



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

**THURSDAY, APRIL 22, 2009**

**MEETING MINUTES**

**PRESENT:** David Barnett, Chairman  
Eric Hess, Vice Chairman  
Steven Steinke, Commissioner (arrived 4:45 p.m.)  
Michael D'Andrea, Commissioner  
Jeffrey Schwartz, Commissioner (arrived 4:49 p.m.; left 8:30 p.m.)  
Michael Schmitt, Commissioner  
Kevin O'Neill, Commissioner

**STAFF:** Lusia Galav  
David Richert  
Joe Padilla  
Kira Wauwie  
Erin Perreault  
Don Hadder  
Tim Connor  
Meredith Tessier

**CALL TO ORDER**

Chairman Barnett called the meeting of the Scottsdale Planning Commission to order at 4:07 p.m.

**ROLL CALL**

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

**ADMINISTRATIVE REPORT**

Ms. Galav recalled that Vice-Chairman Hess had expressed interest in information regarding fines for the operation of motorized vehicles on unpaved trails. On April 28,

2009, City Council will be considering proposed Ordinance 3845, which deals with the motorized vehicle concern.

Ms. Galav acknowledged that this would be the last meeting for Chairman Barnett, Vice-Chairman Hess, and Commissioner Schwartz. She thanked them for their years of service and presented each of them with a thank you gift.

### **MINUTES REVIEW AND APPROVAL**

1. March 25, 2009 Regular Meeting Minutes including Study Session
2. April 1, 2009 Regular Meeting Minutes including Study Session

**COMMISSIONER O'NEILL MOVED TO APPROVE THE MARCH 25, 2009 PLANNING COMMISSION MINUTES INCLUDING THE STUDY SESSION AND THE APRIL 1, 2009 PLANNING COMMISSION MINUTES INCLUDING THE STUDY SESSION. SECONDED BY VICE-CHAIRMAN HESS, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FIVE (5) TO ZERO (0). COMMISSIONERS STEINKE AND SCHWARTZ WERE NOT YET PRESENT.**

### **WITHDRAWALS**

3. 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.

4. 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.

5. 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.

### **CONTINUANCE**

6. 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 25-UP-2008, PINNACLE PEAK COMMUNITY STORAGE, TO THE MAY 13, 2009 PLANNING COMMISSION HEARING. SECONDED BY COMMISSIONER D'ANDREA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FIVE (5) TO ZERO (0). COMMISSIONERS STEINKE AND SCHWARTZ WERE NOT YET PRESENT.**

**REGULAR AGENDA**

7. 3-GP-2008 Character Plan Amendment to the Downtown Plan

Request by City of Scottsdale, for a General Plan Amendment to adopt an updated Downtown Character Area Plan. The Planning Commission will make recommendation to the City Council.

(Begin verbatim portion of minutes)

MS. PERRAULT: Chairman Barnett and Commissioners, tonight we are here to discuss case 3-GP-2008, otherwise known as the Downtown Plan Update. With regard to the presentation, we'll briefly cover the Downtown Plan timeline, look at the final draft plan that you have in front of you this evening, highlight some of the items for Planning Commission consideration, and then, of course, allow you to discuss and potentially take action on the item. With regard to the request in front of you this evening, it is a request for Planning Commission recommendation for a non-major General Plan amendment to adopt the updated Downtown Character Plan and make recommendation to the City Council on that plan.

With regard to the Downtown Plan timeline: The initial update to the Downtown Plan began with a City Council approval of a Town Hall contract to conduct an Arizona Town Hall event; that was in August of 2006. The City Council also held a study session regarding updating the Downtown Plan in October of 2006. The Downtown Scottsdale Town Hall event occurred in November of 2006, and the report regarding that Town Hall event was presented to the City Council in February of 2007.

With regard to July 2007: The City Council then approved a consultant contract and that consultant and city staff team conducted an extensive public outreach effort between August of 2007 and February of 2008.

The first draft of the Plan was released to the public and to the Commission in July of 2008. And the Planning Commission as well as City Council held study sessions on the first draft of the Plan in 2008, at which time City Council directed staff to bring the Plan back to the Planning Commission and review and work and revisions. This Commission worked on the Plan in October and November of last year and staff brought a revised plan back to you in February of this year.

