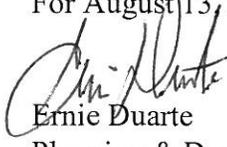




MEMORANDUM

DATE: July 29, 2009
For August 13, 2009 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: 
Ernie Duarte
Planning & Development Services
Director

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT
C9-09-07, Feldman’s Neighborhood Preservation Zone (Wards 3 & 6)

Issue – This is a request by the City of Tucson’s Planning and Development Services Department to rezone the residential zones in the Feldman’s Neighborhood to include the Neighborhood Preservation Zone (NPZ) overlay*. Specifically, the rezoning requested is**:

| <u>From</u> | <u>To</u> |
|-------------|-----------|
| R-1 | NR-1 |
| R-2 | NR-2 |
| R-3 | NR-3 |

* The NPZ enabling legislation ordinance limits applicability to residential zones only

** “N” = Neighborhood Preservation Zone overlay

Planning & Development Services Department Recommendation – Pursuant to Ordinance #1058 (June 10, 2008), the Planning & Development Services Department recommends approval of Neighborhood Preservation Zone for the Feldman’s Neighborhood and adoption of the Feldman’s Neighborhood Design Manual as a rezoning condition where applicable.

Planning Considerations

The proposed NPZ overlay for the Feldman’s Neighborhood is supported by both the *General Plan* and the more specific *University Area Plan*. The NPZ overlay zone furthers the goals of the *University Area Plan*, and Policy 1, which recognizes distinct neighborhoods in the University Area, and supports those changes that protect and enhance the character, identity, and residential quality of life in those neighborhoods. Policy 2 supports an overlay zone that protects the neighborhood perimeter and interior from the intrusion of non-compatible designs and encourages the retention of contributing historic buildings and viable residential structures by including them as components of any new development or redevelopment projects. In the Land Use and Development Section (Policies 2 and 4), the *University Area Plan* calls out that development should demonstrate sensitivity to surrounding uses in the design, location, orientation, landscaping, and screening of development in the University Area.

The Land Use Element of the *General Plan* supports protecting established neighborhoods through compatible development, which includes appropriate land uses and architectural designs. The *General Plan* identifies the potential of zoning overlay zones for areas suitable for redevelopment and enhancement. The Community Character and Design Element recommends all development incorporate sensitive design that protects the integrity of existing neighborhoods, and enhances the overall function and visual quality of the street, adjacent properties, and the community.

Background Information

Feldman’s Neighborhood

The Feldman’s Neighborhood (i.e. rezoning site) is bordered by E. Lee Street on the north, E. Speedway Boulevard on the south, N. Park Avenue on the east, and N. Stone Avenue on the west (see Attachment A: Case Location Map).

The Feldman’s Neighborhood is predominately residential with office, commercial, and retail located primarily on the major corridors bordering the neighborhood.

The Feldman’s Neighborhood is on the National Register of Historic Places (established in 1989; expanded in 2008), which is the official list of the Nation's historic places worthy of preservation. As of 2008, Feldman’s has over 480 contributing properties to the historic district.

On October 23, 2007, the Mayor and Council initiated the Feldman’s Neighborhood for the Neighborhood Preservation Zone rezoning process, which includes developing a neighborhood-specific design manual.

The proposed rezoning is consistent with the Neighborhood Conservation and Land Use and Development policies for this area as provided by the University Area Plan.

Surrounding Neighborhood Associations, Zones, and Land Uses

| | Neighborhood Association | Zoning | Land Use |
|--------------|---------------------------------|-------------------------------------|---------------------------------|
| North | Northwest | R-2 & C-3 | Residential & commercial |
| South | West University | C-1, HR-1, HR-2, HC-1, HC-2, & HC-3 | Residential, church, commercial |
| East | North University | R-2, R-3, & C-1 | Residential, parking garage |
| West | Ocotillo Oracle | C-3 | Commercial |

Overview of the Neighborhood Preservation Zone Enabling Ordinance

On June 10, 2008, the Mayor and Council adopted the Neighborhood Preservation Zone (NPZ) enabling ordinance (Attachment B) in response to an increasing number of historically incompatible structures being constructed in National Register historic districts near the University of Arizona.

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.

New development of buildings and additions to existing buildings within adopted NPZs subject to the NPZ (see Applicability section below) must be historically compatible with nearby contributing properties to the National Register historic district.

