

ATTACHMENT B

THIS ORDINANCE BECOMES

EFFECTIVE ON: July 11, 2008

ADOPTED BY THE
MAYOR AND COUNCIL

June 10, 2008

ORDINANCE NO. 10548

RELATING TO PLANNING AND ZONING; AMENDING THE TUCSON CODE, CHAPTER 23, LAND USE CODE, ARTICLE II, ZONES, DIVISION 8, OVERLAY ZONES, BY ADDING A NEW SECTION 2.8.11, "N" NEIGHBORHOOD PRESERVATION ZONE (NPZ); AMENDING ARTICLE V, ADMINISTRATION, DIVISION 1, POWERS AND DUTIES BY ADDING A DESIGN PROFESSIONAL DESIGNATION; AMENDING ARTICLE VI, DEFINITIONS, DIVISION 2, LISTING OF WORDS AND TERMS, BY AMENDING THE DEFINITION OF "CONTRIBUTING PROPERTY" IN SECTION 6.2.3. AND "DEVELOPMENT ZONE" IN SECTION 6.2.4; AMENDING THE TUCSON CODE, CHAPTER 23A, DEVELOPMENT COMPLIANCE CODE, ARTICLE II, REVIEW PROCEDURES, DIVISION I, GENERAL ZONING REVIEW PROCEDURE, BY ADDING A NEW SECTION "23A-32.1"; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article II, Zones, Division 8, Overlay Zones, is hereby amended by adding a new Section "2.8.11" to read as follows:

**ARTICLE II. ZONES
DIVISION 8. OVERLAY ZONES
"N" NEIGHBORHOOD PRESERVATION ZONE (NPZ)**

* * *

2.8.11 "N" NEIGHBORHOOD PRESERVATION ZONE (NPZ).

2.8.11.1. Purpose. Preserving and enhancing Tucson's established neighborhoods is critical to conserving the cultural and historic heritage of the city. The purposes of the Neighborhood Preservation Zone (NPZ) are:

- A. to provide a process for the establishment of NPZ districts to preserve, protect and enhance the unique character and historical resources of established city neighborhoods; and
- B. to provide for the creation and establishment of a neighborhood-specific design manual for each NPZ district, containing architectural and design requirements and guidelines to ensure that development is compatible with the neighborhood character overall, as well as with the character of the applicable Development Zone.

2.8.11.2. Definitions.

The following definitions apply to this section.

Compatibility/Compatible: Visual consistency of development by mirroring prevailing dimensions, spatial relationships, and architectural and design characteristics of the neighborhood overall and the Contributing Properties within the Development Zone. The term "compatible" does not mean "repetition or copy of" or "identical to" existing structures within the neighborhood. Compatibility is achieved when a development is designed in a manner that blends in with the character of structures in the Development Zone.

Contributing Property: For the purposes of this section, a building, object, site, or structure that is listed as a contributing property in a designated National Register Historic District or in an Eligibility Assessment document for the district. Under the National Register definition, a contributing property contributes to the historic significance and visual character of a district, and has sufficient integrity to convey that significance and those visual character defining features in terms of location, design, setting, material, workmanship, character, or association.

Design Professional: A registered architect with historic preservation experience employed by or under contract with the City.

Development Zone: The definition of "Development Zone" is as specified in Section 6.2.4 of the LUC.

Neighborhood Character: The combination of various defining characteristics of Contributing Properties and existing development within a Development Zone that creates and conveys the historic significance and visual character of a neighborhood. These characteristics include scale and proportion, architectural style and detail, open spaces, spatial relationships, and landscaping.

2.8.11.3. Applicability.

A. *NPZ Classification*

1. A rezoning to the NPZ is permitted for neighborhoods that are listed on the National Register of Historic Districts, include a National Register Historic District, or are eligible to be listed on the National Register of Historic Districts and have completed a National Historic District Nomination or Eligibility Assessment application.
2. The NPZ is an overlay zone superimposed over the development regulations of the underlying zoning. The land uses permitted within the NPZ district are those permitted by the underlying zoning.

