



PLANNING COMMISSION

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

Approved by Planning Commission on
September 2, 2009.

Date of Meeting: May 20, 2009

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, May 20, 2009, at 7:02 p.m., in The Mayor & 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
Kevin Burke	Member at Large, Ward 3
Rick Lavaty	Member at Large, Ward 1
Mark Mayer (arrived at 7:15 p.m.)	Member, Ward 5
Shannon McBride-Olson	Member, Ward 2
William Podolsky	Member at Large, Ward 4
Thomas Sayler-Brown	Member, Mayor's Office
Daniel J. Williams	Member, Ward 1
Craig Wissler	Member, Ward 3

Absent:

Joseph Maher, Jr.	Member at Large, Ward 6
James E. Watson	Member, Ward 4

Staff Members Present:

Albert Elias, Urban Planning and Design, Director
Jim Mazzocco, Urban Planning and Design, Planning Administrator
Linus Kafka, Principal Assistant City Attorney
Adam Smith, Urban Planning and Design, Principal Planner
Joanne Hershenhorn, Urban Planning and Design, Lead Planner
Yolanda Lozano, City Clerk's Office, Recording Secretary
Roseanne Bent, City Clerk's Office, Secretary

2. MINUTES FOR APPROVAL: April 15, 2009

It was moved by Commissioner McBride-Olson, duly seconded, and passed by a voice vote of 9 to 0 (Commissioners Maher, Mayer and Watson absent), to approve the April 15, 2009, minutes with the following corrections:

1. Page 7, last paragraph, fifth bullet, change ~~Commissioner Saylor-Brown~~ to **Commissioner Williams**.
2. Page 9, item 8, second paragraph, change ~~one, thousand~~ to **one thousand**.

3. AMENDMENT TO THE CITY OF TUCSON'S LAND USE CODE CREATING THE DOWNTOWN AREA INFILL INCENTIVE DISTRICT MODIFICATION OF DEVELOPMENT REGULATIONS PROCESS (PUBLIC HEARING)

Adam Smith, Urban Planning and Design, Principal Planner, stated staff was directed by the Mayor & Council on October 7, 2008, to initiate a text amendment for the Modification of Development Regulations (MDR) within the Downtown Infill Incentive District (IID) addressing relief to development standards and to return with a draft amendment in one hundred and eighty days for consideration and adoption.

Mr. Smith stated the boundaries shown in his PowerPoint presentation were created by resolution, and approved by the Mayor & Council in October 2006. It was largely a non-residentially zoned district. It included several major corridors leading into Downtown including, Oracle, Stone Avenue, South Sixth Avenue and a small portion of Broadway. Also included were the Downtown core and the Mercado District, which was south west of Downtown.

Mr. Smith's PowerPoint presentation included the following information:

Purpose:

To implement the policies of the Downtown Area IID Plan including:

- Enlivening and revitalizing the Downtown Area
- Encouraging creation of urban neighborhoods that are pedestrian- and transit-oriented
- Addressing barriers to infill development
- Permitting a MDR process

Mr. Smith stated that the Proposed District:

- Did not impose mandatory requirements or restrictions
- Did not affect permitted uses
- Allowed property owners to continue developing using the underlying zoning
- MDR's could not be used to waive or modify other overlay districts, e.g. design review requirement in the Rio Nuevo District (RND), nor could it be

used in conjunction with the current MDR processes for requesting a modification to the same regulation. He said this had come up in Study Session and in previous meetings with stakeholders. The MDR could not be used to reduce setbacks, then use the MDR in the RND to further reduce the setbacks. You would have to use one or the other.

- Conditions of the IID were only triggered when an MDR was requested

Mr. Smith also stated the proposed MDR allowed modifications of certain regulations such as:

- Dimensional/spatial regulations (i.e. setbacks, height, floor to area ratios, lot coverage, density)
- Parking - number of spaces
- Loading zones - number, size, & location
- Landscaping & screening
- Solid waste collection

Mr. Smith said, specifically, these regulations could not be modified by more than twenty-five percent of that permitted by the underlying zoning with the following exceptions:

- Building height may be up to sixty feet unless more was permitted by the underlying zoning;
- Distance requirement between the building and street may be reduced or waived;
- Parking as provided by the Parking Reduction ordinance and Downtown Redevelopment District;
- Loading zone requirements may be reduced or waived; and,
- Access, location, and type of solid waste collection may be modified

Mr. Smith stated these MDR's did not come for free. When requesting an MDR, the applicant must create a pedestrian-oriented streetscape that addressed the following improvements:

- Pedestrian proximity to buildings
- Pedestrian amenities
- Appropriate sidewalk width
- Shade for pedestrians

Mr. Smith, in his PowerPoint presentation, showed slides of other jurisdictions he used as examples of different design concepts. The first two slides showed buildings that were built right up to the street adjacent to the sidewalk which created greater visual interests and engaged the pedestrian. He said on the first floor of the pictured buildings, what was seen was a lot of transparency through a display window, which further engaged the pedestrian. There were trees and awnings, which provided shade and comfort to the users or passerby's to the site.

Next, Mr. Smith presented slides that:

- showed what wider sidewalks could do in creating more pedestrian-friendly environment;
- allowed space for additional landscaping, outdoor dining, bike parking areas and awnings along the sidewalk;
- showed patio dining;
- showed bike racks.

