



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

DATE: May 2, 2012

TO: Planning Commission

FROM: Ernie Duarte
Executive Secretary

SUBJECT: Land Use Code Simplification Project: Articles 4 (Zones) and 6 (Dimensional Standards and Measurements)

Issue – This item is a Study Session with the Planning Commission on Articles 4 (Zones) and 6 (Dimensional Standards and Measurements) of the proposed Unified Development Code (UDC). The UDC is a product of the Land Use Code Simplification Project and will replace the City's Land Use Code (LUC). Drafts of the articles, as well as disposition reports, are attached.

At the Study Session in March, the Planning Commission agreed with staff's recommendation to create an ad hoc committee of neighborhood representatives, developers and Planning Commissioners to discuss the outstanding issues with Articles 4 and 6, in particular, the Neighborhood Infill Coalition's (NIC) opposition to the proposed dimensional standards. NIC recommends an approach that most closely reflects a direct translation of the current Development Designator into a zone-based dimensional standard system. NIC felt staff's initial recommendation did not offer established neighborhoods adequate protections from inappropriately-scaled development and that their recommended approach at least preserves the current level of protections.

Following discussion, the ad-hoc committee agreed that the proposed dimensional standards should be revised consistent with the NIC recommendation.

Staff revised the dimensional standards in Article 6 accordingly. In general, the proposed standards are the dimensional standards of the predominant Development Designator or most typical use associated with a particular zone. Dimensional standards that significantly differ from the proposed zone-based standard were identified and incorporated into the UDC as exceptions to the zone-based standards. See attached drafts of Articles 4 and 6 for revised dimensional standards and exceptions.

The committee reviewed the revised dimensional standards and is in support.

Staff requests Planning Commission feedback on the following three items, in particular:

1. Are the revised dimensional standards clear, understandable, reasonable, and functional?;

2. What is the preferred way of incorporating the exceptions to the zone-based standards into the UDC? As use-specific standards in Article 4? Or, in Article 6 in tables immediately following each zone's dimensional standards? The attached drafts of Articles 4 and 6 include both approaches to assist in making this determination; and,
3. What is the Planning Commission's reaction to staff's recommendation to not make the dimensional standards noted in Article 6 exceptions to the zone-based dimensional standards? If approved, the dimensional standards for these uses would default to the zone-based standard.

Recommendation

Staff recommends setting Articles 4 (Zones) and 6 (Dimensional Standards and Measurements) for a public hearing on June 6, 2012.

Background

Land Use Code Simplification Project (Project). The purpose of the Project is to simplify the LUC, Development Standards, and Chapter 23A. The new documents emerging from the project are the Unified Development Code (UDC), and the Administrative and Technical Standards Manuals. A draft of each document has been completed. A more detailed summary of the project is provided below.

To date, the Planning Commission has discussed each document at least one time.

The Project's goals resulting from the 2008 diagnostic report are the following:

- Consolidate procedures;
- Clarify vagueness;
- Emphasize simplicity;
- Reduce need for cross-referencing (i.e. reduce page flipping) and redundancy;
- Use a simplified numbering system;
- Eliminate the development designator system with simpler dimensions by zone;
- Provide a transition from LUC to UDC; and,
- Acknowledge that other items may require revision during the project.

Key Documents Summary. The following summarizes the three key documents:

1. *Unified Development Code (UDC)*. The UDC establishes the comprehensive zoning and subdivision regulations and their review and approval procedures. See Attachment A for a summary of the UDC's eleven articles).
2. *Administrative Manual*. The Administrative Manual includes application submittal requirements, development review fees, and the City Development Review Committee

procedure. The main source of the Administrative Manual is the City's Development Standards. The Planning Commission reviewed draft Administrative Manual in December 2011. No significant issues were raised.

3. *Technical Manual.* The Technical Manual includes engineering-related site standards such as solid waste collection, street design, and detention/retention standards and Historic Preservation Zone design standards. Other design standards may be included in the document in the future.
4. *Summary.* The UDC, Administrative and Technical Manuals will replace the Land Use Code, Development Standards, and Chapter 23A. However, part of the transition from LUC to UDC includes a time period where a property owner may choose to use the LUC and its supplements. This strategy is meant to reduce Proposition 207 challenges.