B. *NPZ Design Manual and Compatibility Review Criteria.*

1. Upon the establishment of an NPZ district, requirements of the Design Manual and Compatibility Review Criteria, Section 2.8.11.9.C, apply to all development that:
 - a. is zoned RX-1, RX-2, R-1, R-2, R-3, RH, SR, and SH;
 - b. requires a building permit; and
 - c. is visible from a street that is not classified as an alley, unless the Design Professional makes a written finding that a proposed development's visibility from the street is so minimal as to be immaterial for purposes of the application of this section.
2. The requirements of the Design Manual and Compatibility Review Criteria, Sec. 2.8.11.9.C. do not apply to:
 - a. interior renovations or construction within the interior of a building.
 - b. building maintenance, repairs, or painting or minor building alterations, such as window or door alterations or replacements, or minor additions to an existing residence that do not affect the external appearance of the structure as seen from the street.
 - c. exterior development that is not visible from the street, except the Compatibility Review Criteria Privacy Mitigation Measures, Sec. 2.8.11.9.C.5, apply to any proposed development that exceeds the height of residential structures on adjacent properties.

- C. Where there is a conflict between the requirements of the applicable Historic Preservation Zone (HPZ) and the requirements of the NPZ, the requirements of the HPZ prevail.
- 2.8.11.4. Establishment or Dissolution of, or Amendment to a Neighborhood Preservation Zone.
- A. An NPZ district is initiated by the Mayor and Council at their sole discretion.
 - B. An NPZ district is established, amended, or dissolved by the Mayor and Council by ordinance through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3.
- 2.8.11.5. Districts Established.
- A. NPZ districts are established upon adoption of a rezoning ordinance for a neighborhood. The Design Manual created pursuant to 2.8.11.7 shall be a condition of the NPZ district.
 - B. Adopted NPZ districts shall be listed in Development Standard 2-16.0 using the following format: "NPZ-1" – NAME OF DISTRICT – Adopted on XXX, by Ordinance No. XXX.
 - C. The list shall be administratively updated, upon adoption of additional NPZ districts through the appropriate procedure.
- 2.8.11.6. Zoning Maps. To identify each of the NPZ districts on the City of Tucson Zoning Maps, the preface "N" is added to the assigned residential zoning designation, i.e., R-1 becomes NR-1.
- 2.8.11.7. Design Manual. The Design Manual shall be created upon initiation of the NPZ district. The Department of Urban Planning and Design is the lead city agency for the preparation of each neighborhood specific Design Manual.
- A. The Design Manual shall, at a minimum contain the following:
 - 1. *NPZ District Neighborhood Character.*
 - a. Identification of Contributing Properties within the NPZ District.
 - b. Identification of the defining characteristics of the NPZ district. Such identification may include excerpts or references to those portions of the National Register nomination or eligibility document that summarize the defining characteristics of the district.

- c. Illustrations and narratives describing a. and b. above.
2. *NPZ District Map*. The Design Manual shall include a map of the boundaries of the NPZ district showing the Contributing Properties and the boundaries of the National Register District or area eligible for a National Register District.
 3. Examples of specific Compatibility Review Criteria listed in 2.8.11.9.C, that illustrate elements of neighborhood character.
 4. *Privacy Mitigation Measures*. The Design Manual shall recommend specific privacy mitigation measures to be considered in a Compatibility Review pursuant to 2.8.11.9.C.5 (Privacy Mitigation).
 5. *Dimensional, Spatial, and Access Standards*, if adopted by Mayor and Council as mandatory pursuant to 2.8.11.7.B.1.b.
- B. The Design Manual may contain the following:
1. *Dimensional, Spatial, and Access Standards*, subject to the following:
 - a. Dimensional, Spatial, and Access standards may differ from the Development Criteria of Article III of the LUC. Such standards may be more or less restrictive than those of the underlying zone. Dimensional, Spatial, and Access standards shall:
 - (i) not create a nuisance or intrude on the privacy of adjoining or surrounding properties;
 - (ii) create a more historically compatible setting, accommodate energy efficiency or, ensure enhanced resource conservation greater than current regulations; and
 - (iii) in the case of alley access standards, specify mitigation measures to ensure safe access.
 - b. The Mayor and Council may adopt dimensional, spatial, and access standards as mandatory requirements upon a finding by the Director of the Department of Urban Planning and Design that proposed requirement complies with 2.8.11.7.B.1.a.
 - c. Dimensional, spatial, and access standards not adopted as mandatory requirements are advisory for purposes of a compatibility review.

2.8.11.8 Design Professional

A. The Design Professional shall:

1. conduct a compatibility review of all applications for development within the NPZ district to which this section applies. This review is in addition to the Administrative Review Procedure, Sec. 23A- 31, Zoning Compliance Review, and any other required review procedures;
2. submit a report with findings and recommendations to the Director of the Department of Urban Planning and Design pursuant to the Tucson City Code Sec. 23A-32.1, the NPZ Design Review Procedure;
3. render decisions impartially;
4. not render professional services if the Design Professional's judgment could be affected by responsibilities to another project or person or by the Design Professional's own interests; and
5. comply with City of Tucson Administrative Directive 2.02-14 and Policy 282, Ethics and Conflict of Interest for City Officers and Employees.