Mr. Smith stated, in looking at the IID map, many of the properties were adjacent or in proximity to existing residential neighborhoods. In order to address this, staff had included a development transition element, whereby when a project was adjacent to existing residential development, the project must provide privacy mitigation and include design features that were compatible with the scale and form of the residential development. Some of the privacy mitigation techniques included not locating balconies or windows that overlooked a residence's side or rear yard. He said some of the design features might be stepping back the massing or height of the building as you got closer to the residential development.

Mr. Smith said every MDR must meet a series of findings. He gave a sampling of five out of the nine findings in the Ordinance. He said a project must:

- benefit the surrounding area consistent with the goals of the IID Plan;
- have no significant adverse effect on adjacent properties;
- effectively implement streetscape design best practices;
- be in a form and scale consistent with urban surroundings;
- not cause excessive drive through traffic or habitual parking within the residential neighborhood.

Mr. Smith stated the MDR would be processed using the same procedure as the recently adopted Flexible Lot Development (FLD) and the C-1 Liquor License Mitigation Plan. The process required a neighborhood meeting in which notices are sent out to property owners within three hundred feet and neighborhood association representatives within a mile of the site. There was also a notice when an application was submitted that went through staff review. He said the director made the final decision on the plan and, at that time, another notice was sent out to the same people that had been previously noticed throughout the process that there was an option to appeal the director's decision to the Mayor and Council.

Mr. Smith said the draft the Commissioners had in front of them was not created in a vacuum. Input was received from numerous stakeholder groups, including neighborhood representatives, infill developers, the Land Use Code Committee, which was a group of about 25 people with a diversity of backgrounds including neighborhood representatives, developers and even some people from local non-profit organizations. He said the Planning Commission Zone Infill subcommittee and The Development Services Department (DSD) have both reviewed the draft. Staff made the necessary adjustments to the ordinance in response to some of their comments.

Mr. Smith stated the following recommendations were influenced by the stakeholders:

- revision of parking standards;
- reconsideration of earlier resource conservation standards that were more restrictive than the *Land Use Code's (LUC's)*;
- expansion of the development transition standards;
- Revision of the review and approval process to include neighborhood meetings public notices and options to appeal.

(Commissioner Mayer arrived at 7:15 p.m.)

Mr. Smith continued stating some of the other issues staff had been informed about by neighborhood representatives were their concerns the MDR would limit the future redevelopment or the reuse of a property. This was specifically in regard to a reduction in parking. He said the neighborhood representatives were concerned that it would somehow prevent properties from being used by another type of use in the future. He said it was a general sentiment that investment in neighborhoods was needed first in order to make the IID attractive to investors. Approval should be based, in part, on a finding that there was sufficient density nearby to support the proposed use, the effect on the adjacent neighborhoods, developers should pay the fees for neighborhood appeals, and terms like adversely affected should be clarified. He stated he received two specific requests concerning revisions to the IID boundaries to exclude two of the contributing properties along Speedway in the Feldman's Historic District and to exclude a community garden on property in the Dunbar Springs Neighborhood. He said there was also concerns on the effect of historic buildings. He stated developers felt the MDR was not incentive enough to invest in the IID, crime rates were too high, and general building conditions were not sufficient enough. Developers did not want to be the first ones to go into the area and invest their money. He said the more certain the process, the more likely developers would use the MDR. Downtown would have market driven parking which basically said there should not be parking regulations Downtown, but let the market determine how much parking was required, and conversely to the neighborhoods that expansion of the IID boundaries should be expanded in an easterly-westerly direction, particularly along Broadway.

Mr. Smith stated the next step for the Downtown Area IID MDR was to present it to the Mayor and Council in August 2009.

Jim Mazzocco, Urban Planning and Design, Planning Administrator, asked if Linus Kafka, Principal Assistant City Attorney, could address the commission on the issue of the boundaries.

Linus Kafka, Principal Assistant City Attorney, stated that on the IID itself, the boundaries that were determined under a process was statutorily defined under the Arizona Revised Statutes (A.R.S.) § 9-499.10. He said there was a process for putting those boundaries in place that included studies and analysis of specific standards, which contained revisions for identifying neighborhoods that had high vacancies, substandard

construction, and those types of things. He said the boundaries of the zone were determined by the boundaries of the IID. He added that the IID could be changed but it would need to go through the statutory process that determined the original boundaries. He said small modifications that may be typical in a zoning context, could not be achieved there, unless the boundaries of the IID were changed, because the purpose of the IID overlay zone was to implement the district.

Chair Rex stated the IID boundaries did not go through the Commission in the first place and that they had no control over them. She asked could the Commission have the authority to make those changes if they wanted to.

Mr. Kafka responded she was correct, and it was a Mayor and Council initiative that required the same process to change the boundaries. He stated it would not be in the Commission's authority to make the changes but the Commission would have the authority to suggest the boundaries be changed with the understanding that it would be through the Mayor and Council's initiated process as was done some time ago.

Before proceeding with the Public Hearing, Chair Rex stated she had a question on handicap accessibility. She said there were examples of other Cities where buildings were brought in closer to the street. She stated she recently visited San Francisco and sat at one of those little shops right on the sidewalk. She said there was no way someone in a wheelchair could have gotten by. She asked how staff could make certain to maintain accessible routes when a building was brought up closer to the building and there would not be as much room to work with (i.e., how could staff ensure that those routes were maintained on the sidewalk portion). She stated the difference between San Francisco and Tucson was the requirement of erecting a little fence between the liquor services and the sidewalk. She added, if there was a little fence put in, there would need to be handicap access inside the fence, as well as outside, which then necessitated a wider space. She asked how it would all work with the location of the property line, location of the building, and the accessible routes.

