



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, JANUARY 14, 2009

MEETING MINUTES

PRESENT: David Barnett, Chairman
Eric Hess, Vice Chairman
Steven Steinke, Commissioner
Michael Schmitt, Commissioner
Kevin O'Neill, Commissioner (left at 6:52)
Michael D'Andrea, Commissioner
Jeffrey Schwartz, Commissioner

STAFF: Connie Padian
Joe Padilla
David Reichert
Kira Wauwie
Greg Williams
Jesus Murillo
Don Hadder

CALL TO ORDER

Chairman Barnett called the meeting of the Scottsdale Planning Commission to order at 5:02 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

APPROVAL OF 2009 MEETING SCHEDULE

COMMISSIONER SCHMITT MOVED TO APPROVE THE 2009 MEETING SCHEDULE. SECONDED BY COMMISSIONER D'ANDREA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

MINUTES REVIEW AND APPROVAL

1. December 10, 2008 Regular Meeting Minutes including Study Session.

COMMISSIONER D'ANDREA MOVED TO APPROVE THE DECEMBER 10, 2008 PLANNING COMMISSION MINUTES INCLUDING THE STUDY SESSION. COMMISSIONER STEINKE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

CONTINUANCE

2. 10-TA-2008 Outdoor Sales Display and Storage Text Amendment

Request by the City of Scottsdale for a text amendment to the Zoning Ordinance (Ordinance No. 455) to amend the definitions and allow uses to provide for outdoor sales display and storage. Article III. Definitions., Section 3.100. General., and Article V., District Regulations., Sections: 5.1200. (C-S) Regional Shopping Center zoning district; 5.1300. (C-1) Neighborhood Commercial District; 5.1400. (C-2) Central Business District; 5.1500. (C-3) Highway Commercial District; 5.1600. (C-4) General Commercial District; 5.1700. (S-S) Support Services District; 5.2400. (P.N.C.) Planned Neighborhood Center zoning district; 5.2500. (P.C.C.) Planned Community Center zoning district; 5.2600. (PRC) Planned Regional Center zoning district; 5.2700. (P.Co.C.) Planned Convenience Center Zoning District; 53000. (D) Downtown District; and 5.4000. Planned Commerce Park (PCP) District.

3. 25-UP-2008 Pinnacle Peak Internalized Community Storage

Request by applicant for a Conditional Use Permit for an internalized community storage facility on a 1.86+/- acre site located at 10798 E. Jomax Road with Planned Community Center, Environmentally Sensitive Lands, Hillside District (PCC ESL (HD)) zoning.

COMMISSIONER O'NEILL MOVED TO CONTINUE 10-TA-2008 TO THE FEBRUARY 11, 2009 PLANNING COMMISSION HEARING AND 25-UP-2008 TO A DATE TO BE DETERMINED. SECONDED BY COMMISSIONER D'ANDREA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

4. 15-AB-2008 Milde Residence

Request by applicant to abandon the southern 5 feet of the 25-foot half-street right-of-way located along the E. Dusty Miller Road alignment at 39204 N. Boulder View Drive with Single-Family Residential district, Hillside District (R-1-43 HD/HC) zoning.

5. 15-UP-2007#2 Dirty Dogg Saloon

Request by applicant to remove time expiration stipulation for a Conditional Use Permit for Live Entertainment in an existing building located at 10409 N. Scottsdale Road with Highway Commercial District (C-3) zoning.

6. 2-GP-2008 Discount Tire

Request by applicant for a General Plan amendment from Office to Commercial on a 2 +/- acre parcel located at 20555 N. Scottsdale Road.

7. 10-ZN-2008 Discount Tire

Request by applicant to rezone from Commercial Office District, Planned Community District (C-O PCD) to Highway Commercial District, Planned Community District (C-3 PCD) on a 2+/- acre parcel located at 20555 N. Scottsdale Road.