2.8.11.9. Compatibility Review of Applications for Proposed Development

A. In conducting the Compatibility Review, and in rendering his or her findings and recommendations, the Design Professional shall consider the relative impact and intensity of the proposed development. The Design Professional shall evaluate applications for proposed development for compliance with:

1. Design Manual standards, guidelines, or requirements;
2. Applicable Development Standards; and,
3. Compatibility Review Criteria, Sec. 2.8.11.9.C.

B. The Design Professional shall use the Design Manual to determine the overall Neighborhood Character of the NPZ district and the Compatibility Review Criteria to determine the Neighborhood Character of a specific Development Zone for the proposed development.

1. Contributing Properties within a project's Development Zone shall be used when identifying the Compatibility Review Criteria.
2. If the Development Zone for the proposed development does not contain Contributing Properties, then, for purposes of identifying the

Contributing Properties that apply to a development proposal, the Development Zone shall be expanded in every direction until the Development Zone includes at least one Contributing Property.

C. *Compatibility Review Criteria.* The following elements determine compatibility of the proposed development with the Development Zone:

1. Scale and proportion, including
 - a. height;
 - b. bulk and massing; and
 - c. number of stories.
2. Architectural style and detail, including
 - a. roof types;
 - b. projections and recessions, such as porches, awnings, overhangs, steps, entrances;
 - c. window sizes and spacing;
 - d. materials; and
 - e. surface texture and colors.
3. Spatial relationships and site utilization, including
 - a. spacing between adjacent buildings;
 - b. front and rear side setbacks;
 - c. open spaces;
 - d. attachments such as carports and garages; and
 - e. outbuildings.

4. Landscaping

Landscaping will only be reviewed for compatibility when a project proposes a comprehensive change to the streetscape such as the construction of a new residential unit.

5. Privacy Mitigation

- a. Privacy mitigation is required when the following types of development are proposed adjacent to existing single story residences:
 - (i) Construction of a multistory residence;
 - (ii) Addition of a story to an existing residence; or
 - (iii) Additions to existing second or higher stories
 - b. For the purpose of this section, privacy mitigation includes: vegetative or other screening or siting elements, walls, siting of buildings or windows, and eliminating balconies or similar features to reduce views towards the existing dwellings.
- D. Approval of proposed development may be subject to special conditions to provide for compliance with the Compatibility Review Criteria.
- E. The Compatibility Review shall be included in the Design Professional's report to the Director of the Department of Urban Planning and Design.
- F. The Design Professional design review and appeal procedures are set forth in Tucson City Code Sec. 23A-32.1, the NPZ Design Review Procedure.

SECTION 2. The Tucson Code, Chapter 23, Land Use Code, Article V, Administration, Division 1, Powers and Duties, is amended by adding a new Section "5.1.12" to read as follows:

**ARTICLE V. ADMINISTRATION
DIVISION 1. POWERS AND DUTIES**

* * *

5.1.12 DESIGN PROFESSIONAL The Design Professional is established to review building permits for projects located in NPZ overlays for compliance with applicable design manuals as set forth in *Land Use Code (LUC)*, Sec. 23 of the Tucson Code and in the Development Compliance Code, Sec. 23A-32.1 of the Tucson Code.

5.1.12.1 Appointment and Qualifications

- A. *Appointment.* The City Manager shall recommend a candidate(s) for the position of Design Professional. The Mayor and Council shall appoint the Design Professional.
- B. *Qualifications.* The Design Professional shall be a registered architect, preferably with historic preservation experience.

5.1.12.2 Powers and Duties

- A. *Compatibility Review within Neighborhood Preservation Zones.* The Design Professional shall review applications for building permits for projects located within adopted Neighborhood Preservation Zone Overlays for compliance with the applicable Design Manual and Section 2.8.11.9 (Compatibility Review for Applications for Proposed Development). The Design Professional will forward a written report with findings and recommendation to the Director of the Department of Urban Planning and Design. The Director shall take into account the recommendations of the Design Professional when considering approval of the application.
- B. *Conditions.* The Design Professional may impose conditions on the approval of a building permit to ensure that the design of the project mitigates the impact of the project on the subject development zone.
- C. *Other Responsibilities.* The Design Professional shall perform such other functions as may be required by the *Land Use Code (LUC)*.