Article 4: Zones (Attachment A)

Summary – Article 4:

- Provides purpose statements for each base zone;
- Identifies in a table format the permitted uses and special exception land uses for each zone;
- Establishes use specific standards for certain uses; and,
- Establishes standards for accessory and temporary land uses.

Proposed Significant Changes to the Current Code:

1. The permitted uses, special exception land uses, and use-specific standards have been reorganized into a table format; and,
2. The permitted use table has been expanded to include subtypes, which are currently not easily identifiable in the LUC.

Issues With Article 4 Requiring Further Consideration. Revisions after the adoption of the UDC may be made to address issues viewed as being more than simplification.

1. In response to the proposed changes to the dimensional standards in Article 6, the use-specific standards have been expanded to include the exceptions to the zone-based dimensional standards for all applicable uses. If the Planning Commission recommends that these exceptions should be in Article 6, then Article 4 will be revised to remove the exceptions; and,
2. Revise or delete those use-specific standards that are overly restrictive, difficult to enforce, or outdated (Staff and LUC Committee).

Article 6: Dimensional Standards and Measurements (Attachment B & C)

Summary: Article 6 provides the general dimensional standards, such as setbacks, height, and lot coverage, per zone in a table format. This article also establishes the rules of measurement for building height, lot coverage, and setbacks.

Proposed Significant Changes to the Current Code:

1. Article 6 proposes applying dimensional standards on a per zone basis rather than the LUC's Development Designator system which applies dimensional standards to uses. The dimension by zone approach is a conventional method used by most jurisdictions;
2. Dimensional standards that significantly differ from the proposed zone-based standard were identified and incorporated into the UDC as exceptions to the zone-based standards. Whether to place these exceptions in Article 4 or 6 is still under consideration. The exceptions have been incorporated into the latest drafts of both Articles 4 and 6 to assist in this evaluation; and,
3. The floor-to-area ratio (FAR) standard is proposed for deletion. Based upon staff observation, the current FAR standard has become superfluous because it rarely, if ever, actually restricts development and other standards, such as building height, setbacks, and parking requirements, essentially regulate FAR.

Revisions Made to the March 2012 Draft:

1. In response to the Neighborhood Infill Coalition's concerns and consistent with it's recommendation, the proposed dimensional standards have been revised to reflect as close to a direct translation of the current Development Designator system into a zone-based dimensional standard approach as possible. As a result, the methods by which perimeter yards (including street perimeter yards), lot coverage, and building height are measured have been changed back to how they are currently measured in the LUC;
2. The Development Compatibility Standards have been removed and are no longer being proposed;
3. The accessory use and structure provisions previously in Article 4 have been merged with the accessory use and structure section in Article 6.

Issues With Article 6 Requiring Further Consideration:

1. The best of staff's knowledge, the recent revisions to Article 6 have resolved all of the Neighborhood Infill Coalition's issues.
2. The following issues were raised by the LUC Committee, but cannot be addressed at this time because they are outside the scope of this project and/or would require revisions to other sections of the code to fully implement:

- A. The front yard setback for uses along major corridors should be revised to 0' to facilitate transit- and pedestrian-oriented development (LUC Committee); and,
- B. A more gradual increase in building heights from the commercial (75' in C-3) to OCR zones (140' in OCR-1) is needed. (LUC Committee).

Planning Commission and Stakeholder Involvement and Feedback

Staff has sought input and feedback on this project from the Planning Commission, LUC Committee, an ad hoc group of neighborhood representatives, and recently, the Metropolitan Pima Alliance. See Attachment F for an accounting of the meetings with the various stakeholder groups.

