

Proposed Grant Road Infill District

Questions and Concerns

4-8-2017

The proposed Grant Road Infill District (GRID) is a hybrid of standard zoning and form-based zoning. Like many form-based codes, it relies heavily on the physical attractiveness of buildings. It spends less time focused on the behavior of the people who will use those buildings. It is this aspect of the proposed GRID that is of greatest concern.

Included among the uses of the proposed GRID are Alcoholic Beverage Service, Entertainment, Food Service and Microbrewery. All of these involve the consumption of alcohol. They produce a unique set of behaviors, ones that we don't normally see in other uses such as Professional Offices or Instructional Schools. State law permits alcohol to be served until 2:00 am. It does not require the business to close at that time, so they can continue to serve food and non-alcoholic beverages. Patrons often congregate in the parking lot after closing and continue to talk and laugh. In the early morning hours, there is little "white" noise generated by traffic, so the sound of their voices is louder.

Those who come for happy hour or to drink with friends, often stay for longer periods of time than someone who is going to eat a meal. It is this behavior that creates the need for additional parking places, because the turnover in the parking lot is slower.

Most critical is Title 4 of the state statutes. This is the only thing the Liquor License Board follows when considering a request for a liquor license. It provides ZERO protection for a community, so local zoning code requirements are absolutely essential to protect the surrounding neighborhoods.

Tucson's current zoning code recognizes these unique behaviors and circumstances and seeks to minimize their negative impacts on adjoining properties. It sets requirements based on the intensity of the zone.

The GRID throws many of those protections out the window.

What follows is a review of the various proposed criteria, with concerns about alcohol generating the overarching influence on these concerns.

GRID:

Page 3: Under Section B-1, multiple references are made to "her" as the applicant or property owner. We suggest the more generic "their" so as to leave no doubt that this includes both men and women.

Page 4: **Section B-2.a.2, Modifications or Waiver of GRID Plan Submittal Requirements;** Why have requirements if they can be waived by administrative

variance? If an individual is seeking to develop their property under a code, then they need to be willing to comply with the provisions of that code. Waivers that are granted by the PDSO Director with NO input from adjoining property owners are inherently unfair. The individual seeking a waiver or variance is the one who benefits from the granting of that waiver or variance. Often, this means the value of their property increases, particularly if they are permitted to expand their building beyond what other similarly-zoned properties are allowed. As such, the burden and expense of seeking a variance or waiver should be on them. Instead, an administrative variance shifts the financial burden onto those who never sought the variance. Anyone appealing the granting of that variance incurs the cost of that appeal, even though they receive no financial gain from the process.

Page 4: Section B-2.b.2.d Review and Approval Procedures: The GRID proposes to establish a Design Review Committee. Given our current PDSO staff shortages, it makes little economic sense to craft an overlay that will require extensive manpower. Why build a code that has enough controversy that it requires another design review committee to “settle” conflicts? This is yet another problem with form-based codes. Their subjective requirements are inefficient.

Page 5: Section B-2.b.4.d Neighborhood Meeting: This provision injects an element of balance into a process that has been flawed, and for that, you are to be commended. However, it also exposes the problem of a code that requires an additional system of time and resources to manage, and it calls into question the wisdom of this proposed overlay.

Page 6: Section B-2.b.5.c.(2) Exceptions: This provision is an abdication of the city’s responsibility to ensure that historic properties are protected. No adjacent property owner should be given such power, particularly when they lack training and expertise to make wise decisions in these matters. It also creates an inducement for an individual to purchase both properties with the intention of granting a waiver on one of them.

Page 6: Section B-2.b.7.a Composition of the GRID Design Review Committee (GRID DRC): Once again, the deck is stacked against the residents. If the committee is to be composed of five members, four of whom work for developer/business interests, the residents have only one representative. In addition, the City Manager is allowed to choose any combination of members, which means the residents may have no representation at all.

Furthermore, under provision “d”, the GRID DRC shall adopt rules of procedure. Since the deck is already stacked against the residents, what guarantee do we have that those rules will be balanced and fair?

Page 7: Section B-2.b.8.b: Quorum, voting and Recommendation: If ad-hoc members are allowed and permitted to vote, does this alter the quorum requirements, or will those requirements always be 3 members?

Page 7: **Section B-2.b.8.c:** This provision creates a loophole that permits a single person, the city’s Design Professional, to make a recommendation to the PDSO Director. This loophole can be easily created if the City Manager simply fails to appoint members to serve on the DRC.