With regard to what's been retained from the 1984 Downtown Plan: The concepts that the community reaffirmed during the public outreach include: Downtown as a symbolic center of the City, Downtown as a mixed use center, the Type 1 and Type 2 development concepts, with Type 1 being the lower scale at the Downtown core and then higher scale development surrounding that in the Type 2 areas. We've preserved the option for development flexibility in the Plan as well as quality urban design,

improved pedestrian and auto circulation, public/private partnerships will need to occur to achieve the vision for the Plan, and then the live/work/play concepts as well.

With regard to the new concepts in the Plan in front of you this evening: There's an updated vision and values statements. There's a focus on small property revitalization. The previous plan really focused on property assemblage and not small properties. There are boundary expansion areas for your consideration. Public amenities and benefits list; this list is new to the Plan and really dovetails with the development flexibility request from the previous plan. A diversity of housing is encouraged in the new plan, as is public realm and open space areas, sustainability, complete streets, a pedestrian hierarchy, and linking to regional transit.

There are three whole new chapters in this plan as opposed to the '84 Plan and that includes character and design, arts and culture, and a public services and facilities chapter.

With regard to your comments on the revised Plan back in February: There was a request for an implementation plan, which you see in the final version tonight. There was a request to have the infrastructure goals and policies look out more than five years; that has been addressed. The boundary expansion has been debated. This is the one item we had the most community contact about and, actually, they were all requests to include those three boundary expansions back into the Plan; so that's happened since February and we did include those for your consideration in the Plan.

We've provided the key access map that was requested by the Commission. We've broadened the language in the medical campus to other medical activities to make room for biotech or biomedical that might occur or any future things that we can't anticipate at this time as well of being allowed in the medical campus.

With regard to the Galleria neighborhood label: This is really specific to the urban neighborhoods map. We've brought some options for you to consider tonight other than the Galleria label.

Historic preservation actually shows up in two chapters, land use and character, and design; that was a question last time from the Commission.

And then there was a question about identifying a separate area as a central park in Downtown. The Plan does not address this. What it does do is open up the Civic Center area. When we went back through the community outreach, the community really identifies Civic Center as the central park for Downtown, so we didn't feel we should create a second central park in contrast to what the community has told us.

With regard to the boundary expansion specifically: Back in July of 2008, with the first draft, what staff showed was five actual community suggested expansion areas. There had been a considerable debate both at City Council level -- and that was the previous City Council -- and this Planning Commission with regard to whether the boundary should be expanded at this time or not. As I said, we've had a lot of contacts since February when we took those boundary expansions out of the Plan in support of including them in. So we've included them back in for Commission discussion.

The three areas we did include back in because they had the primary community support are areas one, two, three that you see on the left from July. And then the April 2009 land use map shows those same three areas suggested on the Plan.

In terms of the Galleria label that you see on the urban neighborhoods map, in looking at some of the other districts that have been in Downtown for a number of years, a lot of them refer back to a street in their district or in their area. So there are some options that the Commission can consider with regard to changing this name: Drinkwater, Shoeman, those that you see on the slide there.

With regard to the Civic Center expansion: There was a request by the Commission to try and visually and physically expand Civic Center as best possible. What you see – you can see it best on the Type 1 and Type 2 map, but this area here and this area here is suggesting that Civic Center be expanded out adjacent to Old Town into the Type – it would convert these two areas from Type 1 to Type 2. What that does is give some visibility out to Indian School, Civic Center, as well as more visibility of Civic Center out to 2<sup>nd</sup> Street. And then the map on the right, which is the future land use map in the final plan that you have in front of you, just shows that that would fall within the Civic Center land use designation.

With regard to community comments: We've had quite a few, these are the primary comments we've received and then we received some today that I'll put up on the Elmo for you as well.

In terms of creating a Type 3 area north of the Arizona Canal or in the Downtown Regional District: There was a request to do so. This had been debated by the Commission in your working sessions and there had been direction to stick with a Type 1 and Type 2 in the final plan.

There was a request to delete urban design references in the Plan. These urban design references are actually retained from the original plan; they were also supported by the community; so staff feels that they should be retained in the final plan.

In terms of the boundary expansion areas: Again, this is the one thing we've heard from the community since the February revised draft to be included back in the plan.

There's been a request to add a separate chapter on housing specifically. In going back and looking at what we did do in terms of housing, the General Plan really addresses the goals and policies that we would need for housing in Downtown. Staff felt that maintaining the diversity of housing specific in this character area plan was important for Downtown.