SECTION 3. The Tucson Code, Chapter 23, Land Use Code, Article VI, Definitions, Division 2, Listing of Words and Terms, Sections 6.2.3 and Section 6.2.4 are hereby amended to read as follows:

**ARTICLE VI. DEFINITIONS
DIVISION 2. LISTING OF WORDS AND TERMS**

* * *

6.2.3 DEFINITIONS – C.

* * *

Contributing Property A property within a Historic Preservation Zone (HPZ) district that contributes to the historic significance and visual character of a district, and has sufficient integrity to convey that significance and those visual character defining features in terms of location, design, setting, material, workmanship, character, or association. Contributing Properties are historic sites or nonhistoric compatible properties.

* * *

6.2.4 DEFINITIONS – D.

* * *

Development Zone. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), Sec. 2.8.11, Neighborhood Preservation Zone (NPZ), and Sec. 2.8.10, Rio Nuevo and Downtown (RND) Zone, a certain designated area adjacent to the lot to be developed. Public and institutional structures within the development zone shall not be considered part of the development zone when evaluating proposed development on an adjacent property, except for public and institutional structures on or eligible for inclusion on the National Register of Historic Places. The development zone is determined as follows. (See *Illustration 6.2.4.A, .B, and .C.*)

- A. Where the subject lot is an interior lot, the development zone includes that lot, all lots on either side of that lot and fronting on the same street in the same block, and all those lots on the opposite side of that street, except such portions of the development zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.
- B. Where the subject lot is a corner lot, the development zone includes that lot, the corner lot diagonally opposite that lot, all lots fronting on the same two (2) streets in the same block, and all lots on the opposite sides of those streets, except such portions of the development zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.
- C. Where the subject lot is located adjacent to a historic zone boundary, the development zone includes that lot, all lots located within the same block, and those lots facing the same street as the subject lot within one block in either direction, except such portions of the zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.

* * *

SECTION 4. The Tucson Code, Chapter 23A, Development Compliance Code, Article II, Review Procedures, Division 1, General Zoning Review Procedure, is amended by adding a new section “23A-32.1” to read as follows:

ARTICLE II. REVIEW PROCEDURES

DIVISION 1. GENERAL ZONING REVIEW PROCEDURE

* * *

Sec. 23A-32.1 NPZ Design Review Procedure

The following procedure is for administrative design review where such review is required by the LUC. This procedure applies to review of development applications in the Neighborhood Preservation Zone (NPZ) district in accordance with Land Use Code § 2.8.11.

1. *Pre-application conference.* A pre-application conference with the Department of Urban Planning and Design (DUPD) is required to determine whether the application shall be reviewed through NPZ design review procedure.
2. *NPZ design review.* Development subject to the NPZ design review procedure shall be reviewed as follows.
 - a. *Submittal.* Upon submittal, DUPD staff shall review the application to determine that it provides all required information. The application shall be accepted or rejected within two (2) days.
 - b. *Design Professional.* The Design Professional shall review the application to determine compliance with the neighborhood specific Design Manual and Compatibility Review Criteria.
 - c. *Design Professional Findings and Recommendation.* The Design Professional shall submit a written report with findings and recommendation to the Director of Urban Planning and Design within fifteen (15) working days of acceptance of the application.
 - d. *Director Decision.* The Director shall review the application and render a decision finding compliance or noncompliance with the neighborhood specific Design Manual and Compatibility Review Criteria within five (5) days of receiving the Design Professional's report.
 - e. *Notice of decision.* Notice of the decision shall be provided to the applicant within three (3) days of the date of the decision.
 - f. *Appeal to the Design Review Board (DRB).* Appeals to the Director's decision shall be referred to the DRB. Appeals shall be scheduled within thirty (30) days of acceptance of the application for appeal. The DRB, in formulating its preliminary findings and recommendations, shall apply the same standards that the Design Professional applies.

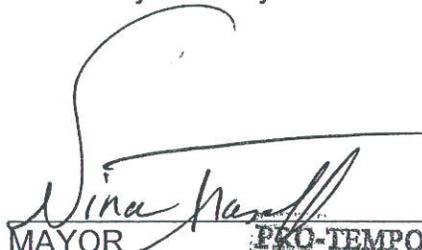
- g. *Appeal to the board of adjustment.* If an application for appeal is denied by the DRB, the applicant may appeal the decision to the board of adjustment in accordance with section 23A-61 by filing an appeal within five (5) days of the notice of the DRB's decision.