Page 7: **Section B-2.b.9.a: GRID DRC Review:** This sentence is poorly written. It might need to become two sentences for greater clarity.

Page 7: **Section B-2.b.10.b: Review by the Design Professional:** There needs to be an additional element that ensures the adjoining property owners receive this report, especially if the DRC is lacking a neighborhood representative.

Page 7: **Section B-2.b.11: Review by the Mayor and Council of Group Dwellings:** Why are we even going here? We have had a long history of problems with group dwellings. Add alcoholic beverage service to allowable uses and we are asking for trouble.

Page 7: **Section B-2.b.12: PDSO Director Decision:** This entire section is troubling. Whenever I see the liberal use of the word “may”, that usually means the adjoining property owners will receive no protections. How do we separate the cost of parking spaces from residential building spaces and what purpose does this serve? Who will responsibly measure ambient noise levels to ensure that a noise mitigation plan is adequate? How can we trust a behavioral management plan that is self-policing and what recourse do residents have when it fails? What is a “shadow plan”? What is the purpose of a ground vibration study?
Given the city’s abysmal history of failing to protect the investments of adjoining property owners, why would we trust that this overlay will be anything other than business as usual?

Page 8: **Section B-2.c: Development Review Fees:** A definition of adaptive re-use is critical to justifying a 50% reduction in development fees.

Page 8: **Section B-2.d: Traffic and Parking Mitigation Fees:** Who initiates the parking/traffic study requirement and who pays for it?

Page 8: **Section B-3: Urban Design Best Practices:** This is a gigantic loophole. It essentially grants an unelected bureaucrat great latitude to throw out code regulations and substitute anything they decide to call “best practices”. Furthermore, basing these “best practices” on design standards for a downtown, when Grant Road is NOT a downtown, sets the stage for incompatible designs.

Page 9: **Story:** This definition of a mezzanine comes from the commercial code. Will residential development be excluded from this provision? We also don’t provide a height for story. Is it conceivable that a first floor could be over 20 feet high?

Page 9: **Peddler Pod:** Since there is little detail in the GRID as to how a site will be developed to ensure that adjoining property owners are protected from this activity, this needs a great deal of work. It wasn't that long ago that this issue was creating sufficient problems for neighborhoods along Grant, so we need to ensure that we don't find ourselves recreating the problem again.

Page 10: **Section C-2.A.1.f: Streetscape Design; Pedestrian-orientation:** Sidewalks are to have a "safe and effective width". Who decides what that will be? Are we meeting ADA standards?

Page 10: **Section C-2.A.1.g:** Requiring "lateral pedestrian connections" into the adjacent neighborhoods is a poor design element. New Urbanism, which promotes this idea, ignores the ease with which a criminal element exploits this type of feature. The most vulnerable properties in our neighborhoods are the ones located along the edges. Encouraging foot traffic into these areas exposes those property owners to greater danger.

Page 10: **Section C-2.A.1.h:** Drive-through service should be discouraged, especially now that the city is modifying its sign code requirements to push the noise element of drive-through signage closer to the adjoining properties.

Page 10: **Section C-2.A.2.a: Shade:** Does this 2:00pm measurement take into account the fact that the sun moves from a southern path to a northern path in the summer? Buildings located on the north side of the street may have some shade on their southern exposure, while buildings on the south side of the street will have no shade on their northern exposure.

The property owner can utilize planting in the City right-of-way to fulfill some of the shade requirements. Who pays to maintain this right-of-way? Does this not obligate the taxpayer to provide this code requirement?

Page 10: **Section C-2.A.2.b: Exception:** Define "reasonable". Once again, an unelected bureaucrat can make an arbitrary decision to eliminate code requirements, thereby creating a false promise of good development for the community.

Page 10: **Section C-2.B.1 Development Transition Standards; Applicability:** Is this 100-foot requirement inclusive of, or in addition to, streets, alleys and rights-of-way?

Page 10: **Section C-2.B.2.a: Mitigation of Taller Structures:** Does this 25-foot height requirement include the height of any fill that is added to the property? Does it include architectural elements such as parapets? How is this going to protect an adjoining property owner from those parts of the GRID that permit structures up to 75 feet in height?

Page 10: **Section C-2.B.2.b: Building Bulk Reduction:** The use of the word "may" is unacceptable. The owner of a single-family residential property adjacent to the GRID should have absolute certainty that their investment will be protected.

