



Approved 3/25/2009 bl

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

WEDNESDAY, MARCH 11, 2009

MEETING MINUTES

PRESENT: David Barnett, Chairman
Eric Hess, Vice Chairman
Steven Steinke, Commissioner
Michael D'Andrea, Commissioner
Michael Schmitt, Commissioner
Kevin O'Neill, Commissioner

ABSENT: Jeffrey Schwartz, Commissioner

STAFF: Lusia Galav
David Richert
Joe Padilla
Don Hadder
Kira Wauwie
Keith Niederer
Jesus Murillo

CALL TO ORDER

Chairman Barnett called the meeting of the Scottsdale Planning Commission to order at 5:03 p.m.

ROLL CALL

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

Chairman Barnett requested a discussion regarding flexibility with some traditionally time-sensitive items.

MINUTES REVIEW AND APPROVAL

1. February 25, 2009 Regular Meeting Minutes including Study Session.

Commissioner D'Andrea noted that he was listed as being in attendance when, in fact, he was absent on February 25th.

COMMISSIONER STEINKE MOVED TO APPROVE THE FEBRUARY 25, 2009 PLANNING COMMISSION MINUTES AS AMENDED. SECONDED BY COMMISSIONER D'ANDREA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

CONTINUANCES

2. 13-TA-2008 PRC Zoning Ordinance Text Amendment

Request by private property owner for a text amendment to the Zoning Ordinance (Ordinance No. 455) to amend Article V. District Regulations. Sec.5.2604. Property development standards., Planned Regional Center District (P.R.C.) to reduce the required gross land area for the P.R.C. district from twenty-five (25) to twenty (20) acres.

3. 13-ZN-2008 Palmeraie

Request by applicant to rezone from Resort/Townhouse Residential District (R-4R) to Planned Regional Center (PRC) zoning on a 20+/- acre site located at 6990 N. Scottsdale Road.

4. 17-AB-2008 Palmeraie

Request by owner to abandon fifteen (15) feet of right-of-way along the south half of E. Indian Bend Road generally located at the southwest corner of N. Scottsdale Road and E. Indian Bend Road with Resort District (R4-R) zoning.

5. 14-ZN-2008 Pinnacle Peak Resort (Capella)

Request by owner for site plan approval for a future resort on 16 +/- acres including Parcel 216-84-306 located at the northwest corner of East Jomax Road and North 104th Street with Central Business District/Environmentally Sensitive Lands (C-2/ESL) zoning.

COMMISSIONER STEINKE MOVED TO CONTINUE 13-TA-2008, PRC ZONING ORDINANCE TEXT AMENDMENT; 13-ZN-2008, PALMERAIE; 17-AB-2008, PALMERAIE; AND 14-ZN-2008, PINNACLE PEAK RESORT (CAPELLA) TO THE MARCH 25, 2008 PLANNING COMMISSION MEETING. SECONDED BY COMMISSIONER D'ANDREA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

EXPEDITED AGENDA

6. 18-AB-2008 128TH Street and Ranchgate (Happy Valley) Road

Request by applicant to abandon the 30 feet of roadway and public utility easement along E. Ranchgate Road (Happy Valley Road), the 55 feet of roadway and public utility easement along N. 128th Street, the 20 feet of roadway and public utility easement along the E. Juan Tabo Road alignment, and the 15 feet of roadway and public utility easement along N. 126th Street located at 12651 E. Happy Valley Road, with Single Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning. Abandonment request is to accommodate for a proposed subdivision plat, N. 128th Street and Ranchgate Road, case 11-PP-2008.

Commissioner D'Andrea asked whether the abandonment could in any way affect the path. Mr. Murillo explained that the Transportation Master Plan shows a trail along N. 128th Street. The 15-foot public trail easement being requested as a dedication will meander throughout the entire scenic corridor wherever needed. He noted that the Applicant is also providing a 14-foot trail easement along E. Happy Valley Road in addition to the 15 feet required along N. 128th Street.