SECTION 5. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 6. If any provision of this Ordinance or the application to any person or circumstance is invalid, the invalidity shall not affect other provision or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 7. This Ordinance becomes effective thirty (30) days after the date the Ordinance is adopted by the Mayor and Council and is available from the City Clerk.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, June 10, 2008


MAYOR **PRO-TEMPORE**

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED BY:


CITY MANAGER

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Attachment D: Meeting Schedule

Date	Meeting	Topic	Who was notified?
August 19, 2008	Feldman's Neighborhood Design Manual Orientation	<ul style="list-style-type: none"> ▪ Overview of the NPZ enabling legislation ▪ Call for committee members 	Every property owner and resident within the Feldman's neighborhood
October 7, 2008	Feldman's Neighborhood Design Manual Committee (Committee) - #1	<ul style="list-style-type: none"> ▪ Roles & responsibilities ▪ Overview of the NPZ ▪ Identify defining characteristics 	Committee members plus interested parties*/**
October 21, 2008	Committee - #2	<ul style="list-style-type: none"> ▪ Report of stakeholder feedback ▪ Identify defining characteristics cont'd 	Committee members plus interested parties
November 18, 2008	Committee - #3	<ul style="list-style-type: none"> ▪ Review draft introductory and defining characteristic chapters ▪ Develop privacy mitigation recommendations 	Committee members plus interested parties
December 2, 2008	Committee - #4	<ul style="list-style-type: none"> ▪ Review draft privacy mitigation chapter ▪ Overview of development criteria ▪ Open forum 	Committee members plus interested parties
January 6, 2009	Committee - #5	<ul style="list-style-type: none"> ▪ Progress report ▪ Develop dimensional, spatial, & access recommendations 	Committee members plus interested parties
January 27, 2009	Committee - #6	<ul style="list-style-type: none"> ▪ Summary of committee comments ▪ Presentation of staff proposal ▪ Develop dimensional, spatial, & access recommendations cont'd 	Committee members plus interested parties
March 31, 2009	Committee - #7	Overview and discussion of draft design manual & associated procedures	Committee members plus interested parties
May 12, 2009	Neighborhood Meeting	Overview and discussion of draft design manual &	Every property owner in the Feldman's neighborhood and

		rezoning	within 300 feet of the neighborhood
June 9, 2009	Committee - #8	Further discuss incentives, compatibility review guidelines, & future policy direction recommendations	Committee members plus interested parties
August 13, 2009	Zoning Examiner	Proposed rezoning of the Feldman's Neighborhood to include the Neighborhood Preservation Zone – Public hearing	Every property owner in the Feldman's neighborhood and within 300 feet of the neighborhood

* Those individuals who indicated to staff that they were interested in following the activities of the committee were added to the interested party listserv.

** Time was reserved at each committee meeting for a call to the audience.

Attachment E: Staff Response to Issues Raised at the Neighborhood Meeting

The following is a response to stakeholder issues with the proposed Feldman's Neighborhood Preservation Zone raised at the May 12, 2009 neighborhood meeting. The issues have been grouped by subject matter.

Applicability

Issue #1: Page 3, third bullet point: The words "visible from the street" need to be clarified. In committee, we spoke of "visible" as meaning visible from the front property line. That definition didn't make it into the draft. Also, how would "visible" be defined for a corner property?

Response: The Design Manual will be revised as suggested. Applicants with structures on corner properties will have to demonstrate compliance for the two sides along the street.

Issue #2: Commercially zoned properties should be subject to the Neighborhood Preservation Zone.

Response: The NPZ only affects residentially zoned property. The NPZ enabling legislation would have to be amended to include commercially zoned properties.

Compatibility Review Criteria

Issue #3: The Priority and Regular Review Criteria should be consolidated into a single set of compatibility review criteria.

Response: The neighborhood stated that maintaining the historic streetscape is the top priority. The Priority Review Criteria (i.e. front yard, mass, rhythm, and scale) were identified as those elements of development key to maintaining the historic streetscape. The other criteria are secondary.

Issue #4: Page 12, front yards: The historic condition in Feldman's is not an absence of fencing around front yards. The historic condition is woven wire fencing less than or equal to 3' tall. A remnant of this fencing is present along the south property line of 1316 N. 1st Avenue -- one of the properties mistakenly shown in the draft manual as an example of an open front yard. The wording, "Avoid: Fences and walls enclosing front yards," should be changed to, "Avoid: Opaque fences and walls enclosing front yards."

Response: The Design Manual will be revised as recommended.

Issue #5: Pages 16 and 17, Prairie style: There were no Prairie Style buildings in Feldman's during the period of significance. The only apparent Prairie Style building is a Craftsman Bungalow that has undergone extensive, a historic modification since the last historic survey. While attractive, this architectural style is not authentic to Feldman's.