Articles 4 & 6 have been discussed with the following groups:

- Planning Commission – study session on December 7, 2011, January 18, 2012, and March 7, 2012;
- Land Use Code Committee – October 20, November 17, and December 15, 2011 (the LUC Committee's issues are incorporated into the issues sections above); and,
- Neighborhood Representative Group – December 8, 2011 (Attachments D & E for the Neighborhood Infill Coalition's recommendation on Article 6)

Attachments:

Attachment A – Article 4: Zones (May 2012 Draft)

Attachment B – Article 6: Dimensional Standards and Measurements (May 2012 Draft)

Attachment C – Article 6: Supplemental Information (May 2012)

Attachment D – "Requested Changes in Article 6: Dimensional Standards and Measurements of the Unified Development Code," from the Leadership Team of the Neighborhood Infill Coalition (dated January 2012)

Attachment E – Letter from Ruth Beeker, representing neighborhood interests, regarding the proposed dimensional standards

ATTACHMENT D

Requested Changes in Article 6: Dimensional Standards and Measurements of the Unified Development Code

By the Leadership Team of the Neighborhood Infill Coalition
January 2012

The Leadership Team of the Neighborhood Infill Coalition (NIC) believes that it is the responsibility of the City of Tucson to provide rules and regulations of land use which are fair, equitable, and protective of its citizens. Most residents are totally unaware of the content of any ordinances; an unlucky few turn to their government when learning that something is or will be constructed in their vicinity which they find offensive. It is then that dimensional standards impose a harsh reality. If a building meets current code, it is there for the foreseeable future.

When evaluating Article 6: Dimensional Standards and Measurements of the proposed Unified Development Code (UDC), we followed a basic principle: **the higher the structure, the greater the building mass, the more intense its use--the greater the setbacks needed to mitigate that structure's impact on the adjoining residential area.** It is our understanding that the UDC was to be a reformatting of the existing Land Use Code (LUC) to make a document more user-friendly and simplified. Ambiguities and contradictions were to be resolved, but the basic content was to remain intact. We recognize that switching from a Development Designator system to a Zone-based code reduces the variability of structural dimensions within a zone. The process must be done carefully so that protections are not lost in the translation. Correcting any unintended consequences after the UDC becomes code would be an arduous, time-consuming process, assuming it could ever be undertaken, given Prop 207.

We believe that two categories in the UDC conversion have significantly changed the content from the LUC to the detriment of neighborhood interests: lot coverage and setbacks within residential zones and adjoining residential zones. We request the following changes in the proposed UDC.

Lot Coverage

We are concerned with the potential unintended consequences which may arise from significant changes to this portion of the code. The current LUC may contain numerous lot coverage percentages per zone, but it also contains language which includes all non-permeable surfaces as part of the allowable lot coverage. In an attempt to simplify this, the UDC has assigned an arbitrary, single lot coverage for most zones. In addition, the UDC redefines lot coverage to exclude any paved surface. Research is needed to insure that no potential problems, such as street flooding, heat island effect, or lot utilization, will result. Excluding paving from the calculating of lot coverage is premature. Couple this redefinition with the apparent elimination of LUC 3.2.11, the Floor-Area Ratio, for determining a Commercial or Office/Commercial/Residential zone building's mass impact and no percentages for non-residential use in these zones, lot coverage in structures adjoining residential zoning becomes another serious concern. In all cases.

changes in lot coverage **and** setbacks (which are addressed in the next sections of the paper) must be evaluated jointly since they are related in their impact on a neighborhood.

Our recommendation: Revert back to the original lot coverage percentages in all zones and define lot coverage as “Lot coverage includes any area of a lot covered by the roof of a principal or accessory building or used for vehicular purposes.” An ad hoc committee of stakeholder should be convened to determine how LUC 3.2.9 can be simplified, what the interactive effects of lot coverage changes are on what can be built, and how the basic concept of mass calculation is addressed in the UDC.

Side Setbacks Within Residential Zones

LUC’s Development Designator system included a Perimeter Yard Width Matrix 3.2.6.4 with six indicators. Each new UDC District (zone) includes multiple indicators from that matrix. Condensing this complexity to a single number does simplify the code, but the proposed numbers for a family dwelling unit’s side setbacks within a residential zone have been significantly reduced in most applications from the LUC’s greater measurement of 6’ or $2/3$ (H) of the building. Using the LUC’s greater setbacks is more likely to preserve the character of an existing neighborhood. We find the rationale given for some reductions, that is brings COT’s regulations in line with Pima County, to be based on an assumption that Pima’s is better. We question that assumption. Pima County’s code is written for unincorporated areas of our community where lot sizes are larger, development is less intense, and new developments are required to have home owners’ associations with protective regulations. Bringing an urban land use code in line with the county’s code for more rural areas is not necessarily a wise idea. The argument that reducing setbacks will provide a builder the opportunity for more creative design has never been substantiated. However, the Design Development Option is available; if neighbors agree, then accommodations can be made relatively easily. We agree that structures for non-residential use within a residential zone must be dealt with separately, such as was done in the footnotes at the bottom of several pages in Table 6.3-1: Zone-Based Dimensional Standards.