7. 10-UP-1999#2 Healthsouth Rehab Hospital

Request by owner for an amendment to a Conditional Use Permit for the expansion of an existing hospital facility on a 6.19+/- acre parcel located at 9630 E. Shea Blvd. with Commercial Office (C-O) zoning.

In response to a question by Commissioner O'Neill, Mr. Cluff noted that during the extensive review of the case there were no indications of intent to increase the number of residents above what was previously approved.

8. 30-UP-2008 Westcore Aviation-15035 N. 73rd Street

Request by owner for a Conditional Use Permit for an off-airport Heliport on a 1.2+/- acre site located at 15035 N. 73rd street with Industrial Park district (I-1) zoning.

9. 31-UP-2008 Westcore Aviation-7305 E. Greenway Rd.

Request by owner for a Conditional Use Permit for an off-airport Heliport on a 35,019 +/- square-foot site located at 7305 E. Greenway Road with Industrial Park District (I-1) zoning.

COMMISSIONER STEINKE MOVED TO APPROVE 18-AB-2008, N. 128TH STREET AND E. RANCHGATE (HAPPY VALLEY) ROAD; 2-UP-1999#2, HEALTHSOUTH REHAB HOSPITAL, BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA; 30-UP-2008, WESTCOR AVIATION, 15035 N. 73RD STREET, INCLUDING THE MOST RECENT VERSION OF THE AMENDED STIPULATIONS, BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA; 31-UP-2008, WESTCORE AVIATION, 7305 E.

GREENWAY ROAD, INCLUDING THE MOST RECENT VERSION OF THE AMENDED STIPULATIONS, BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

10. Appeal of Zoning Code Interpretation

Discussion of and possible action on appealing the Zoning Administrator's Interpretation dated February 13, 2009, - Gross Land Area for the PRC District (Planned Regional Center).

Ms. Galav noted that a review of the Zoning Administrator's interpretation related to the Palmeraie case was requested by Chairman Barnett on behalf of the Planning Commission. This interprets the land development regulation portion of the PRC District size and takes the entire project acreage into consideration in order to meet the PRC district development standard. It is within the purview of the Planning Commission or any aggrieved individual to appeal any Zoning Administrator interpretation within the allotted amount of time. An appeal would need to be submitted to the City Clerk's office in writing prior to March 15th with specific points of opposition indicated and would be brought before the Board of Adjustment for review. Based on the Ordinance, the Board of Adjustment must uphold a Zoning Administrator decision unless it is found to be arbitrary and capricious.

Chairman Barnett requested a summary of the background and logic that went into the interpretation, noting that the Commission was provided with the final draft of the interpretation for the first time just before the Planning Commission meeting began.

Mr. Richert explained that this type of interpretation is common practice when projects cross municipal boundaries. Because sites are smaller with more intensification, staff felt that the standard may be outdated. He outlined benefits to working together with Paradise Valley, including drainage benefits between the properties. Including the additional five acres will allow the zoning application be heard on its own merits and to move forward without changing the Zoning Ordinance. He reviewed the allowances that could be provided through the PUD Ordinance. He opined that acreage is less relevant than setbacks, height, and mixed-use opportunities that are currently being supported by the community. The Applicant has indicated that if the Zoning Administrator's interpretation is successful, they will withdraw the text amendment application because it will no longer be required.

In response to a question by Vice-Chairman Hess, Ms. Galav noted that the text amendment will move forward with the zoning case until withdrawn by the Applicant.

Chairman Barnett explained that he felt it important to agendize a discussion regarding the Zoning Administrator interpretation because it is occurring on a project that is currently in the process and it circumvents the Planning

Commission discussions regarding the case. He objected to interpreting across municipal boundaries, noting that the Commission has not been updated on what the interpretation states or on the logic behind the interpretation. He expressed interest in learning about the process and what processes are available to people who may or may not agree with the interpretation.