Response: According to the National Register inventory there are two Prairie style structures in the Feldman's Neighborhood [1127 N. 6th Ave. (commercial use – non-contributing) & 605-607 E. Adams St.(multifamily residence - contributing)]. There are three other structures that include elements of Prairie architecture along with other architectural styles [1540 N. Tyndall Ave., 732 E. Mabel & 1220 N. 1st Ave. – all single-family residences; all contributing properties).

Issue #6: The manual falls short concerning healthy vegetation that provide the necessary air cleaning and oxygen producing environment we need to be healthy.

Response: The NPZ enabling legislation limits review for landscaping only when a project proposes a comprehensive change to the streetscape such as the construction of a new residential unit. When applicable, landscaping must be compatible with the landscaping at the contributing properties within the project's Development Zone.

Downtown Area Infill Incentive District

Issue #7: The proposed Downtown Area Infill Incentive District (IID) is not effective. Who would want their college age daughter living on Stone Avenue?

Response: The effectiveness of the IID is yet to be determined. The IID allows a Modification of Development Regulations (MDR) similar to what has been in place for over 2 years in the Rio Nuevo and Downtown District. So far, four (4) projects in the RND have received MDRs. Contrary to the assertion that student housing would not be built on Stone Avenue, there are in fact a mixed-use project on Stone Avenue (the Standard, a mix of commercial and residential) and an apartment complex on the southwest corner of Stone and University that are occupied primarily by students. In addition, College Place at Oracle and Drachman also serves as student housing.

Issue #8: The proposed Downtown Area Infill Incentive District (IID) boundaries should be amended to exclude properties within the Feldman's National Register Historic District (37 E. Speedway and 41 E. Speedway).

Response: Mayor and Council established the boundaries of the IID in October 2006. While staff is not recommending revisions to the boundaries at this time, staff will include your recommendation in the materials going to the Planning Commission and the Mayor and Council.

General

Issue #9: The architectural design requirements are too onerous. The Design Manual is overly restrictive about very specific design features such as windows, wall textures, etc.

Response: The Design Professional will consider the relative impact and intensity of the proposed development when determining the applicable compatibility review criteria. In other

words, compliance with fewer compatibility review criteria will be required of an addition to an existing house than to the construction of a new house.

Issue #10: The Design Manual is nothing more than instructions on how not to build a Michael Goodman structure. It does not encourage creativity.

Response: The NPZ enabling legislation and Feldman's Design Manual does not prescribe a rigid, formulaic approach to achieve compliance. Rather, they set up a regulatory framework in which there is flexibility in achieving the goal of designing a historically compatible structure.

Issue #11: The Design Manual Committee process was a missed opportunity to create a manual that could be supported. Stronger facilitation of the meetings was required. Specifically, staff should have prevented Michael Goodman from becoming an obstructionist throughout the process.

Response: Comment noted.

Issue #12: Rethink the Design Manual. There is no rush in getting the Design Manual approved. Take the time to get the manual right.

Response: Staff is proceeding with the rezoning process for the following reasons: 1) the design manual is consistent with the NPZ enabling legislation and 2) many of the issues raised at the neighborhood meetings are outside the parameters of the NPZ enabling legislation.

Issue #13: The City will be sued if it adopts the Feldman's NPZ.

Response: Comment noted.

Issue #14: The effort falls far short and gives too much in tax breaks incentives for too little effort on the part of urban density developers.

Response: Comment noted. Note: Tax breaks are not a part of the NPZ process.

Issue #15: While the NPZ is in itself a good policy, the neighborhoods bordering adopted NPZs will become "sitting targets" for mini-dorm developers who will want to develop in less restrictive areas. The Northwest Neighborhood Association and other similarly situated neighborhoods need some sort of protections to slow down further mini-dorm development.

Response: Comment noted.

Issue #16: The demolition of contributing properties should be prohibited.

Response: A text amendment to the Land Use Code is currently under development requiring demolition standards specific to contributing properties. This comment will be forwarded to the staff working on this particular text amendment.

Issue #17: Mini-dorms are decreasing the property values of adjacent properties.

Response: Comment noted.

Issue #18: The Appendix is confusing. Remove it or qualify it. What is the point of the point system and why do we have a pre-approved plans section when none exist?

Response: The introduction to Appendix A clarifies that the concepts provided in this section are for informational purposes only. They are included in the design manual in response to committee members' wanting their concerns documented.

Issue #19: How is the Feldman's Design Manual enforced? How are violations to Feldman's Design Manual handled?