8. 19-UP-2008 Discount Tire

Request by applicant for a Conditional Use Permit for a tire store on a 2+/- acre parcel located at 20555 N. Scottsdale Road with Commercial Office District, Planned Community District (C-O PCD) zoning. The requested Conditional Use Permit is appropriated at this site after rezoning to Highway Commercial District, Planned Community District (C-3 PCD).

10. 9-TA-2008 Text Amendment-ESLO Density Incentive

Request by the City of Scottsdale for a text amendment to the zoning Ordinance (Ordinance No. 455) to amend Section 6.1060.C., Density Incentive for increases in NAOS, of the Environmentally Sensitive Lands (ESL) section of the Zoning Ordinance.

COMMISSIONER O'NEILL MOVED TO APPROVE 15-AB-2008, 15-UP-2007#2 BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA, 2-GP-2008, 10-ZN-2008, 19-UP-2008 BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA, AND 9-TA-2008. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

9. 22-AB-2005 Frederick Abandonment

Request by applicant to abandon the General Land Office Easement on the western property boundary and the northern property boundary of parcel 212-21-047A and on the eastern property boundary and northern property boundary of parcel 212-21-046 and to abandon the right-of-way for 78th Street along the eastern property boundary of parcel 212-21-050 with Single-Family Residential District, Environmentally Sensitive Lands Ordinance, Foothills Overlay (R1-70 ESL FO) zoning.

Mr. Williams reviewed the request, explaining that the Applicant would dedicate 15 feet of trail along 78th Street and seven and a half feet of trail along the northern boundary of Oberlin Way as part of the abandonment. The abandonment will reduce the amount of area available for roadway, allow for completion of trail dedications along Oberlin Way and 78th Street alignment; trail easements will be dedicated as non-motorized public access easements and the abandoned land will be incorporated into the existing parcels.

In response to a question by Chairman Barnett, Mr. Williams explained that all trails are 15 feet, as required by the existing Trails Plan.

In response to a question by Commissioner D'Andrea, Mr. Williams clarified that a 20-foot waterline easement would be reserved over the existing waterline; the 15-foot trail will be placed within that easement. The GLO abandonments will have no effect on public utility easements.

Mr. Padilla provided clarification on the City's policy on GLO Abandonments. The City will continue to abandon GLO easements as an applicant comes forward and meets the abandonment criteria. As a condition of abandonment, applicants must acknowledge that the City is releasing only its interest in the GLO easement and release the City from any future claims of encroachment. The issues surrounding individuals utilizing easements for ingress and egress has been litigated. The ruling was that GLO easements are not granted for the express purpose of providing ingress and egress to private property owners; a third person could utilize a GLO easement after it has been abandoned if there were no other access to their property.

Ms. Lynne Lagarde reviewed the basics of GLO abandonments, explaining that the City has confirmed their legal right to abandon easements. She reiterated that as part of the abandonment the Fredericks are providing trail easements, a five-foot corral fence setback easement, and are dedicating public right-of-way.

Mr. Frederick presented photographs depicting the character of the area and the existing conditions of the right-of-way. He stressed the importance of preserving the natural wildlife and preserving the Desert Foothills area.

Mr. Leon Spiro, 7814 E. Oberlin Way, spoke in opposition to the abandonment. He felt that abandoning the right-of-way would be illegal and would deprive him of his property rights. He opined that the State Statute was being violated

because the utility companies had not provided a release. He expressed concern that access would not be available for emergency services.

Mr. Williams clarified that the utility companies had given their approval for the abandonment.

Ms. Lagarde reiterated the importance of abandoning the easements as a measure for preserving the natural desert. She noted that the abandonment would not be an encroachment on Mr. Spiro's property rights.

Commissioner Steinke commented that easement-related discussions have been an ongoing issue during his tenure on the Commission and they become convoluted because of the changing of commissioners and Councilmember's. He hoped that a proactive solution can be found for addressing issues of easements in general.

Mr. Reichert noted that he is familiar with abandonment issues and agreed that it is important to develop a more general proactive approach. He plans to address abandonments as part of his work plan.

Chairman Barnett agreed that abandonments would be more effectively addressed on a neighborhood or regional basis.