Ms. Galav explained that the Scottsdale Ordinance provides for a zoning administrator whose job it is to make zoning interpretations and decisions on a daily basis; when an interpretation is made the results are usually discussed in the staff report. If this interpretation is not challenged, the Planning Commission can expect to see the interpretation mentioned in the staff report for the Palmeraie case.

Commissioner D'Andrea stressed the importance of discussing the best solution for the City of Scottsdale, despite what would be best for the project overall and possible legal ramifications of any action that might be taken.

Commissioner O'Neill mentioned his experiences in dealing with zoning interpretations for projects. He opined that if the interpretation had been written as part of the early application process, it would have been determined that the Applicant met the requirements of a 25-acre site and the zoning and abandonment cases would have moved forward; the Commission would not be aware that a Zoning Administrator interpretation had been made.

Commissioner Steinke commented that Scottsdale has been unsuccessful in other recent outreach attempts with neighboring municipalities. He was concerned about the cross-jurisdictional challenge specific to the Palmeraie case and the associated legal implications. With a two-day deadline, the issues regarding the interpretation are taking the focus off of a very good project.

In response to a question by Commissioner Schmitt, Ms. Galav confirmed that an interpretation is a statement stating what the administrator believes was the intent of the Ordinance as it was written and whether it meets the intent of the particular district.

Mr. Richert explained that the dark line on the aerial map indicated the drainage facility that will be installed underground as part of the project to make the site from Paradise Valley flow properly to the Indian Bend and Scottsdale Road intersection and through the McCormick-Stillman Railroad Park. The drainage facility represents the connection between the two properties and how the connection between two municipalities can be used to solve health and safety issues in the City of Scottsdale.

In response to a question by Vice-Chairman Hess, Mr. Richert opined that if an agreement is not made joining the two municipalities, Paradise Valley may opt for a drainage design that would have a detrimental affect on Scottsdale's drainage situation.

Chairman Barnett commented that if the zoning interpretation were not granted the project would still require interconnectivity; land size does not have an impact on the infrastructures crossing municipal boundaries. Mr. Richert reiterated that

it is clearly within the bounds of the Ordinance that it makes sense for adjacent properties to work together under one ownership. He confirmed that based on the Zoning Administrator interpretation, the potential would exist for a one-acre site to build under the PRC in Scottsdale by borrowing the additional 24 acres. Mr. Richert commented that he would like to develop a system by which Zoning Administrator decisions can be made available to citizen groups and the community at large.

Commissioner O'Neill clarified that the Zoning Administrator decision is a separate issue and has no bearing on the zoning case. The interpretation does not grant zoning, it provides an opportunity for the Applicant to present a zoning case for consideration.

Mr. Jason Morris, representing the Palmeraie applicant, addressed the Commission in support of the Zoning Administrator's interpretation. He explained that one reason an interpretation was not asked for earlier in the process was because of the recent turnover of staff in the Planning Department. He reviewed the legal aspects of appealing a zoning interpretation as well as points specific to the Palmeraie case.

Ms. Sonnie Kirtley, chairperson for the Coalition of Greater Scottsdale, spoke in support of an appeal of the Zoning Administrator's decision. She mentioned that the Commission had been provided with several of the Coalition's points in writing.

One concern Ms. Kirtley mentioned was that despite attempts at adjusting the boundary line within Scottsdale, staff was unable to achieve enough acreage to meet the requirements without a text amendment. The two projects were not brought in as one project and although they are under the same ownership, they are not associated. Unless greater density and height is desired, the PRC interpretation should not be considered. She noted that roadways interior to the Ritz Carleton project have been designed to encourage traffic away from Scottsdale Road and the connection to the Palmeraie project.

Ms. Kirtley expressed concern about the wrong message being given to the community and precedent being set if the Planning Commission does not appeal the interpretation.

In response to a question by Commissioner O'Neill, Ms. Kirtley noted that the Coalition of Greater Scottsdale is not considered an aggrieved party and, therefore, cannot file a appeal.