Response: Violations to the Feldman's Design Manual are enforced as zoning violations. Once a possible violation is reported to the City, the Zoning Enforcement staff notify the property owner to take the steps necessary to comply with the design manual. If the property owner does not comply in the allotted time, the City will forward the case to City Court where daily fines may be imposed until the site is brought into compliance.

Issue #20: Will we see another draft of the Design Manual? If so, when?

Response: Yes. Staff will notify the Design Manual Committee and interested parties via e-mail when the next draft Design Manual is posted online. Staff anticipates completing the next draft by early June.

Incentives

Issue #21: Incentives are not adequately discussed in the Design Manual. Incentive section should be expanded to include more incentives.

Response: Staff welcomes your suggested incentives. Staff will consider adding your suggested incentive to the Design Manual if it is within the parameters permitted by the NPZ enabling legislation and does not conflict with other provisions in the Design Manual.

Issue #22: Higher density should be encouraged. The Design Manual should provide incentives for higher density such as waiving rezoning requirements, expedited reviews, etc. Staff has not shown any willingness to create incentives for larger residential projects.

Response: The NPZ is not the appropriate mechanism to encourage higher density. Other processes, such as the proposed Downtown Area Infill Incentive District and Area or Neighborhood Plan, are more appropriate to address the need for appropriately located higher density development.

Issue #23: Allowing alley access is not an incentive.

Response: To the contrary, staff has heard from developers that they would consider taking alley access if only permitted by the City. The alley access incentive removes the minimum width and surfacing requirements, which have been barriers to taking alley access in the past.

Issue #24: Alley surfacing needs to be defined or removed as a condition. There are no dusty dirt alleys that are acceptable.

Response: The condition as written allows the flexibility to determine when, where, and the type of surfacing that may be required based on an evaluation of the type of project being proposed and the project's proximity to a roadway.

Issue #25: Page 43: Add a section as follows:

5.5 Disabled Accessibility

Incentive: "Modifications necessary to make an existing structure wheelchair accessible may, at the discretion of the Design Professional, be exempted from the Compatibility Review requirements of this Design Manual. Such exemption may be granted via an expedited process, rather than through a full application and review."

Condition: The front porch will not be eliminated or so drastically modified as to cause a contributing structure to become non-contributing. (Source: Diana Lett)

Response: Staff recommends revising the incentive to read "The Design Professional will work with applicants on the design of wheelchair accessible ramps to maintain the structure's contributing property status."

Issue #26: Page 42, Lot coverage: The wording is unclear. This section states, "Lot coverage may be increased by a maximum of ten percent (10%) allowed by the underlying zoning . . ." I believe it should say, "Lot coverage may be increased by a maximum of ten percent (10%) over the coverage allowed by the underlying zoning . . ."

Response: The Design Manual will be revised as suggested.

Issue #27: Add as an incentive that driveways will not be included in the lot coverage calculation.

Response: This will be added as an option.

Issue #28: Make it possible to split lots more efficiently. Streamline the lot split process.

Response: The NPZ enabling legislation does not allow a modification of subdivision regulations. A text amendment to the subdivision section of the Land Use Code is the appropriate process to address issues with the lot split standards.

Issue #29: Page 42, Perimeter Yard Setbacks A. Street perimeter yard setbacks: While the wording is excellent and would preserve the streetscape, it is hardly an incentive to builders. Historic setbacks are generally greater than what the current code requires, i.e., more restrictive. Perhaps this section should be moved elsewhere in the manual.

Response: Staff will reconsider the status and location of this item in the Design Manual.

Issue #30: Re: Front yard setback incentive. Are we using averages for the front yard setback? How is this an incentive?

Response: Yes, the average front yard setback of the contributing properties along the same side of the street as the project will be used. The front yard setback incentive is under reconsideration. See Issue #29 for additional explanation.

Issue #31: Page 42, Perimeter Yard Setbacks A. Perimeter yard setbacks: It was the committee's intention to allow a reduction in side yard setbacks to the 6' commonly found in our historic neighborhood. This was one of the few items enthusiastically endorsed by both builders and neighbors. The committee's consensus position on this item seems to be missing from the language of this section.

Response: The perimeter yard setback incentive as shown in the Design Manual was written in response to one of the committee members commenting that several of the contributing properties could not be built under today's perimeter yard setback requirements. Staff wanted to provide sufficient flexibility whereby an applicant with a historically compatible structure that met the privacy mitigation objectives would not have to pursue a variance for a setback less than 6 feet.

Issue #32: Create incentives for vista preservation and vista corridors. The Design Manual should provide vista protections.

Response: This issue is excerpted from a letter from a resident in response to the proposed Feldman's NPZ. The type of vista preservation more fully expressed in the letter would require a prohibition on two story structures throughout the Feldman's NPZ, which staff does not support.