Our Recommendation

Revert side setbacks within residential districts to the formulae in the LUC:

- SH Res, RX-1, and RX-2 back to 20’ from the UDC’s proposed 10’
- R-1, R-2 for Single Family, R-3 for Single Family, MH-1 for Single Family/Mobile Home, and MH-2 for Single Family/Mobile Home back to the larger of 6’ or $2/3$ (H) from the UDC’s proposed 7’
- R-2 Multi-Family/Nonresidential, R-3 Multi-Family/Nonresidential, MH-1 Multi-Family/Mobile Home Park, and MH-2 Multi-Family/Mobile Home back to the larger of 10’ or $3/4$ (H) from the UDC’s proposed 10’

Side and Rear Setbacks Required for Higher Density Uses Adjacent to Residential Districts

When comparing the UDC’s proposed side and rear setbacks for non-residential zones which are adjacent to residential zones, the reductions from that required in the LUC’s 3.2.6.4 Perimeter Yard Width matrix are highly significant. The matrix ties the setbacks directly to the height of the proposed building whereas the UDC has a standard number.

The UDC's 6.5.3. Mitigation of Multi-Story and Taller Structure, Part A was written as an attempt to reduce this discrepancy; however, we find that solution to be inadequate. (See next section of this paper.) While a given District (zone) may have a variety of Development Designators, we believe that the transfer from the LUC requirements to the UDC standard should be based on that use which is most prevalent. Examples:

In Commercial Zone (C-1), Designator 28 had 28 uses which were DD in the matrix. If the **most** use was the determiner of the comparable UDC calculation, the side and rear setback would be $1\frac{1}{2}(H)$ -one and one half the times the height of the structure-- in contrast to the UDC's proposed 20' side setback and 25' rear setback. If the building were 15 or 16 feet tall, this would be equivalent, but what if it were the maximum 30' tall? And, the same UDC setbacks are proposed for C-2 with 40' maximum height and C-3 with 75' maximum height.

In Office/Commercial/Residential Zones (OCR-1 and OCR-2), both designators with the **most** use were EE in the matrix. If those were used, adjacent setbacks would be $2(H)$, meaning 2 times the height. This is in stark contrast to the UDC's greatly reduced proposed 10' residential adjacency setback. That the maximum height allowance in OCR-1 is 140' and in OCR-2 is 300' only increases the contrast between the LUC's $2(H)$ and the UDC's 10'.

Our Recommendation

Continue to use one formula based on building height from the LUC Matrix 3.2.6.4 for the greatest use in a zone when determining the side and rear setbacks for adjacent residential property.

UDC's 6.5 Development Compatibility Standards

This section of the UDC is referred to in numerous footnotes accompanying Table 6.3.1: Zone-Based Dimensional Standards to suggest that adjustments will be made to the standard when necessary. It must be noted that the footnote on p.26 restricts its usage "**only to redevelopment projects next to existing residential properties.**" We are unsure how a "redevelopment project" is defined, but we assume it could not be for new construction, whether an additional structure on a lot within a residential zone or new building adjoining a residential zone. Furthermore, we find portions of 6.5.3 Mitigation of Multi-Story or Taller Structures to be deeply flawed.

- 6.5.3 A. which adds 1 ft. side setback for each building foot height over 20'—to be added to the standard 7' --does not calculate out to be equivalent to LUC's formula of the greater of 6' or $\frac{2}{3}$'s the height of the building in residential zones. In other zones, the example of a structure in the OCR-3 above which could be 300' tall, the standard setback would be 10' plus 1' for every foot over 20, in this case, 280'. This totals out to 290' required by the UDC versus 2 times the height in the LUC which equals 600'. This mitigation still results in significant setback reductions from those required in the LUC.
- 6.5.2.B. contains neighborhood protections which we strongly support. They should be incorporated into **all** infill projects anywhere in the City which impacts neighboring residential property.
- 6.5.3.C. excuses anyone from having to follow any of the mitigations if "the affected property owner" sends a letter "to PDSB stating no objection to reduction

or elimination of the above compatibility standards.” It is our understanding that “affected property owner” is an individual who shares a side or rear boundary with the project. If there is an easement, alley, or street of separation, a neighbor on the other side of those areas have no say even though they would be greatly impacted. This policy opens up charges of pay-off and would generate dismay among property owners who have a vested interest in the area versus those who may not share that commitment to the neighborhood.