COMMISSIONER STEINKE MOVED TO APPROVE 22-AB-2005, FREDERICK ABANDONMENT. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

11. 13-TA-2008 PRC Zoning Ordinance Text Amendment

Request by private property owner for a text amendment to the zoning Ordinance (Ordinance 455) to amend Article V. District Regulations. Sec.5.264. Property development standards., Planned Regional Center District (PRC) to reduce the required gross land area for the PRC district from twenty-five (25) to twenty (20) acres.

Commissioner Schwartz noted a conflict and recused himself from the discussion.

Mr. Hadder reviewed the history of PRC districts, which originally had a 30-acre minimum parcel size. This was changed to 25 in reaction to development trends. With the exception of SkySong, the majority of PRC areas are located in the Airpark area. More recently PRCs have been used as an effective tool for mixed use rather than regional centers.

Mr. Jason Morris explained that the text amendment was requested in an effort to expedite the project based on the existing General Plan. With fewer opportunities available for larger parcels it is necessary to minimize the acreage requirements in order to facilitate development. Because of project time constraints it would be unreasonable to wait for the PUD text amendment initiated by the Planning Commission to complete the process.

In response to an observation by Commissioner D'Andrea, Mr. Morris agreed that open house attendance was low. The majority of attendees were interested in finding out more about the overall project and employment opportunities.

Chairman Barnett expressed concern about the height that would be allowed by a PRC being used in a view corridor. He was in favor of the project; however he would be more comfortable applying a PUD to the site because it would restrict height to 36 feet. Mr. Reichert agreed that the community should be provided with assurances of where height will be allowed. The PUD would be an appropriate tool, but he felt because of the time frame it might be unrealistic to apply a PUD to this site. Mr. Hadder noted that although the PRC allows 60-foot height, it is tied to a site plan to which the City has the ability to limit the height; any future height changes would require Planning Commission approval. Mr. Morris commented that if reviewed along with the site plan, the Commission might be more at ease with the request.

In response to a comment by Commissioner D'Andrea, Mr. Hadder explained that specific elements of the PRC would make it difficult to allow 15 acres; the PUD will be more flexible.

Mr. Lou Warner, Paradise Valley Planning Commissioner, spoke in opposition to the request. He discussed related issues including view obstruction created by the 60 foot height and traffic generated on Indian Bend. He felt that the most appropriate option would be to restructure the PRC to address issues that are relevant to this type of site, addressing all issues including drainage.

Mr. Morris agreed that the City should create a more flexible tool while continuing to move forward with development of a PUD. For this project, however, the most logical solution is application of the PRC

**COMMISSIONER O'NEILL MOVED TO APPROVE 13-TA-2008.
COMMISSIONER SCHMITT SECONDED THE MOTION.**

Commissioner D'Andrea noted that he was supportive of the intent of the project but feared the ramifications were not completely understood.

Commissioner Steinke noted the importance of involving Long Range Planning on this type of project; their input is noticeably missing from the report. He was supportive of the project but felt the Commission had insufficient guidance to move forward with the request.

Vice-Chairman Hess agreed with Commissioners D'Andrea and Steinke, noting he would not support the request as it was presented.

Chairman Barnett reiterated his concern about the height that a PRC would allow, noting that ideally he would prefer to have a PUD applied to the site, which would provide more flexibility. He noted a preference for continuance.

Mr. Reichert commented that a continuance would provide time for staff to research alternative solutions and review the Ordinance for alternate interpretations.

Commissioner O'Neill noted that he supported the request as presented but would also support a continuance.

COMMISSIONER O'NEILL WITHDREW HIS MOTION FOR APPROVAL.

COMMISSIONER O'NEILL MOVED TO CONTINUE 13-TA-2008 TO THE JANUARY 27, 2009 PLANNING COMMISSION HEARING. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER SCHWARTZ RECUSED HIMSELF.