The following is a summary of the NPZ enabling legislation’s key sections.

Purpose: The purposes of the NPZ are “to preserve, protect, and enhance the unique character and historical resources of established city neighborhoods” and to provide for the creation and establishment of neighborhood-specific design manuals.

Establishment: Neighborhoods eligible for the NPZ must be: 1) listed on the National Register of Historic Districts or are eligible for the National Register of Historic Places and have completed a nomination or eligibility assessment application; and, 2) initiated by the Mayor and Council.

NPZ districts are established on an individual neighborhood basis through a process that includes development of a neighborhood-specific design manual and neighborhood-wide rezoning.

Design Manuals: The NPZ enabling ordinance establishes the minimum criteria for the neighborhood-specific design manuals. The purpose of the design manual is to assist applicants in designing projects compatible with the existing historic fabric of the NPZ district. To this end, design manuals include architectural and design requirements and guidelines (aka Compatibility Review Criteria) to ensure that development is compatible with the surrounding area.

Privacy Mitigation: The NPZ enabling legislation requires multi-story development proposed adjacent to existing single story residences to provide privacy mitigation to limit visual intrusion.

Dimensional, Spatial, and Access Standards: The Mayor and Council may adopt dimensional, spatial, and access standards that are more or less restrictive than those of the underlying zone as mandatory requirements. Modified standards not adopted as mandatory requirements are advisory for purposes of a compatibility review.

Applicability: Upon the establishment of an NPZ district, development that meets the following criteria must comply with the applicable design manual:

- Is zoned residential;
- Requires a building permit; and,
- Is visible from the street, unless the Design Professional determines that the proposed development’s visibility from the street is so minimal as to be immaterial for purposes of a compatibility review.

Design Professional: The NPZ created the Design Professional position to assist in reviewing NPZ applications and to make recommendations to the Director based on findings after reviewing the proposal and Design Manual. The Design Professional must be a registered architect with historic preservation experience. Recently the Mayor and Council appointed Jim Gresham, a local architect with over 50 years experience as an architect with extensive experience in historic preservation, as the City’s Design Professional.

Approval Procedure: The Design Professional reviews applications for compliance with the neighborhood-specific design manual and forwards a written report with findings and recommendation to the Director of the Planning and Development Services Department (Director). The Director renders a decision finding the application in compliance or noncompliance with the design manual. Appeals to the Director’s decision are referred to the Design Review Board (DRB). Appeals to the DRB decision are referred to the Board of Adjustment. [Note: The NPZ enabling ordinance requires a clarification regarding who has standing to appeal and the timeframes for filing appeals. By the time of Zoning Examiner public hearing, staff will have drafted a clarification of the appeal procedure. The clarification will require amending the NPZ enabling ordinance and will be processed separate from the Feldman’s NPZ.]

Feldman’s Neighborhood Design Manual – Summary

The Feldman’s Neighborhood Design Manual is comprised of three key components: Regulatory, Incentives, and Compatibility Review Guidelines. (See Attachment C: Draft Feldman’s Neighborhood Design Manual.)

Regulatory Component

The Design Manual requires applicable projects (see *Applicability* above for criteria) to comply with the manual’s *Compatibility Review Criteria*, and when applicable, the *Privacy Mitigation* standards.

Compatibility Review Criteria: Chapter 3 identifies and describes the defining characteristics found in the Feldman’s National Register Historic District. For each characteristic, examples are provided of compatible development that is preferred, and examples of incompatible development that should be avoided. The characteristics are categorized as either Priority Review Criteria or Regular Review Criteria.

- The Priority Review Criteria are the key features of the streetscape (i.e. front perimeter yard setback, massing, rhythm, and scale) in the Feldman’s Neighborhood. Proposals consistent with these criteria are most likely to be in compliance with the Design Manual.
- The Regular Review Criteria are a secondary set of characteristics and include architectural style, garages and carports, porches, roofs, and vehicular use areas.

Privacy Mitigation: Chapter 4 classifies the types of privacy mitigation into four categories: Windows, Balconies, Screening, and Exterior Lighting. Each category has Objectives and Strategies. The Objectives express the goals for applicable projects in a particular category that must be achieved. The Strategies, of which there are multiple for each objective, are recommended ways of accomplishing the objective. Examples of recommended strategies include use of clerestory or translucent windows, screening, orienting balconies away from affected properties, and full cutoff exterior lighting fixtures.