Mr. Smith stated one of the questions the applicant would be asked was if they were going to propose outdoor dining. If that was the case, they would need to be sure the sidewalk was wide enough to accommodate that. He said it meant setting the building a little further back than putting it up to the property line, or putting in an alcove. He stated staff would need to make sure of that. He said if it was after the fact, it would be a zoning violation.

Albert Elias, Urban Planning and Design, Director, stated it would be an enforcement problem, a violation. He said the other thing to keep in mind was that one could not use a public right-of-way for things like patio dining without having a license agreement granted by the City. He said as part of that process, one of the things staff would check for would be what sort of accessibility the applicant would be providing. He said if someone went in with a project to build right up to the property lines, staff would ask the applicant how they would provide accessibility. If the applicant said they were just going to use the existing sidewalk for the accessibility, then it would be incumbent on the planners to make sure there were no other barriers in that public right-of-way that would prevent the accessibility.

Chair Rex stated the Public Hearing was open. She said she had two people who had filled out cards to speak, and if anyone else wanted to speak, to fill out a speaker card. She stated speakers had three minutes to speak and that the timer would show green to start, yellow when they had thirty seconds left, and red when time was up. She asked speaker to state their name and address for the record.

Margaret Avery Moon, Moon Family Properties, stated she was very much in favor of the whole project. She stated she had been a business owner in the area of Sixth Avenue and Fourth Street and was currently a landlord there. She stated there were a lot of small business people who owned their property or rented property Downtown. She said she felt like Tucson was very much supported by their businesses, but in order to modify older buildings to fit the current compliances when there was a change of use, it was extremely costly. She stated she had personally spent over two hundred fifty thousand dollars on nothing but meetings and small items just to get a Certificate of Occupancy for tenants. She stated she felt these changes of land use codes to accommodate an incentive for businesses was going to be more of an incentive for the small business and maybe not the big developers. She said her property was not included in the process and with Sixth Avenue possibly becoming a two way street, she saw it as a major street in her neighborhood. She said that she would like to see a process in place to change the overlay.

Teresa Bommarito, Downtown Tucson Partnership, stated she wanted to thank staff for their work on this important issue. She said, as everyone knew, revitalization did not happen by itself. The City could help by removing regulations that impede Downtown revitalization and parking requirements that got in the way of adaptive reuse of important historic buildings contributing to Downtown's unique character. She stated heritage buildings with ample on-street parking or available off-site parking should not be forced to undergo strict parking regulations. She said no one wanted to see these buildings remain, become vacant, or unusable eyesores for the community. She stated this was a prime example of how removing barriers was both the easiest and best solution from their perspective and she had no doubt that removing these parking requirements would help the City's revitalization efforts.

Andy Mosler, Iron Horse Neighborhood, stated according to the map, the Iron Horse Neighborhood seemed to be the only residential neighborhood that was included in the district. He said this concerned him and did not know whether or not people from Iron Horse were involved in the discussions. If they were, the information did not get back to him or his wife. He stated he and his wife lived in the middle residential section of Iron Horse and there were about eight residential blocks, all single-family homes, some duplexes and a couple of apartment complexes. He did not see how this type of development, along Stone Avenue or Downtown, was going to be appropriate for his block and the inside of his neighborhood. He said he was concerned this would create an incentive for a landlord next door to tear down a historic house and basically create a mini-dorm or a student apartment complex.

Mr. Mosler stated, since his neighborhood was the only residential neighborhood included, it made him wonder if the City and the County saw them as the backyard for

the University and were trying to chase out single-family homeowners to replace them with apartment buildings for students. He said he was greatly concerned that the Iron Horse Neighborhood was not included. He said there might be a couple of blocks in the neighborhood that might be appropriate for inclusion, but thought that his block was not. He said there was a commercial corridor on Ninth Street with some potential, but most of those buildings were presently being used as residential and had not been used as commercial for many years. He stated that he felt Iron Horse should be drawn out of the district because it was not appropriate for it to be there.

Chair Rex thanked the speakers for their comments. She added she wanted to point out that there were specific requirements in the overlay zone for development transitions, so if there was a residential area in the overlay, there was a requirement that any adjacent development be transitioned. She said if someone wanted to tear down a house and build something sixty feet tall in its place, that was not necessarily compatible, this was something that they had covered in the draft. She asked staff if they had anything else to add to her point.

Mr. Smith stated one had to go through a process that required a neighborhood meeting and notice to the surrounding property owners, and that it was not something they could sneak through, rather something that would receive a lot of public review and comment.

Mr. Mazzocco stated part of the provision was that a neighborhood meeting was needed, review by staff with the conclusion or decision, sent out to the surrounding property owners. The surrounding property owners could appeal the decision to the Mayor and Council.

Chair Rex stated there was basically a methodology for protest if the surrounding property owners felt that the transition was not adequate.

Mr. Mazzocco responded affirmatively.

Commissioner Williams asked if staff knew why the Iron Horse Neighborhood was included in the draft because it appeared it was built out there and had existed for a long time.

Mr. Elias stated it was to include the Ninth Street Corridor.

Chair Rex stated there were no other requests to speak. She asked if there were any other questions, and if the commissioners were prepared to close the public hearing.