Privacy Mitigation

Issue #33: Two story structures are resulting in a loss of privacy, quietude, and mountain views.

Response: Comment noted.

Issue #34: Page 6, Section 5 Privacy Mitigation: It is troubling that privacy mitigation does not apply to single-story structures. This is a perverse incentive to increase lot coverage and skimp on landscaping, thus promoting the urban heat island effect. Privacy mitigation should apply when single story is proposed adjacent to single story.

Response: The NPZ enabling legislation stipulates that privacy mitigation is only required of multi-story structures locating adjacent to existing single story. However, a statement will be added to the Privacy Mitigation chapter encouraging applicants to incorporate privacy mitigation into the design of their single story projects.

Issue #35: Page 29, 4.2 C. This section states, "Where a two-story building is proposed adjacent to existing two-story residences, Privacy Mitigation regarding location and screening of balconies is encouraged, but not required." As noted in the previous message, this statement is the exact opposite of what the neighborhood has urgently requested.

Balconies on adjacent two-story buildings should be regulated. Second-story balconies facing each other should be prohibited.

With regard to the existing NPZ ordinance and privacy mitigation, the ordinance defines neighborhood character (2.8.11.2) as including spatial relationships (or course) and section 2.8.11.7B1a(i) and (ii) and .7B1b offer a possible way within the existing ordinance to legislate balcony positions and other troublesome privacy issues that the current design manual does not include. I would like to see these as recommendations to the City Council to accompany the manual. Certainly our existing neighborhood character does not include facing balconies.

Response: The NPZ enabling legislation stipulates that privacy mitigation is required only when a multistory structure is locating adjacent to an existing single story residence. However, the location of balconies can be restricted through the Compatibility Review process during which it will be determined whether any contributing property within the project's Development Zone includes a balcony. If there is no historical basis for balconies in a particular Development Zone, the Design Professional can prohibit balconies from being located where they are visible from the street.

Issue #36: The screening of balconies is ridiculous.

Response: The screening of balconies is one of several strategies offered to meet the objective of avoiding balconies that "can serve as noise-producing, social gathering areas." If screening is not a viable option for the property owner, then another strategy can be used such as recessing the balcony into the façade of the building.

Review & Approval Process

Issue #37: The neighborhood association should be notified and have oversight of every permit going through the compatibility review process.

There is no provision for the neighborhood to be informed of the Director's final decision on the compatibility of proposed construction. Nor is there any provision for the neighborhood to be included in any appeal process.

There needs to a provision allowing for the timely consultation between the Design Professional and a Neighborhood Board.

Response: When deliberating on the NPZ enabling legislation in June 2008, the Mayor and Council considered the issue of neighborhood oversight. In the end, the Mayor and Council balanced the restrictions imposed by the Design Manual developed with input from the neighborhood and creating a process that allows for the timely processing of building permits.

Issue #38: My basic qualm about the design manual is the responsibility and trust that we place in the unnamed design professional. This person may be either a city employee or a contract employee. What are the requirements for this person's employment? How transparent will the hiring process be? Where will the money come from to pay her or him?

Response: The Design Professional must a registered architect with historic preservation experience and must be appointed by the Mayor and Council. On March 10, 2009, the Mayor and Council appointed Jim Gresham as the City's Design Professional during a regularly scheduled Mayor and Council meeting. Mr. Gresham is a local architect with over 50 years experience. Applicants will pay a Design Professional review fee. The fee rate has yet to be determined, but the objective is to achieve full cost recovery.

Issue #39: What appeal remedies do neighbors and the neighborhood association have to question this determination?

Response: The Board of Adjustment considers appeals of the director's decision.

Issue #40: How much are the Compatibility Review fees?

Response: The fee has yet to be finalized, but it will most likely be approximately \$200. The objective is to set the fee to achieve full cost recovery.

Issue #41: Is there an expedited review process or waiver from the NPZ requirements for minor projects?

Response: No, there is not an expedited review process or waiver for minor projects. Note: Depending on the relative impact and intensity and location of the proposed addition in relation to the streetscape, the Design Professional may determine that a proposed development's visibility from the street is so minimal as to be immaterial for purposes of the application of the NPZ.

Issue #42: The NPZ should not apply to expansions of less than 25%.

Response: The NPZ enabling legislation provides the applicability criteria, which does not include exceptions for additions less than 25% of the gross floor area of the existing structure. The Design Professional has the discretion to determine whether the proposed development's visibility from the street is so minimal as to be immaterial for purposes of the application of the NPZ.