Mr. Eric Larson noted the importance of the Palmeraie project and spoke in favor of supporting the Zoning Administrator's interpretation.

Ms. Christine Larkin, Paradise Valley resident, spoke in support of an appeal of the Zoning Administrator interpretation of the PRC. She noted that Five Stars final plat no longer has unanimous support from the Town of Paradise Valley. She recalled that during previous meetings citizens expressed concerns about density and traffic in the area.

In response to a question by Vice-Chairman Hess, Ms. Larkin said that she did not have the legal expertise to answer whether or not she or an organization she is affiliated with would be considered an aggrieved party.

Mr. Richert commented that no matter what decision is made by the Planning Commission regarding an appeal of the interpretation he will agendize a discussion of how interpretations are to be viewed by the community in the future. Ms. Galav noted that currently all formal, signed interpretations are posted on the website for community access; interpretations could in the future be included as part of the administrative report.

Mr. Padilla reviewed the process for appeals, reiterating that the Board of Adjustment would evaluate whether facts were substantiated and whether there was a misapplication of the law. If it is the decision of the Planning Commission to file an appeal, one member would need to be selected to write the appeal including specific parts of the interpretation being appealed, and filed with the City Clerk's office prior to March 15th. If an appeal is filed, the City Attorney will decide the most appropriate form of legal representation for the Planning Commission, which Mr. Padilla speculated would be from an outside source. In Zoning Ordinance 1.805 it states that an appeal shall stay all proceedings in the matter under appeal unless there is an emergency or need to protect public health or safety, so an appeal would place a stay on the Palmeraie cases until a final determination is made.

Vice Chairman Hess argued that it should be up to the Applicant whether or not to move forward with the other case applications. Chairman Barnett suggested that the Zoning Administrator make a ruling that would allow the other cases to move forward in the event of an appeal.

Commissioner O'Neill expressed frustration with the discussion. He noted that Commissioners received via email a draft of the interpretation several weeks prior to the meeting, which provided ample time for review. He opined that an appeal would more than likely be unsuccessful because the interpretation is not arbitrary or capricious; even if the appeal were successful, the applicant could still apply for a text amendment and he agreed that placing a stay on the associated cases during an appeal process was unnecessary. He noted that he would not be in support of an appeal of the Zoning Administrator's interpretation.

A brief recess was called in order for the Commission to thoroughly review the Zoning Administrator's interpretation.

Commissioner O'Neill reiterated his support for the Zoning Administrator's interpretation.

Commissioner Schmitt disagreed with the conclusion to consider property outside of Scottsdale's boundary to impact how the zoning within Scottsdale is handled and in that regard supported an appeal of the Zoning Administrator's position. From a functional perspective, 25 acres could be arbitrary and he would possibly support a text amendment.

Vice-Chairman Hess felt the Commission had been put in an awkward position because of the ruling of the Zoning Administrator. An appeal may not stand at the Board of Adjustment because the definitions for appeal are particularly narrow and are vague and capricious. Having a ruling from a Zoning Administrator on issues of such importance placed in such a way that limited alternatives are available is inappropriate.

In terms of process, the version of the interpretation sent to the Commission was a draft, not a final signed ruling. He felt that the fact that the Commission was not provided the opportunity to consult with the City Attorney as to the City's interpretation or to be assisted in understanding the interpretation was inappropriate and manipulative.

Vice-Chairman Hess noted that he was supportive of the project with some reservations and would be open to discussion in support of a text amendment; however, he was not supportive of the Zoning Administrator's interpretation and was disappointed in the fashion in which the situation was handled.

Commissioner Steinke was uncomfortable with any cross-jurisdictional decisions being made by a Zoning Administrator. An appeal would be more appropriately filed from an outside source; however, with such a short time frame available for appeal, he would support a Planning Commission appeal of the Zoning Administrator's ruling. The interpretation has potential to create process problems with future projects.