Commissioner Williams stated he had a question about the requirement for buffers. He said this was brought up in both the subcommittee meeting and the last meeting; it was the correction he had made to the minutes. He said on page four (B)(4), it still did not require the buffers to take place, it said "landscaping buffer yard should be used," and that did not require buffers. He said it just said they might be used or they might not. He stated if you had a sixty-foot building going in adjacent to a residential area, there is no "should", the word should to be "shall". He said this was previously

brought up and staff said that they were going to correct it, which had not been done after two requests.

Mr. Smith stated he would change the wording but that there was some vacillation between the words “should” and “shall”, even at the subcommittee level. He said he would change the wording to “landscaping buffer yards shall be used.”

Chair Rex stated she thought the reason they were going back and forth was because there were other buffer yard techniques than landscaping.

Commissioner Williams stated that was correct. He said another point was that landscaping was not always the best buffer and sometimes there were other buffers that worked better than landscaping. He said it needed to be written to include additional buffers as well. He said landscaping was often preferred but was not always the best.

Mr. Mazzocco stated he did not really know if the Commission really wanted the word “shall” because then it would become mandatory. He said this was a process to find out if an effective buffer was in place. He said the entire section was about effectiveness of a transition from whatever was being built to what was already in existence and one of the findings was that you could not create a nuisance on that property. So one of the techniques used could be landscaping, but there could be other techniques. He stated in some situations, landscaping would be totally inappropriate because it did not fit but you could use other techniques to preserve a person’s privacy from having intrusions. He reminded the Commissioners that they were dealing with many different scenarios including corridor and downtown scenarios, and that, in order to be effective, they had to have findings to make sure goals were arrived at and met the idea of an effective transition. He said there were several professional designers on the commission who could comment but were trying to avoid saying that was the way to do it. He stated it was more of a suburban versus an urban mentality of buffering where you had to adjust to where you were.

Commissioner Sayler-Brown said he agreed with what Mr. Mazzocco had said plus they had the requirement to present to the neighbors so that discussion about how they were screening would come out as well. He said he would like to maintain that flexibility.

Commissioner Lavaty said if they lost the references to landscaping and used something such as, “Buffers shall be used between any new development and existing residential. Where provided, buffers must be of a type and size, set back and width to reduce view intrusion into the adjacent residential property.” He stated this would leave the design review people with a little more flexibility. At this time, he asked if the public hearing was still open.

Chair Rex answered, affirmatively

Commissioner Holland stated the wording “buffer shall be used”, in his mind, for some reason, the word, “buffer” sounded awfully passive. He said if something existed that might qualify as a buffer, might be acceptable if there was appropriate distance. He

asked if there was some way to add language that made it affirmative, i.e., “shall be designed”, so that someone had to do something so they could not just say they were far enough apart and they were just going to leave it. He said he understood that there was a design review but “a buffer”, sounded to him, and maybe to a lay person, as a word that could mean just a “gap”. He said he would like to see some kind of affirmative language that required somebody to do something in the buffer.

Commissioner McBride-Olsen stated she thought, in section B, you had to have a development transition element if a project was adjacent to an existing residential development. She stated she felt the Commissioners were nit picking at the wording which seemed adequate as it was written because it already stated, emphatically, that you had to have a development transition element. She stated whether or not that element was with landscape buffering or windows placed in strategic places as Commissioner Saylor-Brown stated, was to be left up to the designers and the review board.

Chair Rex clarified that the wording, if left like it was, stated that landscaping was a preferred method, but if there was a transition and it needed all of these things included in the transition so if there was anything to be said about landscaping was that it was a preferred, it was not a directive.

Commissioner Mayer stated that code language implored the term “should”. He said he felt there should be some kind of mandate and if there were alternatives to meet that mandate then that was what codes were about. He said the term “should” should be used in planning documents not in the code.

Chair Rex stated since there were no more speakers, the Commissioners should go ahead and close the public hearing so that they could continue their discussion if any, or make a motion on the item.

Mr. Mazzocco stated he wanted to bring up a point, the person did not show up to speak, but there was an issue of a person in a historic building who wanted to use this particular provision. He stated they were currently using the parking reduction ordinance to provide parking reduction scenarios. In the historic building, there were no parking spaces on the site and that was a gap in the ordinance. Another gap in the ordinance was if you used those parking reduction ordinances, it prevented you from applying them to a restaurant. He stated they were creating an urban infill district and were only allowed parking reduction to things that were not restaurants. He said this was an anomaly discovered in conversation with this person, who had a perfectly good historic building, wanted to put a restaurant in it but had no parking, and with this ordinance as it was written, did not help him very much. He said thought if there was a historic building that had an existing pedestrian area, maybe the on-street parking was adequate for that building to exist. He suggested the Commissioners, in their deliberation, might consider wanting to tweak, when there was historic buildings, as the parking requirement allowing use of the on-street parking, and not require them to create an on-site parking because they do not have any.

Chair Rex stated she thought they had already allowed on-street to be counted as part of the other ordinance.

Mr. Mazzocco stated he thought that could be done in the individual parking plans, however, this was referential to the parking reduction ordinance, and excluded restaurants. He said in this particular case, the urban IID excluded restaurants from using a parking reduction ordinance and they might not want to do that.

Chair Rex asked if restaurants were excluded from the 8.72, in the individual parking plan.

Mr. Mazzocco stated it was only if there was a multiple use setting; the individual parking plan was used. He said that was acceptable when applied across the city. When you applied it in an urban IID, you did not want that restriction on that particular parking reduction. He said this was where the Commission might want to tweak the ordinance.