PLANNING COMMISSION DISCUSSION AND POSSIBLE ACTION

12. Discussion on initiation of changing the General Plan amendment criteria

Ms. Padian noted that the item was agendaized at the request of Commissioner Schwartz in order to gain consensus to have the initiation placed on a future agenda.

Commissioner Schwartz explained that he was interested in initiating the change to the General Plan in order to provide opportunities for smaller parcels to go through General Plan amendments more often than once a year. He recalled that the Planning Commission previously recommended the amendment and it was rejected by City Council because they felt that Planning Commission representatives should have been available for comment at the City Council hearing. He reiterated his feeling that there is no need for Commissioners to attend City Council hearings to reinforce recommendations.

It was the consensus of the Commission to place the item on the agenda for discussion. Vice-Chairman Hess requested that the discussion be expedited in order to allow time for the exiting Commissioner to participate.

NON ACTION ITEM

13. Discussion on Phase 2 of the R1-7 Zoning Ordinance update for Carports, Setbacks/Yards and Accessory Buildings. Ref.6-TA-2007, 7-TA-2007, and 8-TA-2007

Ms. Wauwie reviewed the work program elements. Background research has been extensive, including input received at the building permit counter and open houses. The Every House Changes study done by Catherine Spellman and ASU students in conjunction with City Staff and the Bringing it Home project conducted by City staff were studied to develop alternative floor plan possibilities for R1-7 properties.

One challenge has been developing a method for allowing carport enclosures for both garage and living space; current allowance will allow building on the lot line with a five-foot setback and an agreement with the neighboring property owner. Height will be discussed as part of phase three of the project.

There is a desire in the community to allow 100 percent front patio covers; 50 percent coverage is currently the requirement. Staff is proposing permitting gas or electric front yard fireplaces.

A key area of concern is maximizing the usable backyard area by reducing the distance required between accessory buildings and the main building; staff is recommending a five foot setback. Staff was interested in allowing zero setback for garages along alleys; however, the community requested a two-foot setback.

The existing standard for an addition in the rear yard is 30 percent of the occupied area. Because of the complexity involved in administering the current code regarding setbacks and lot coverage, Ms. Wauwie suggested combining discussion of proposed changes with the height discussion in phase three.

Commissioner Schmitt stressed the importance of preserving the outdoor living space. He suggested that providing a two-foot setback for accessory buildings along an alley would invite trash and weeds to collect in an unusable space; he felt the zero setback would be a more desirable alternative. He was opposed to allowing six foot walls in front yards and suggested that a two- or three-foot allowance would be an improvement to neighborhoods. Ms. Wauwie noted that six feet is the current allowable height for front yard walls. Commissioner Schmitt expressed interest in lowering the wall height standard.

In response to a question by Commissioner D'Andrea, Ms. Wauwie explained the reasons for phasing the project. She explained that lots have not been combined as of yet; however one home in Sherwood Heights and several along Indian School have maximized their height, which does change the character of the neighborhood. There is currently no existing maximum lot size limit provided homes are within the allowable footprint. In areas zoned for historic preservation development standards of the underlying zoning district can be amended regardless of updates.

Commissioner Steinke agreed with the idea of limiting front yard fireplaces to gas or electric for environmental reasons. He commented that it will be important to provide information to homeowners and HOAs outlining information and explaining potential impacts.

Ms. Wauwie noted that staff hopes to bring a final draft to the Commission in six to eight weeks.

Commissioner Steinke reminded staff of the Commission's interest in further discussions regarding the Downtown Character Area Plan.

ELECTION OF OFFICERS

COMMISSIONER D'ANDREA NOMINATED CHAIRMAN BARNETT AND VICE-CHAIRMAN HESS TO CONTINUE IN THEIR PRESENT POSITIONS. COMMISSIONER SCHWARTZ SECONDED THE NOMINATION. THE COMMISSION VOTED UNANIMOUSLY WITH A VOTE OF FOUR (4) TO ZERO (0). COMMISSIONER O'NEILL WAS NOT PRESENT.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 7:37 p.m.

Respectfully submitted,
AV-Tronics, Inc