Commissioner D'Andrea noted the importance of the Commission being supportive of staff decisions. Part of the Zoning Administrator's duties are to make judgment calls, which are made in the best interest of the City whether or not the Commission agrees with them. He agreed that the Commission's decision is a moot point because given the criteria, it will probably not be upheld by the Board of Adjustment. He did not think that it would be appropriate for the Planning Commission to file an appeal; however, he encouraged any citizens who were aggrieved to pursue an appeal.

Chairman Barnett commented that much of what has been discussed here are ways to make a modern project fit in a code that is 40 years old and has lines of code that do not make sense. From a philosophical standpoint it is bad public policy to use other cities underneath the Scottsdale zoning code. From a planning standpoint, attention should be paid from a parcel standpoint, a regional standpoint, and a macro standpoint. The Planning Commission should be planning, not becoming caught up in the minutiae of one interpretation.

He expressed concern about the question of what division of acreage would qualify for the interpretation. The ownership criteria does not hold merit because ownership is not easily defined and there is rarely only a single owner of a parcel.

He reiterated his opposition to additional height; however he is supportive of the mixed-use project. The PUD would have been a good vehicle for the project. It would be more appropriate for an aggrieved party to file an appeal than the Planning Commission.

Commissioner O'Neill clarified that the Zoning Administrator's interpretation was specific to the Palmeraie project. The determination is irrelevant to other issues that might arise in the future. He requested that if an appeal is filed by another party, staff investigate whether the other cases can move forward while the interpretation is moving through the appeal process.

Vice-Chairman Hess commented that something needs to be done to remedy the flaws in the process. The notification process and the information should be forwarded to the Planning Commission in a more timely manner so that the Planning Commission can seek advice of counsel if necessary. The system excludes the citizens; to deny the opportunity for due process given with Planning Commission hearings is inappropriate.

NON ACTION ITEMS

11. NewPath

Presentation and discussion on NewPath's proposal to install wireless communications facility sites throughout the City.

Mr. Niederer reviewed the City wireless communication facility approval process and provided an overview of the NewPath project. NewPath has submitted 210 applications to date, which will have various types of mountings. Staff has received numerous letters of neighborhood opposition.

Mr. Stephen Garcia, NewPath representative, addressed the Commission. Highlights of his presentation included citizen input, an explanation of the DAS components, and the advantages of vertical inlaid fiber. The system will provide a multi-tenant wireless solution that could potentially lessen impacts of multiple wireless carriers.

In response to a question by Commissioner O'Neill, Mr. Garcia explained that the inlaid fiber depth cuts range from eight to 18 inches depending on the location. In some instances they will be deeper, based on the location of other utilities. Site location placement is based on existing coverage and evaluation of what mobile broadband speeds should be in the area. DAS architecture provides coverage in areas that cannot be effectively addressed in traditional macro sites.

Commissioner D'Andrea expressed concern about the fact that there are no Board Members, Commissioners, or staff who have expertise in fiber technology. The City needs to hire a consultant to provide advice as the NewPath network progresses. An overall strategy should be developed based on an analysis of what is ultimately needed to provide coverage for existing and future needs. He stressed the importance of making site-specific decisions based on neighborhood input. He inquired about what measures will be taken to protect the fiber network from digging and construction in the public rights-of-way.

In response to a question by Commissioner D'Andrea, Mr. Garcia explained that the network is developed based on a lead carrier, which in this case is AT&T. As the network matures other carriers will take advantage of the existing site opportunities. Mr. Mark Kelso, NewPath director of programming, added that the

facilities can support WiMax, and WiFi frequencies as well as public safety at 450 megahertz.

Commissioner Schmitt commented that potentially systems such as NewPath will be instrumental in allowing providers to decommission the big, ugly cell sites that currently exist.

Commissioner Steinke commented that it would be advantageous to the City if more providers used a hosted type of system and inquired whether that trend could be encouraged. Mr. Niederer explained that the City cannot force carriers to use a particular network. Mr. Garcia noted that the Ordinance incentivizes carriers to use certain types of preferred methods of installation. It is advantageous to carriers to have the ability to provide service to their customers in a timely manner without the question of whether or not a site application will be granted.