Chair Rex asked, if by tweaking, was he saying to modify that ordinance instead of the ordinance they were presently speaking about.

Mr. Mazzocco answered affirmatively. He said when that parking reduction option was applied in the IID that restriction on restaurants should not apply.

Chair Rex asked if that language would go under this ordinance or under the previous one, and where in this ordinance would that be inserted.

Mr. Mazzocco stated it would go under the present since it was referencing those ordinances. He stated he would have staff find where the insertion would take place.

Chair Rex stated before voting to close the public hearing, she wanted to acknowledge the receipt of a letter from The Southern Arizona Home Builders Association, (SAHBA), which supported this amendment and encouraged the City to find additional ways to help spark economic development in the City. She stated she had not received any other written notifications other than what the staff referenced.

Chair Rex asked if there was a motion to close the public hearing.

It was moved by Commissioner Lavaty, duly seconded, and passed by a voice vote of 10-0 (Commissioners Maher and Watson absent), to close the public hearing.

Chair Rex stated the public hearing was closed and asked if there was any further discussion.

Mr. Mazzocco stated the provision for the exemption of restaurants in the parking ordinance was located on page two, section D (3) Parking. He said this was where some kind of wording was needed on the exemption of restaurants and bars, if they wanted to say bars or restaurants only, did not apply in the IID.

Commissioner Burke stated he would like to see the revised language from staff on the parking regulations. He said he also wanted to bring up something that was discussed at the last meeting, but thought they could discuss it again. He said on page

three, section 2.8.12.5 (1) (A) required streetscape elements. The Commission had talked about these enumerated elements that were going to be required. He said in section two, there were additional requirements, which he felt the Commission might be able to clean up. He stated he was previously concerned with pedestrian lighting and felt that pedestrian lighting was one of the required streetscapes under section A-1. He thought the other requirements, B and C, were onerous to development, and, if staff suggested something like green roofs or green wall technology this would be an additional financial burden on the development, thus, making their projects unfeasible. He stated his streamlining idea was to move the pedestrian lighting into the required streetscape elements and then either leave the other requirements as optional or eliminate them all together.

Mr. Mazzocco stated he did not know if staff wanted to make every single development that came forward to require streetscape or street lighting. He said in trying to address so many different types of development scenarios, it made absolute sense in some cases, that they had the street lighting situation, but in others where you had a historic building maybe the light from the building was good enough. He stated now what the Commissioners were saying was to go back to everything that had to do with “no matter what.” He said he was not sure if that particular provision was necessary to put in every single situation. It was put in to require the developer to look at other options of design for their property that were amenable but might not fit every situation and allowed them to pick among those to expand the design techniques on their property. He said he understood there should always be places that were lit, but he did not know if it fit in every situation. He stated it was obviously wanted in certain Downtown situations when necessary, but was a bit leery of requiring everybody to have streetlights. He said he looked to the designers on the Commission to correct him if he was wrong in saying that because it was acceptable as an option he did not know if it should be made mandatory.

Chair Rex stated this situation was overlapped with the building code, and building code required, for exiting purposes, that it be lit minimally, so, depending upon how the doorways and the exit pathways occur in relationship to the streets, it may or may not make a difference to this.

Commissioner Podolsky stated he concurred with Mr. Mazzocco and believed that flexibility needed to be retained in the document, particularly, if there were rules on top of rules that hindered them from creating the urban fiber that they were looking for.

Chair Rex reiterated the building code already required it so there would be some minimal lighting, at least at the doorways.

Mr. Elias stated he wanted to add something on the collector and arterial streets. He said he believed they were all lit with the exception of a segment on Twenty-Second Street. He stated, if he remembered correctly, all of the other arterial and collectors had at least streetlights, and it was not that same as pedestrian lighting, but staff knew there was some lighting with the exception, of the segment on Twenty-Second Street, which was not lit but when the segment is widened under the RTA project, it would get street lights.

Chair Rex stated that was a good point. She said she appreciated the point about being so specific on item B, regarding the green roofs. She stated they were trying to get a reduction in heat islands, so to be so prescriptive, she thought, was not perfect but did not think it was necessarily something they had to change at this time unless someone really felt the need to. She stated she thought Commissioner Holland's point of perfection was the enemy of good.

It was moved by Commissioner Sayler-Brown, duly seconded, to forward the item to the Mayor and Council for approval.

Chair Rex clarified the motion by stating Commissioner Sayler-Brown, seconded by Commissioner Podolsky, moved to forward the item to the Mayor and Council as written, without modification. She stated even though they had several discussions that did not stick, the only one to add was the one for restaurants and bars for the parking.

Mr. Mazzocco stated staff had no objection if it was bars and restaurants. He said they were in an urban Infill District, a Downtown District, and having both of those was appropriate. He stated the document would read something like, "the exemption of bars and restaurants did not apply in the IID, under the parking provision."

Chair Rex asked staff if specific findings were needed as part of the motion.

Mr. Mazzocco stated that it was always a good habit to give findings for their motions. He said the Commission could reference staff's report because staff listed their reasons for recommendations.

Chair Rex stated the Commission had to come up with their own. She said the clarified motion was to accept the staff recommendation to forward this item to the Mayor and Council for approval with the inclusion of the parking reduction allowance for both restaurants and bars. She asked Commissioner Sayler-Brown if what she stated was correct and if Commissioner Podolsky agreed. Commissioners Sayler-Brown and Podolsky answered affirmatively.