Review for Regulatory Compliance: The Design Professional will review applications for compliance with the regulatory aspects of the design manual and forward a written recommendation with findings to the Planning and Development Services Department Director for consideration. The Director will render a decision whether the application is in compliance or non-compliance with the design manual. If a project is found to be non-compliant, the applicant may redesign and resubmit the project for review or appeal the Director’s decision to the City’s Design Review Board.

Incentives

The draft Design Manual conditionally permits modifications to the following dimensional, spatial, and access standards:

- *Alley access* – residential access from alleys less than 16’ wide may be permitted
- *Lot coverage* – may be increased up to 10% above what is permitted by the underlying zone or exclude driveways from the lot coverage calculation
- *Side perimeter yard setback* – may be reduced to the extent permitted by the City’s Building Code.
- *Building height and setbacks* – the Design Manual allows modifications to the side yard setbacks without requiring the setback to be a proportion of building height.
- *Parking* – on-street parking located between the project’s lot lines may count toward meeting a project’s parking requirements and access and maneuvering for on-site parking may occur in the right-of-way
- *Water Catchment Systems* – side perimeter yard setback and separation requirements between dwelling units and accessory structures may be modified for water catchment systems

Approval of a modification is conditioned upon a finding that the project:

- Attempts to retain the contributing status of a building whenever practicable

- Does not reduce compatibility with the Priority Review Criteria
- Complies with the Privacy Mitigation standards
- Does not create a nuisance, such as excessive dust, noise, glare, vibration, or similar problem, for adjacent residents and property owners.

The Design Professional will make a recommendation whether the historical compatibility of the proposed project warrants use of the incentives.

Compatibility Review Guidelines

The purposes of the Compatibility Review Guidelines are to:

- 1) Clarify compatibility review requirements for wheelchair accessible ramps and solar panels and equipment; and,
- 2) Encourage applicants, where a review is not required, to comply with design elements of the Design Manual.

Additional Policy Recommendations

Staff & Feldman’s Neighborhood Design Manual Committee Supported Recommendations

Staff and the Feldman’s Neighborhood Design Manual committee in general support the following policies that could further the objectives of historic preservation and compatible design, but are outside the purview of the NPZ or the Design Manual:

- *City-initiated rezonings.* In an effort to preserve the contributing property status of structures located in the neighborhood’s interior, the City may consider rezoning contributing properties to limit their expansion and redevelopment options, and in exchange, rezone appropriately located properties to allow increased infill development.
- *Model plans (staff version).* Staff will display pictures of approved NPZ projects on the City’s website to assist applicants in the design of their projects. These projects could be models for what would be acceptable for a proposed project’s Development Zone.
- *Permit activity.* Staff will develop a website showing permit activity in the Feldman’s NPZ area, which will allow the public to more easily track development activity in the neighborhood.

Other Policies Considered

The following policy ideas were considered by staff and the committee, but in the end, did not garner consensus support from the committee or could not be recommended by staff.

- *Model plans.* Make full sets of Design Manual- and Building Code-compliant building plans approved by the City available to applicants wishing to develop in the Feldman’s Neighborhood.
- *Facilitate lot splits.* Allow modifications to the minimum lot size to facilitate lot splits so that two smaller residential units could be built instead of one larger unit.
- *Two one-story units.* Allow two one-story units on a lot where a second unit is otherwise not permitted as an alternative to a multi-story unit.
- *Waive/reduce development-related fees*
- *Waive/reduce City sales & property tax*

Stakeholder Outreach & Input

The following outreach was conducted to solicit stakeholder input and feedback on the Draft Manual (see Attachment D: Meeting Schedule for additional information):

Notice

Property owners within the Feldman’s neighborhood have been notified three (3) times:

1. Kick-off orientation meeting at the beginning of the process. (Note: the notice included a committee application form and encouraged property owners to apply to be a member)
2. Neighborhood meeting required by the rezoning process
3. Public hearing at the Zoning Examiner

Feldman’s Neighborhood Design Manual Committee

A committee of homeowners, renters, and non-resident property owners was formed to assist in the development of the Design Manual. An application was included in the initial notice sent to all property owners with a note encouraging people to apply.