In response to a question by Commissioner D'Andrea, Mr. Hadder agreed that there will more than likely be competitor systems in the future.

Commissioner O'Neill commented that there should be a more efficient process rather than reviewing each site individually. He agreed that it is essential to have long-range planning discussions about the future of technology and what trends the City wants to encourage. He requested that in the future information regarding agendized presentations be included in the packet rather than provided at the meeting; it is distracting to Commissioners when they are reviewing information during the presentation.

Commissioner O'Neill noted that design issues are not the purview of the Planning Commission and requested that speakers limit their comments to issues relative to the Planning Commission.

Ms. Ginia Wickersham, representing Mission Monterey Homeowners Association, spoke in opposition to the NewPath Networks. She felt that the light pole installation proposed in her neighborhood would be intrusive and would impact the existing views along 100th Street. She noted that a written objection as well as a petition with 13 signatures has been filed with the City and alternative locations have been suggested.

Mr. Victor Wickersham reiterated that the proposed installation in the Mission Monterey community would have negative impacts on the neighborhood.

Chairman Barnett noted that the speaker's comments were indicative of the fact that each application should be considered specific to the location.

12. 9-TA-2007 Planned Unit Development (PUD) Text Amendment

Discussion of the proposed PUD district. The City of Scottsdale is the applicant.

Ms. Wauwie reviewed the broad community outreach that has been part of the PUD process. Citizen comments primarily regarded height, overall planning policy, project sizes, sustainability, entitlement, level of analysis, and process.

Ideas that resulted from community input were to restrict mechanical equipment to fit within the maximum height of the building, to create a two-stage parcel to height relationship, and to create a greater buffer from the R-1 districts. Staff based their height recommendations on analysis of the basic floor-to-floor height and combinations to get to a base height of 48 feet and an additional building height of 78 feet.

Chairman Barnett noted that Mike Leary provided a written comment suggesting that a user group comprised of developers/consultants be formed for the purpose of vetting the draft ordinance in order to eliminate technical problems and to put it in a form that would be more acceptable to Planning Commission and City Council and would not require amendments.

Commissioner D'Andrea agreed that a method for including the mechanical enclosures in the overall height of the building is important; mechanical enclosures adding an additional 18 to 20 feet to the height is unacceptable. He was concerned that amended development standards were not mentioned in the draft. He inquired whether conditional use for projects such as assisted living should be included as part of the plan. Mr. Hadder noted that assisted living facilities were recently added to a number of districts, including PRC and CO.

Ms. Galav clarified that by its nature PUD has limited development standards, including height and stepbacks. Setback requirements from street sides and buffering were included to provide assurances for residential areas. Staff is taking under advisement whether or not to mention amended development standards in the district text.

Commissioner Steinke mentioned that he attended the open house meeting and that from his perspective the primary concern was with allowable height; buildings in some areas such as along Cactus and Frank Lloyd Wright are being considered for more height than is allowed in Downtown, which is a contradiction to policy that encourages density but not height in core areas. He agreed that the mechanical equipment should be included as part of the building height. Consideration should be given to the impacts of stepbacks relative to residential areas, which have been subject to stringent height limitations. He thanked staff for providing community feedback to the Commission in a timely manner.

Commissioner O'Neill commented that the PUD should place focus on quality more than height and density. He had questions and comments relative to individual sections of the draft:

Ms. Galav explained that the Downtown is a district in itself. The Downtown Plan and the Downtown Overlay would be evaluated to ensure that types of development consistent with the PUD can occur within that district.

Ms. Wauwie explained that acreage was determined to be appropriate from one-half acre up to 15 acres; larger sites have alternative options available. The PUD is intended to fill the gap for sites that do not have opportunities within other districts.

Ms. Galav explained that regulating density through a MEDCAP would provide flexibility for residential uses.