Chair Rex asked if there was any further discussion.

Commissioner Williams stated he wanted to make a friendly amendment to the motion to include on page four, (B) (4) that "buffers shall be used." He stated there could be a big issue with buffers, especially if you allow a sixty-foot high commercial building adjacent to a residential area. He said some type of buffer was needed and appropriate to protect neighborhoods. He stated since buffers were needed, the wording should be "shall", not necessarily requiring landscaping as the buffer but buffers "shall" be required.

Chair Rex stated there was a friendly amendment to the motion. She asked if the motion maker and the seconder accepted the friendly amendment.

Commissioners Saylor-Brown and Podolsky both agreed that the word landscaping would be removed and “buffers shall be used between any new development and existing residential” would be stated.

Commissioner Holland stated he wanted some clarification from Commissioner Mayer. He asked if they were going to get into a construction problem with the language by using “shall” in a planning document.

Commissioner Mayer confirmed “shall” was the correct language to use.

Chair Rex stated the friendly amendment had been approved by both the motion maker and the seconder. She asked if there was any further discussion on the item, and for the Commissioners to verbally make some findings.

Mr. Elias stated he had a couple of findings. He suggested, per staff, 1) the amendment was consistent with the goals of the Downtown Area IID Plan; and 2) was consistent with other regulations that were intended to revitalize and reuse existing structures as well as new structures in an urban context as defined by the IID.

Commissioner Lavaty stated he had a third finding; 3) that the language in the amendment is a result of the substantial amount of input from the stakeholders and the public through the subcommittee process.

Chair Rex stated there were three findings to the motion. She stated there was now a motion, which had been amended and approved with findings, and asked for a voice vote.

Amended motion to forward the item to the Mayor and Council with findings was passed by voice vote of 10-0 (Commissioners Maher and Watson absent).

4. CITY OF TUCSON’S LAND USE CODE AMENDMENT TO THE PLANNED AREA DEVELOPMENT ORDINANCE (PUBLIC HEARING)

Adam Smith, Urban Planning and Design, Principal Planner, stated that this item was a companion amendment to the Infill Incentive District (IID) item. He added some background by stating the following on the Planned Area Development (PAD):

- Involved an area for which a comprehensive zoning plan had been prepared indicating potential sub-areas, permitted uses, and the development regulations;
- Used when existing zones were too cumbersome to create a more comprehensive development scheme;
- Established through a rezoning legislative process with public participation.

Mr. Smith stated that the purpose for the PAD amendments were to:

- Implement the policies of the Downtown Area IID Plan; and

- Create a tool the City would use to implement such urban design plans as the Downtown Links plan.

Mr. Smith stated there were three key amendments proposed. He said the current draft was as follows:

- Exempted projects within the IID from the forty-acre minimum site area requirement (Sec. 2.6.3.5.B). Currently, there was a forty-acre minimum site area requirement. If there was a project less than that, you had to go to the Mayor and Council for approval prior to submitting an application for the PAD rezoning.
- Allowed modifications to certain submittal requirements for projects within the IID (Sec. 2.6.3.6.A). Specifically, this had been narrowed to the site analysis section, where it required a number of things. Mr. Smith added they were asking that certain types of projects could request a modification to the site analysis requirements. For example, in an adaptive reuse project, if there was a building already in existence there, they would ask them to do a geology study which may not be necessary or to do some other type of analysis that was required by that section.
- Clarified that PAD's could include existing rights-of-way (Sec. 2.6.3.5.C). This was more of a clarification that said, if a project spanned existing right-of-ways, multiple PAD applications were not necessary, instead, the applicant would go in with one uniform project and application.

Mr. Smith stated, similar to the IID, staff was hoping to go to the Mayor and Council in August for review and approval.

Chair Rex asked the Commissioners if there were any questions before opening the Public Hearing. After hearing none, she declared the Public Hearing open. There were no speaker cards turned in and no one in the audience wished to speak. She asked the Commissioners if they had any questions or, if there was a motion to close the public hearing.

Commissioner Williams stated he had a question. He said on page two of the draft ordinance, item C, in the new sentence, it stated, "a PAD district might include existing right-of-way, provided the district was planned and developed on a unified basis." He asked what that meant and stated he had follow up questions.

Mr. Smith stated, for example, one of the amendment goals was to implement things like the Downtown links plan that included the area just north of the railroad tracks and was now largely an industrial area. He stated the area was divided by rights-of-way on every block, and if someone came in with a PAD amendment that covered the twelve-block area, staff wanted to clarify that as long as it was a unified PAD going in, an individual application for each block in that area would not have to be submitted. He said this way, one application would reflect a uniform integrated plan for the whole twelve-block area.

Commissioner Williams asked if it also meant you could include that in the density calculations and all those types of things as well.

Albert Elias, Urban Planning and Design, Director, stated that he thought the idea was not to specifically be permissive with the right-of-way. He said the idea was the right-of-way would stay right-of-way, but could see some circumstances though, where a developer or a PAD applicant, could ask to abandon an alley in an effort to consolidate a full city block. He stated there was a separate process that would have to be gone through in order to abandon an alley. He said you could not do that through a rezoning process but, as pointed out, the objective was if you were allowed multiple properties to be comprehensively planned and developed, that was the goal.