Our Recommendation

Correct the formulae for setbacks comparable to those in the LUC. Incorporate the mitigations in Part B. for all infill developments which impact “affected properties” whether they are redevelopment or not. Never use permission letters for code avoidance.

ATTACHMENT E

To: Planning Commission Members
From: Ruth Beeker, representing Neighborhood Interests
Re: Evaluation of Proposed Changes from the LUC to the UDC

March 7, 2012

The stated purposes of the LUC Simplification and Reformat Project on a July 23, 2011 document are: consolidate procedures; clarify vagueness; emphasize simplicity; reduce need for cross-referencing; use simplified numbering system; and replace designator with simpler dimensions by zone. Neighbors support those goals. However, we do not believe that simplification and replacement of the designator system should result in reductions of protection for residential property owners. At a Dec. 8, 2011 Neighborhood Leaders meeting chaired by Adam Smith, 19 of 20 people there raised their hands in support of that position.

Subsequently, the Neighborhood Infill Coalition Leadership Team wrote a position paper, "Requested Changes in Article 6: Dimensional Standards and Measurements of the Unified Development Code," asking that parameters in the UDC reflect the existing dimensions of the LUC. We identified side setbacks within residential zones; residential side and rear setbacks adjacent to more intense-use zones; lot coverage redefinition; and proposed mitigation to off-set setback reductions as most troubling. It is my understanding that staff sent you copies of that document. Since writing it, we have learned that Article 3.7 Administrative Modifications which addresses Design Development Options has not been put into the "Parking Garage" for consideration at a later date as discussed in a LUC Committee meeting last fall; therefore, we ask that 3.7.1 also be removed from the UDC.

In an attempt to clarify the issues, we would like you to consider HOW, WHAT, WHO, and WHY from our perspective.

HOW did we get to this situation?

Content changes to the UDC were not generated during any public process to which neighbors were invited. They are staff recommendations. They were placed into the UDC with no rationale and no supporting data. They uniformly reduce protections and citizen input for established neighborhoods. We believe that changes to the content of the LUC were not the directive that was given by Mayor and Council. As citizens, we do not want staff making decisions *for* us.

WHAT do these proposed changes allow?

Attached at the end of this paper are the number comparisons between LUC formulae and that proposed in Article 6 of the UDC. Not included in that comparison is the additional 10% administrative reduction of setbacks proposed in the DDO which could also be subtracted from the already reduced UDC numbers.

- Staff has stated that standardizing the rear setback for R-1 and R-2 at 16' compensates for the reduced side setbacks. Neighbors disagree.

- Staff feels that the proposed formulae are simpler than the LUC's most used designator formula (which translates easily into a number) for a specific zone. Neighbors disagree.
- Staff also believes that reducing the use of proportionality of setback to height of construction within residential areas for so-called one story buildings (up to 20') would be seen as a positive step to standardization. Neighbors disagree.
- Staff apparently felt that the Mitigations of UDC 6.5 would be seen as beneficial, exchanging wider side setbacks on 2-story buildings (which would bring them significantly closer to the property line) for potential high windows and sheltered balconies. Neighbors disagree.
- Staff have indicated their viewpoint that neighbors do not want to be involved when near-by construction is being given exceptions (DDO's) to the code. Neighbors disagree.
- Staff feels that only property owners who have adjacent property to new construction care about what is built in the immediate vicinity. Neighbors disagree.

WHO will be impacted by these proposed changes?

Not any builder of a larger project, since s/he would use the Flexible Development Option (FLD), or the Planned Area Development (PAD), or be building in any of the numerous overlay zones. Not anyone living in a development with active CC&R's, which includes more recent residential developments with Home Owners Associations. So, who will be impacted by these proposed changes? Those property owners in our older established neighborhoods (some historic), areas which are characterized by one-story homes (often brick), spacious lots, and mature vegetation. If there is vacant lot, tear-down on a lot, an addition to an existing home, or a second structure on a lot, these reductions would apply.