Ms. Galav explained that although four stories could be accommodated in 48 feet, a limitation of three stories was agreed on as a compromise based on community input. Commissioner O'Neill reiterated that the primary focus should rest in quality of the building. He agreed that the mechanical equipment should be integrated into the building height. He commented that the regulations for rooftop garden structures should be more clearly outlined.

Mr. Hadder clarified reasons for differences between residential and commercial setbacks and open space requirements. Discussion ensued regarding parking requirements and pedestrian connectivity.

In response to a question by Commissioner Schmitt, Ms. Wauwie confirmed that the intent of the floor area ratio is to encourage the residential element. The .8 FAR as a base intensity for commercial office/retail is consistent with the current commercial districts; additional analysis would need to be provided for impacts to the community in order to go beyond .8. Mr. Hadder noted that traditionally FAR is only measured against usable building area, not parking structures whether above or below grade.

Commissioner Schmitt agreed that fewer development standards would allow for creativity; however, he felt that it was incumbent on staff, the Development Review Board, and the Planning Commission to ensure that developers are held to providing equitable tradeoffs to benefit the community. He agreed that height limitations should include mechanical screenings.

Mr. Symer explained that the shared parking analysis in the Code is based off of the ULI. An additional option is available through the Master Plan, which refers to the ULI and also allows for additional traffic study agencies throughout the United States to do comparative analysis.

Commissioner Schmitt opined that once the PUD ordinance is in place, more creative proposals will be proposed that will require a more open-minded approach than has been the practice in the past.

Vice-Chairman Hess agreed with previous comments, particularly with regard to including the mechanical equipment in the restricted building height. His primary concern was that language be such that a creative developer is not able to manipulate the system in order to build in ESLO areas. He noted that he will be insistent that language be included restricting PUD to specific areas and mentioned two areas in particular where the language could be more definitive.

Commissioner Steinke reiterated the importance of including language that will ensure that development heights will fit within not only the context of the guidelines but also the context of the location. He noted that it would be helpful for the Commission to be provided with the map of collector streets that was presented during the open house.

In response to a question by Chairman Barnett, Mr. Hadder explained that the Scenic Corridor is in the General Plan and has specific guidelines that would prevent development near the roadway.

Chairman Barnett felt that quality should be the primary concern of the PUD. He felt that the language should more clearly define tradeoffs whether the public benefit comes from quality of architecture, open space, quality of design, or turning the building into an artistic statement.

Suggested language included:

Point B-1 could read: "Additional public benefits that could not be realized under other zoning categories."

Within current B-1 include a section that says, "In coordination with other existing adjacent properties."

1-A on page two language could read: "The proposed development contributes in substance to a generally perceived public benefit."

He noted that plan could be used in the Downtown Plan as the creative use element.

In response to a comment by Chairman Barnett, Ms. Galav noted that the language includes major and minor arterials as well as major collectors, which covers the majority of the Airpark area. Chairman Barnett felt that language should better clarify uses in Airpark.

On page three, under major amendments, something should be included regarding change of use.

In regards to building height, he suggested that the difference between 48 feet and 78 feet be left out until the second iteration. Feedback from developers regarding the PUD and the height concerns during the first two to three years can help determine whether enough flexibility has been provided. He agreed that rooftop mechanical equipment should be included in the height restrictions.

Chairman Barnett inquired whether there were any redevelopment opportunities for churches. Ms. Galav explained that opportunities for church redevelopment would be based on district criteria. The intent of the PUD is for infill areas, it could not be applied to churches that are located in single family residential areas.

Mr. David Gulino encouraged moving forward with the PUD in an expeditious manner. He felt the PUD would inspire investment in the community. He felt the Ordinance should have the flexibility to promote creativity and that the verbiage should mention the number of allowable stories instead of a maximum height. He suggested that the height be allowable up to five stories in appropriate locations.

Chairman Barnett thanked staff for their hard work.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 9:40 p.m.

Respectfully submitted,

A/V Tronics, Inc. DBA AVTranz