Commissioner Williams stated he understood the goal and it was a good one; but it appeared to him that there were other ways or interpretations that could go forward, above and beyond, what staff was thinking or trying to use this for and might be “stuffed” down staff’s throat.

Mr. Elias stated he thought staff’s intention was not to change the status of what was privately owned or what was publicly owned, but to make sure it was looked at comprehensively as part of the PAD rezoning.

Chair Rex stated when you do not change the public versus private that meant the ratios that Commissioner Williams was mentioning could not change unless they actually purchased the right-of-way.

Mr. Elias stated that was correct and the City could not sell right-of-ways or allow them as part of a rezoning process. He said it would take a separate action by the Mayor and Council to do that.

Commissioner Williams asked if that was covered elsewhere.

Linus Kafka, Principal Assistant City Attorney, stated the district could include areas that were not developable legally, such as a right-of-way, without some further process. He said the inclusion in the district did not grant rights, and that would have to be received through a separate process.

Commissioner Williams said he wondered, and he wanted to make sure, this was not just all inclusive there and that it was unattended consequences by some language like that.

Jim Mazzocco, Urban Planning and Design, Planning Administrator, added staff included that because of a problem they had in the past, so that for the future it would solve problems such as this.

Chair Rex asked if there was any further discussion or if there was a motion to close the Public Hearing.

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

Chair Rex asked if there was any further discussion.

Commissioner Williams stated there were some typographical errors in the document that needed to be corrected. He said, on page 3, items A-C, it states “the Development Services Departmentg.” He said that needed to be looked at.

Mr. Kafka stated the City was still trying to determine what the name of the department would be after the reorganization. He said that was one of the proposals. He jokingly stated he believed it indicated organic process.

It was moved by Commissioner Lavaty, duly seconded, to forward draft PAD to the Mayor and Council for their review and approval, and that the Commission attached two of the same findings they used for the companion piece.

Chair Rex stated there was a motion and second, and asked if there was any further discussion. Hearing none, she asked for a roll call vote.

Upon roll call, the results were:

Aye: Commissioners Burke, Lavaty, McBride-Olsen, Podolsky, Saylor-Brown, Williams, and Wissler, Vice Chair Holland and Chair Rex

Nay: Commissioner Mayer

Absent/Excused: Commissioners Maher and Watson.

Motion to forward the Planned Area Development Ordinance with findings to the Mayor and Council for review and approval was passed by a roll call vote of 9-1.

5. GRANT-ALVERNON AREA PLAN (GAAP) AMENDMENT (PA-09-01) (STUDY SESSION)

Joanne Hershenhorn, Urban Planning and Design, Lead Planner, stated the applicant was Mike Grassinger of the Planning Center, on behalf of the property owner, Abraham Flilaty, Fort Lowell Park, L.L.C. She stated they were seeking to amend the *Plan* to allow office use in an area where the current *Plan* only allowed for residential use.

Ms. Hershenhorn’s PowerPoint presentation contained the following information:

- A location map of the proposed *Plan* amendment site;
- The site was a small 1.3 acre site that consisted of two parcels;

- It was located on the south side of East Fort Lowell Road, half way between Alvernon Way/Columbus Boulevard, the Rillito River and River Road to the north, and Swan Road about a half mile to the east.

Ms. Hershenhorn stated the site might look familiar to some of the Commissioners because in 2007, the same applicant and staff brought a very similar proposal before them for the parcels just west of the current amendment site. She said it was the same situation, to amend the *Plan* to allow office use where the current use only allowed residential use.

Ms. Hershenhorn gave some background information stating the Mayor and Council approved amending of the previous *Plan* amendment in 2007, for the parcels west of the current proposed amendment site. She said in June, the Mayor and Council authorized the rezoning to O-3 on those parcels. She stated the applicant was asking for the same zoning on the current proposed parcel. She continued by providing the following information in the proposed change in land use designation:

Existing (currently):

- High-density residential along Fort Lowell Road on the northern part of the site, and low-to medium density along the southern portion of site.

Proposed:

- High density residential and office use on the entire site.

Ms. Hershenhorn, in her presentation, displayed various maps that showed the diverse land uses in the surrounding area of the proposed amendment site. She showed several ground photos to get a perspective of what the site looked like, and said the photos were taken looking generally south to Fort Lowell. She also stated that one photo was taken standing in the parking lot of the adjacent apartment complex. Her presentation contained the following information:

Plan Policies:

- GAAP and General Plan (GP)- compatible development
 - primary access to arterial street
 - screening and buffering
- GAAP - development of vacant property
 - stabilize neighborhood edge
- GP - quality in design
 - improve visual character and streetscape
 - integrate land uses

Issues:

- Compatibility with adjacent residential uses
- Stabilize and improve neighborhood edge
- Enhance the site and streetscape appearance

Recommendation:

- Schedule the item for Public Hearing at the July 1, 2009, Planning Commission Meeting

Ms. Hershenhorn stated the applicant was in attendance and wanted to make a short presentation to the Commission.

Chair Rex stated it was acceptable for the applicant to present, but asked why the item would go to the July meeting instead of the June meeting.

Ms. Hershenhorn stated there was not enough time for the mail outs and notices before the June meeting.