Of the 23 applications received, eleven (11) individuals were chosen for the committee in consultation with the representative Ward offices. The committee was comprised of six residents and five non-residential property owners. There were three developers appointed to the committee. They attended and participated in the committee discussions. Toward the end of the process, all three requested their names not be included in the Design Manual.

The committee met seven (7) times between October 2008 and June 2009. Staff convened the committee most recently on June 9th to discuss potential incentives for inclusion in the design manual.

Listserv

Notice was also sent via e-mail to committee members and interested parties frequently throughout the process updating them on the Design Manual’s progress and of upcoming meetings.

NPZ Committee

E-mails have also been sent to the original NPZ Committee that oversaw the development of the NPZ enabling ordinance asking them to comment on both the Feldman’s NPZ rezoning and the Infill Incentive District draft regulation. Staff also intends to reconvene the committee for further comments on the two items regarding preservation and infill.

Website

A website was created to keep the public informed on the Design Manual process. The website was updated frequently with upcoming meeting information, drafts of the design manual, and background information.

Call to the Audience

Time was reserved at the end of every Design Manual Committee meeting for members of the public to comment on the design manual, process, etc.

Neighborhood Meeting

On May 12, 2009, staff conducted a neighborhood meeting to discuss the draft Design Manual and proposed rezoning. Thirty (30) people attended the meeting, including resident homeowners, renters, and non-resident property owners.

Issues raised at the meeting include:

- More incentives should be included to encourage quality development in compliance with the design manual. There is an imbalance between the “sticks and carrots”
- Commercially-zoned properties should be subject to the NPZ and design manual
- The neighborhood association should be notified when a NPZ application is submitted for review. Projects subject to the NPZ design review should include a review by the neighborhood.
- Student housing needs are not being addressed in neighborhoods surrounding the University
- Opposition to additional regulations
- NPZ adds cost and time to the permitting process
- Create incentives for vista preservation and vista corridors
- Require “healthy” vegetation supportive of native flora and fauna and provides the “necessary air cleaning and oxygen producing environment”

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

Level of Support

The Feldman’s Neighborhood Design Manual Committee was unable to reach a consensus recommendation on the draft design manual.

While several neighborhood representatives on the committee have objections to certain specific items, the neighborhood representatives generally support the draft design manual, including the regulatory approach, incentives, and compatibility review guidelines.

The developers on the committee strongly object to the regulatory aspects of the draft design manual. Rather, they recommend a guideline approach with monetary and design incentives.

Compatibility Review Fee

Staff recommends the following Compatibility Review fee*:

Base fee = \$225 for projects up to and including 800 sq. ft.

Projects over 800 sq. ft. = \$225, plus \$75 for every 400 sq. ft. or increment thereof but not to exceed \$975.00.

The objective of the fee is to receive full cost recovery of the Design Professional’s services.

The fee concept was discussed with the Feldman’s Neighborhood Design Manual Committee during the last meeting of the committee in June 2009. They suggested a sliding fee schedule based on the project’s size.

* This item is provided for informational purposes only and does not require Zoning Examiner action. NPZ-related fees will be recommended to the Mayor and Council at the time of ordinance adoption.

Summary & Conclusion

In response to an increasing number of historically incompatible structures being constructed in historic districts near the University of Arizona, the Mayor and Council adopted the Neighborhood Preservation Zone (NPZ) enabling ordinance and initiated the Feldman’s Neighborhood for the NPZ process. The NPZ process includes the development of a neighborhood-specific design manual and rezoning to establish the NPZ overlay. A draft Feldman’s Neighborhood Design Manual has been prepared and the rezoning process has been initiated. Upon establishment of an NPZ overlay zone, new structures and additions to existing structures visible from a street that require a building permit must be historically compatible with the surrounding area and must comply with the applicable design manual.

Staff recommends approval of the rezoning of the Feldman’s Neighborhood to include the Neighborhood Preservation Zone as an overlay zone, and furthermore, that applicable property be subject to the Feldman’s Neighborhood Design Manual as a condition of this rezoning.

Attachment A: Case Location Map

Attachment B: Neighborhood Preservation Zone ordinance

Attachment C: Draft Feldman’s Neighborhood Design Manual

Attachment D: Meeting Schedule

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