a list of priority projects in each benefit area.

Mr. Elias answered affirmatively and Mr. Kaselemis stated that by state law, the City had to adopt an impact fee projects plan which went before the Mayor and Council as a public hearing and only projects on the list could have impact fees be spent on.

Mr. Elias stated all of the information was on the website for anyone interested going into the details pertaining to impact fees.

Chair Rex asked if impact fees were to be suspended, would it slow down some projects waiting for funds, but other projects would not because there was already money available and ready.

Mr. Elias stated the affects of a suspension meant it would take longer to get projects done and depending on how long it was suspended, it could be even longer. He said the other point was that a lot of projects were not being fully funded by impact fees, other funding sources were being used together to fund these improvements. He stated some of those sources were highway user revenue funds, which were also down. He said there was a general slowdown in terms of advancing those projects that were on the improvement plan, so suspending the impact fees would have the affect of making that longer. Lastly, he said some of those impact fees were also planned to be used in conjunction with RTA funds on a couple of major projects such as Houghton Road as Commissioner Maher mentioned, at that part of the strategy was to use impact fees as well as RTA funds to help pay for some of the larger projects.

Mr. Kafka said, as Commissioner Mayer pointed out, the suspension model as the group was calling it, would result in lost revenue to the impact fee account. He said the deferral model was actually one that was currently available through a development agreement and would not require any changes, but sort of a policy to accept development agreements that had a deferral in them in exchange for some benefits such as a contribution to the Housing Trust Fund. He stated the suspension model would be something that was different and would not require a change to the ordinance, but would require a change to the collection of fees portion.

Commissioner Maher asked what the timeline would be for the deferral.

Mr. Kafka stated there had been discussions as to whether it would be final inspection of C of O. He said he thought staff agreed that final inspection was probably the preferred mechanism for triggering the deferral.

Commissioner Maher said hold up the C of O until payment was received since currently impact fees were paid right on the spot.

Mr. Kafka confirmed that impact fees were paid at the time of permitting except for commercial shell construction. He said commercial shell impact fees were paid at the time of permitting the tenant improvement.

Chair Rex asked if there were any further comments. Hearing none, she thanked staff for the information and asked that the Commission's comments be forwarded as requested.

8. APPOINTMENT OF A COMMISSIONER TO THE GRANT ROAD TASK FORCE (ACTION)

Chair Rex announced that a request from the Grant Road Task Force had been received to appointment a commissioner from the Planning Commission to serve on the committee and that Commissioner Maher had expressed an interest in the appointment. She asked if there was any discussion or recommendation from anyone else interested.

Commissioner Maher stated the task force was looking for someone in construction and architectural experience and he liked to think he had that without patting himself on the back. He said he also served on the Citizen's Transit Advisory Committee (CTAC) for tens years, volunteered at Jim Glock's, Department of Transportation Director, suggestion to serve on the Downtown Links which was the extension of Aviation around Downtown that was existence for twenty-five years to help settle the traffic downtown so that you could get to the freeway. He stated because of his expertise as well as some of the commentary and the suggestions that the road plans were a little difficult to understand, that perhaps if the person appointed to serve had some architectural graphics, renderings, it would make it a little easier to understand the project. He said if they did finally do render findings he thought he could help the success and understanding of the project which he felt would lead the City toward the platinum bicycle city that some of the improvements would finally do for us.

Commissioner Mayer stated he did not really have an opinion of who should be on the task force but there was some history he was troubled by in terms of public participation and process in general with the Grant Road Task Force. He said first of all, there were roadway development policies adopted in 1998 and the process had veered heavily away from that. He said he believed there was suppose to be nine or eleven members from various sectors of the public and that was not being followed which has ballooned to an even larger number like nineteen or so. He stated there were some other procedural things that he would not get into at this point, but the most troubling or relevant thing for the Commission was that if you went to the website, which may have been taken off in more recent times, under frequently asked questions, there was a question about what if this plan conflicted with area or neighborhood plans in the area. The answer was that they would try and pay attention to it, but you did not know who was saying it or where it came from, and basically the answer was that the Grant Road Plan would prevail.

Commissioner Mayer did not agree with this because there were people in neighborhoods who had worked on the area and neighborhood plans, were brought in to work on them by the Planning Department given the idea that what they were doing was

significant in terms of the planning in their area. Then you go to the website and it said the planning area for the Grant Road Plan was just not along the frontage, but in actuality it was a quarter mile on each side of Grant Road, so all of these different neighborhoods engaged in the process were all of a sudden being told that they were second place to the new plan. He stated that was what had been going on too long in the community where the community got invited to be involved in something, there was a plan, and of course infamously it ended up on the shelf, but probably more importantly it got trumped over by the next plan that came down the pike. He said this was a real concern to him and had the idea it was being addressed somehow, but did not know all of the details, He said he thought if there was a representative from the Planning Commission on the task force that they could keep in mind to be mindful of the plans that the Planning Commission had sent forward with recommendations.

Chair Rex stated she appreciated the discussion by Commissioner Mayer, but at the same time she was concerned that they were way off the subject of the agenda item in appointing a Commissioner to the Grant Road Task Force. She said if the Commission wanted to put this on as an agenda item for future discussion, she had no problem with it, but felt they needed to stick to the topic at hand.

Commissioner Mayer stated he finished his comments but thought if they were talking about discussing a member of the Commission to be seated on another body, what that members charge was or what the other Commissioners thought, was fair game.

Commissioner Lavaty stated at this point he wanted to make a motion.

It was moved by Commissioner Lavaty, duly seconded, and passed by a roll call vote of 10 to 0 (Commissioner Watson absent) to appoint Commissioner Maher to serve on the Grant Road Task Force.

9. OTHER BUSINESS

a. Mayor and Council Update

Albert Elias, Urban Planning and Design, Director, stated the Mayor and Council, on February 24, 2009, adopted the Flexible Lot Development (FLD) *LUC* amendment unanimously.

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

None

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

Chair Rex stated the Commission had the Joint Meeting with the Pima County Planning & Zoning Commission and heard a review of Phase I of the Water and Wastewater Study Oversight.

10. CALL TO THE AUDIENCE

None

11. ADJOURNMENT: 10:24 p.m.