Mike Grassinger, The Planning Center, stated that his client had acquired an additional piece of property in the area which was a house located adjacent to the plan amendment site. He showed on a large map the surrounding area of the site. The map showed the office buildings that were approved in the rezoning for the development plan. He indicated on the map what the site would look like if the amendment was approved and after the buildings were built. It showed where the entrances and exits would be located and how they wanted to make sure not to bother the residences in the adjacent apartment complex. He stated he felt they would be doing a type of clean up along Fort Lowell because, as mentioned before, as a result of this rezoning, the right-of-way was dedicated to the City for the widening of the section. He said that little piece of property they were working on would be the last part of getting the full right-of-way, which was very good for that area. He said in talking to the neighbors, they had expressed they wanted improvement there because there was no turn lane and it had been a big issue. He stated the traffic issues were not good, especially since North Alvernon Way went across the river. He said what they were proposing was another office building located at the front of the property and pushed as far away from the adjacent residences as possible. He said this two-story building was intended to be a separate self-contained standalone project with pedestrian connection through and without vehicular connection to avoid directing traffic past the back of the homes. He stated emergency and fire vehicular access could be there if the City and the Fire Department desired it. He stated they had a neighborhood meeting and two people attended; one person was from the Ward 2 Council Office and the other was Roy Garcia, President of the San Carlos Neighborhood Association. He said both attendees expressed their satisfaction with the plan and they discussed how one side of the building would have only clear windows on the second floor so there would not be any issues with privacy. He closed by saying that he thought it would be a positive asset to the neighborhood.

Commissioner Williams asked if his client planned on buying out the residential area that was going to be island.

Mr. Grassinger stated his client had no intention of that and they had no intention of selling.

Commissioner Williams stated he was wondering how appropriate it was to have a residential island right in the middle of an O zoning. He said that was something that you did not typically want to take place.

Mr. Grassinger stated he did a lot of rezonings and typically everybody hated apartments and loved offices near residential because it was busy eight to five, five days a week type of use. He stated what they did was isolate or buffer the apartment building from the adjoining neighborhood uses and thought that was one of the positives that the neighbors had seen in the plan.

Commissioner McBride-Olsen stated she wondered if the reason they were going for O-3 zoning was because of the building height. She said it was a bit disconcerting because it was just a little skinny lot and there was just that one little piece in the corner that was single-family residence, but with that long skinny lot it seemed like the only thing you could put in there was parking.

Mr. Grassinger stated that correct, they were going to put in parking as well as landscaping along the edge. He also said they had tried to match the setbacks of the other buildings. He stated it was already zoned R-3 which could be an expansion of the apartments. He said when they went through the neighborhood meetings, the neighbors stated they preferred offices to more apartments.

Commissioner McBride-Olsen stated she could appreciate that the neighbors were interested in preserving the neighborhood with offices rather than apartments.

Chair Rex stated one of the other questions at the neighborhood meetings was the location of the loading zone and she asked him to identify that.

Mr. Grassinger showed the Commission where the current loading zone was, but said they were trying to relocate it to the other side of the parking if they could, but there were setback issues on both sides. He said that was one of the details they had to work out.

Commissioner Holland stated he would like a note to discuss future safety and security issues because what they were going to have next to people's backyards was a very off-the-street, very cloistered place, to be doing a whole lot of bad stuff off a very busy street. He said depending on how the property was secured, people were going to be pulling, in dealing drugs, shooting up and all manner of badness in the area of these people's homes. He wanted it put in the *Plan* somehow that one of the major concerns was going to be how the place was monitored at night.

Mr. Grassinger stated he hoped none of that happened and whoever eventually owned and built on that property, would protect their own property values. He said his client had fenced the property and was a real positive because there were a lot of homeless and so forth hanging out there. He stated that was something his client was very sensitive to.

Commissioner Holland stated he was not accusing anybody of anything but was simply saying that when he saw this in his day job, the two hundred - three hundred feet back, presented danger waiting to happen. He said there was an entrance and people were able to jump over a wall, get into a drainage ditch and get away, and the cops could

only get in one way. He said he was saying he wanted a note somewhere saying security issues would be addressed, at some point, with regards to all times and not just the nine to five.

Commissioner McBride-Olsen stated she did not remember the reasoning the applicant had not connected the two lots so they could have drive all the way through. She asked if it was to knock down the traffic pattern near the residences.

Mr. Grassinger stated that was the main reason, and there really was not another. He said if it was a preference to have a loop system that he was sure they could work something out, push it to go in on one side and come out on the other side. He stated he was sure there was some kind of design way to deal with that, but the original intent was to discourage through traffic for the benefit of the neighbors.

Chair Rex clarified that most of that level of detail would come out in the rezoning. She asked if there were any further comments, questions, or a motion. She stated staff's recommendation was to set the item for a public hearing in July.

It was moved by Commissioner McBride-Olsen, duly seconded, and passed by a voice vote of 10-0 (Commissioners Maher and Watson absent) to set this item for Public hearing at the July meeting of the Planning Commission.

6. OTHER BUSINESS

a. Mayor and Council Update

Albert Elias, Urban Planning and Design, Director, stated Parking Reduction Land Use Code Amendments that the Commission recently considered were approved by the Mayor and Council at their May 5, 2009 meeting and would take effect on June 5, 2009.

b. Other Planning Commission Items (Future Agenda Items for Discussion/Assignments)

Commissioner Holland requested that residential storage (residential junkyards) and the storage code system be made a future agenda item. He said he would be happy to make a presentation.

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

Commissioner Sayler-Brown stated he was assigned to the Committee. He said Phase I of the study had been approved by the Committee and had moved ahead to working on Phase II.

7. CALL TO THE AUDIENCE

None

8. ADJOURNMENT – 8:38 p.m.