WHY have these changes been proposed?

To be honest, we do not know.

To increase density? The small number of people who would be added within the neighborhood is quite insignificant, and fewer yet are on the street-car line.

To make it easier to put either more units or two-story units on a lot? Perhaps, but the LUC's parameters surely do not preclude that, as recent history shows.

To be responsive to builders who want to go back to the good ole-days of the Zoning Code? That was 1980. Tucson is not the same place it was then.

THE BOTTOM LINE

As neighbors, we have no idea why we have been put into a position to fight for the few protections we have in the LUC. Comparing the existing setbacks and public processes in the current LUC, they are so much better than those proposed in the UDC; we must ask that what we have now be kept in place. Given Prop 207, anything that is relaxed in the code cannot be reversed. We ask that the entire UDC document be carefully edited to insure that neighbors do not turn out to be the big

losers in this transition. As the draft is now written, it is apparent that our interests have not been respected.

Simplification Should ***NOT*** Equal Reduction

Prepared by Ruth Beeker

February 2012

Comparing R-1 and R-2 Side Setbacks from LUC and UDC

Bldg Ht.	LUC (6' or 2/3 H)	UDC	UDC with mitigation 1'/1' over 20'
9'	6'	7'	7'
10'	7'	7'	7'
12'	8'	7'	7'
14'	9'	7'	7'
16'	11'	7'	7'
18'	12'	7'	7'
20'	13'	7'	7'
22'	15'	7'	9'
24'	16'	7'	11'
25'	17'	7'	12'

Reasons why the numbers above have a good chance to not reflect what you see on the ground:

Sec. 6.4 Rules of Measurement and Exception to Dimensional Standards includes Figure 6.4.5A which shows that only flat-roofed buildings are measured at their tallest point, and, then in 6.4.5 C 5, you can add 4 feet of parapet walls to that, as well as other numerous exceptions in Sec. 6.4.5 C. Buildings with slanted roofs are measured at a mid-point. These exceptions are from the LUC, so are Prop 207 protected.

Section 6.5.3 Mitigation of Multi-story and Taller Structures contains item C which allows that "the above compatibility standards may be reduced or eliminated" with a letter from "the affected property owner" defined as the owner of adjoining property. A

street or alley means you are not adjoining. This section is new to the code and only applies to redevelopment projects next to existing development. (It is unclear what “redevelopment” means.) It applies to both residential to residential and residential adjacent to more intense-use zones as seen on the following page.

More Intense-Use Side Setbacks Adjacent to Residential Zones Examples of Comparisons of LUC and UDC

	Bldg Ht.	LUC (10' or $\frac{3}{4}$ H)	UDC	UDC with mitigation (1'/1' over 20')
Zone O-2	25'	19'	7'	12'
Zone O-3	40'	30'	7'	27'
Zone C-3	Bldg Ht.	LUC (1 $\frac{1}{2}$ H)	UDC	UDC with mitigation
	40'	60'	20'	40'
	75'	112'	20'	75'
Zone ORC-1	Bldg Ht.	LUC (2H)	UDC	UDC with mitigation
	100'	200'	10'	90'
	140'	280'	10'	130'
Zone ORC-2	Bldg Ht.	LUC (2H)	UDC	UDC with mitigation
	200'	400'	10'	190'
	300'	600'	10'	290''

Footnotes which give explanations which are of concern:

p.14, no. 57 and 60 as applied to OCR-1 and OCR-2 (Office/Commercial/Residential)

p.15, no. 64 as applied to MU (Mixed Use Zone)

p.15, no. 67 as applied to P-1 (Park Industrial Zone)

p.16, no. 70 as applied to I-1, (Light Industrial Zone)

p. 16, no. 71 as applied to I-1, (Light Industrial Zone) which includes “large bar, communications, & dance hall”

p.17, no. 72 as applied to I-2, (Heavy Industrial Zone)

p.17, no. 73 as applied to OS, (Open Space Zone)

All basically say the same thing: Staff felt that the LUC designator side-setback parameters were “excessive” and were therefore reduced when compressed into the zoning system.