Page 11: **Section C-2.B.2.d**: Balconies should not be permitted as they are too problematic.

Page 11: **Section C-2.B.3: Mitigation of Service Areas**: This entire section is problematic. It is difficult to adequately mitigate the nuisance of dumpsters on adjoining property owners, both from the noise and the odors. Parking can't be adequately mitigated, particularly in light of Section C-2.E.4 on page 12, where surface parking is required to be located at the rear or side of a building. Allowing a property owner to substitute dense vegetation for a masonry wall is unacceptable.

All of these criteria, taken in conjunction with alcoholic beverage service, spell disaster for an adjoining property owner.

Page 11: **Section C-3.C: Alternative Compliance**: Once again, relying on “best practices”, especially those based on downtown development, is inappropriate for Grant Road.

Page 11: **Section C-3.E.1.b: Parking**: This off-site parking element needs to be explained in more detail. How is this managed? Who owns and operates the structure? Is there a fee to use this structure? How is lighting of such a structure regulated, especially if it abuts a residential area?

Page 12: **Section C-3.E.2.a**: If a parking plan is permitted to reduce required residential parking, where does the city believe the vehicles will park?

Page 12: **Section C-3.E.4.b**: This section is unacceptable. There is a vast difference between a doctor's office and a bar. Allowing a use to change from one to the other without requiring additional parking or other mitigation does not work in the best interests of the community.

Page 13: **Section C-3.G.3: Additional Permitted Uses**: This section refers to Section B-2.b.1, *Purpose*. Where is this section?

Page 13: **Section C-3.H.2: Screening**: How does safety glass provide adequate screening?

Page 13: **Section C-3.H.4**: What purpose does 20-foot high screening serve if the building is 40 feet tall?

Page 13: **Section C-3.L.c**: Saguaros that have arms do not transplant well, so this height requirement may be a problem.

Page 13: **Section C-3.J: On-site Water Management**: If the GRID promotes greater density and more paved areas, water management will be more critical. How do these provisions differ from our current water management provisions? Do these proposed regulations permit a property owner to dump their stormwater onto adjoining properties?

Page 14: Section C-3.M: Environmentally Conscious Design Practices: Is this section intended to be a trade-off for reductions in building setbacks, increase of building heights, reductions in parking requirements, etc.? If so, are they feasible and realistic? For example, if we allow a property owner to expand the footprint of their building and reduce their parking area, is there any room to provide 70% shade to the parking lot? Does this 70% become meaningless when the building footprint is expanded and the parking area is reduced?

Page 14: Section C-3.N: Modifications of Underlying Development Standards: This provision refers to Subsection P. Where is this?

This entire provision allows for a 25% reduction in requirements for building heights, setbacks, parking, loading, landscaping and screening. This effectively reduces any of the protections that have been provided in the previous sections of the proposed GRID. Who makes the determination as to whether these reductions will be permitted and what guides their decision?

Page 14: Section C-3.O: Exceptions: This refers to Section B-2.b.1, *Purpose*. Where is this section?

Page 14: Section C-3.O.1.a: The specific building heights referenced in figure C-2-GIIS-2 range from 40 feet to 75 feet. In these specific zones, building heights can rise if the underlying zone already permits buildings of greater height. However, the underlying zoning also requires appropriate setbacks to mitigate these heights, which the GRID does not. In some instances, it would be impossible to build to the heights allowed under existing zoning, since these setback requirements could never be met. This proposed section does not provide protection for adjoining property owners, and this language needs to be modified to remove any reference to the underlying zones and allowable building heights.

Page 15: Section C-3.O.1.b: Street Perimeter Yard: This section allows the Director of the Transportation Department to waive street perimeter yard setback requirements. Does this apply to residential streets and alleys?

Page 15: Section C-3.O.1.c: Please explain what a RAN is.

Page 15: Section C-3.O.2.a: Parking: This section allows for a reduction in the parking requirements by more than 25%. Alcoholic beverage service and restaurants create a unique situation that should NOT be receiving a reduction in the parking requirements. Furthermore, if a use changes from an office to a bar, what requirements will the city put in place to ensure that adequate parking is required?

Page 15: Section C-3.O.2.c.(3): Location: We should not be encouraging collector streets to become de-facto parking lots for GRID development. This becomes difficult to control and turns into an expensive enforcement issue.

Page 15: **Section C-3.O.5.b: Section 7.6, Landscaping and Screening**: Why bother having landscaping requirements if a complete exception can be granted?