In terms of adding a cost of development element: The General Plan really addresses this, not only for Downtown but citywide as does the growth area, which Downtown is designated the growth area under the General Plan. So we feel that's covered by the General Plan itself.

We have some specific requests in terms of deleting a transition graphic, which I'll show you on the next slide, and modifying some character and design policies; 2.2 and 8.2.

With regard to community comments: The request is to remove this graphic, which is depicting one type of way that you can transition Downtown development to adjacent development at the Downtown boundary. However, if you look at the text that's highlighted in orange for you on the slide there's many ways that you could make this transition; you could do it with landscape, you could do it with architectural design solutions, or physically do it with different types of development in between at that boundary area. Since the graphic only represents one of these options, it's been confusing, I think, for people in the community. So we're recommending keeping the policy text itself that lists the different types of options you could do to transition development and taking out the confusion by removing this graphic altogether from the plan.

In terms of clarifying character and design policy 2.2: There was confusion that this was repetitive of the previous policy that we just talked about. The previous policy is really the transition at the Downtown boundary itself. This policy is intended for the internal transitions that happen between that lower scale Type 1 area and the higher scale Type 2 that surround it internal to Downtown. And so we're just clarifying that it's about Type 1 and Type 2 areas as you can see in the orange highlighted text on the slide.

In terms of modifying policy character and design 8.2: There has been a suggestion to be consistent with policy 8.3, which starts with "promote" rather than "incorporate." Staff is supportive of making this change as well.

I'm going to switch over to the Elmo, because we received a letter from COGS today, or the Coalition of Greater Scottsdale. You should have this letter in front of you. There are only two items that staff – other than the two items I'll discuss, staff was supportive of what's being suggested in this letter.

The first item that staff would not support making a change to is under land use 4.5, where it's suggesting that we delete the "and/or." In looking at the list that they're talking about, deleting the "and/or" from, the reason why staff does not recommend supporting deletion of the "and/or" is because a project that comes in and supplies community benefits associated with their project may not have to give all of these. For example, some projects won't do historic preservation; because there is nothing to preserve on a vacant piece of land, for example. So we're not supportive of removing the "and/or" on that.

And the other item that was suggested was to include "financially" on public services facility policy 1.7. This is pretty specific because sometimes projects actually build the infrastructure themselves, so staff does not want to tie it just to a financial payment. It could be physically provided rather than financially paid for.

With regard to that, based on Planning Commission's discussion and possible recommendation tonight, staff will then take your comments, make the final revisions, and then forward the plan on to City Council for a tentative June 2009 date that has yet to be set. Following that, implementation would begin on some of the implementation items you see in the matrix as part of the plan.

Just as a reminder, the request tonight is for your recommendation on the final draft Plan, taking into account the boundary expansion, the Galleria identifier, deletion of that transition graphic they looked at, the modification to the character and design policies,

and then, of course, the other suggestions in the COGS letter as well and possibly any other changes or additions that the Commission would like to make themselves.

With regard to your recommendation: It would be for a non-major General Plan amendment to adopt the updated Downtown Character Plan and make your recommendation to City Council.

With that, staff can answer any questions you may have.

CHAIRMAN BARNETT: Thank you. I think we'll have some questions, but just from a process standpoint I guess staff is saying this is sort of our checklist or decision tree that we need to do. So we should probably have some basic questions, we'll go to public testimony, and then come back and do the tree?

MS. PERRAULT: Sure.

CHAIRMAN BARNETT: Is that what works best for you?

MS. PERRAULT: That does.

CHAIRMAN BARNETT: All right. Mr. O'Neill, do you have a question?

COMMISSIONER O'NEILL: Yeah. Maybe I – one of them might have been answered right then, but I want to make sure I understand it. As an example, these things that you identified in your presentation – just as an example, the modification of policy CD 8.2 – I mean, that's not been amended in the text that we have today?

MS. PERRAULT: It's not.

COMMISSIONER O'NEILL: So if we were going to make a motion – you know, at the end of this if we were going to make a motion to the City Council, in that motion we're supposed to add to it all of these additional things?

MS. PERRAULT: If you chose to do that, yes, because those modifications haven't been made to the document itself yet. But based on your recommendations, we would make those and then forward them on to the City Council.

COMMISSIONER O'NEILL: All right.

CHAIRMAN BARNETT: So along those lines, let's just go ahead and allocate you as the motion maker because I'm – seriously, because I'm thinking of this to be a fairly complicated motion and if you would keep a list of what the decision points were and if you can be the motion maker, that would be great. Can you take on that responsibility, Mr. O'Neill? Okay.

Any other -- Mr. D'Andrea.

COMMISSIONER D'ANDREA: Just a quick clarification. On the PSF 1.7 from the Coalition of Greater Scottsdale, you said that you could physically provide an infrastructure rather than have it financially paid for. I'm not quite sure I understand that. They're saying to add "financially" as some guarantee that something would be provided

for whether it's – when the payment comes is irrelevant. So could you explain why we wouldn't want to add "financially"?

MS. PERRAULT: Staff felt "financially" was too specific. We've had different development agreements and different projects where the physical infrastructure is provided physically by the developer themselves in Downtown. But a financial payment – I mean, obviously they're paying for it because they are constructing it, but a financial payment hasn't been made to the City specifically. So we were trying not to limit it too much, because there's different ways to participate in public infrastructure.

COMMISSIONER D'ANDREA: Well, what if there was something in there that said "financial obligation"? Because they are paying for it whether it's in there or not and "financial obligation" would tend to infer that there is some cost to the developer, and how that's realized I think is independent. But to read – I think I understand why they want it in there and maybe we should just look into calling it a financial obligation. Not that they would write the City a check, but that they would do certain things in terms of infrastructure that would benefit on the City's behalf. So maybe you can consider adding some kind of language there that would bring that in without saying that we're going to get a check from them or something.

MS. PERRAULT: And that could certainly be part of the motion.

COMMISSIONER D'ANDREA: Okay. Thanks.

CHAIRMAN BARNETT: Mr. Schmitt.

COMMISSIONER SCHMITT: Erin, first of all I think the document you prepared and presented here is really a large step forward and I commend the staff for the work on this, it's really – I know it's a lot of work getting to where we are right now. But I think this is a document that's really clear and usable as a tool for both developers, property owners, and us as a Commission as well, as we evaluate projects in the future. So I commend you all for your work here.

Just one question on land use policy 4.6. There's a paragraph here about the transfer of development rights from Type 1 development or transitional development areas. And I wasn't sure what that was trying to do. Is it understood that any area in Downtown basically is entitled to the same development rights or density as something that might be in a Type 2 area even though it might be actually classified as Type 1? What development rights are we transferring?

MS. PERRAULT: With regard to this, the suggestion was made to improve this. Because there will be pressures with Type 1 being a lower scale development, so it doesn't have the same development standards, especially in terms of height in that core area of Downtown, that there would be development pressure to try and convert that. Which the community wants to preserve at that lower scale from a land use standpoint. So that maybe they could transfer development rights and preserve what's there in terms of lower scale and individual types of properties, rather than the land assemblage happening in that area.

Basically the community's desire is to preserve lower scale and kind of a smaller character – the small lot character of that area. So to do that we're trying to give them

some rights to maintain what's there from a land use and then -- economic standpoint and allow them to maybe transfer the development rights somewhere else in Downtown.

COMMISSIONER SCHMITT: That's what I wasn't following about that is that those development rights are assumed to be in place for a greater density than what's allowed there. So I'm not sure -- it seems like we're creating more costly land by simply implying that there's a greater right and something that could be transferred. So maybe that doesn't really even exist, it's just a concept.

MS. PERRAULT: Okay.

COMMISSIONER SCHMITT: Just a comment about that; why we assume that every area has exactly the same development rights applied to it.

MS. PERRAULT: I see.

COMMISSIONER SCHMITT: And just out of curiosity, you mentioned that there was public comment with respect to expansion areas in the Downtown area, the three that you identified on the map.

MS. PERRAULT: Yes.

COMMISSIONER SCHMITT: Just out of curiosity, was that commentary primarily from residents, existing businesses, or the development community?

MS. PERRAULT: It was actually a combination of all three. Initially when we first included them in the plan we had a number of just residents that fought actually on items -- and I can go back to that map, it's probably easier.

On item one, pretty much across the board everyone thought that was already in Downtown to be quite honest. So they were surprised during our public outreach to find out it wasn't part of the Downtown boundary. I think a lot of employees and residents that are already in Downtown utilize the services that are over there; they're pretty neighborhood serving in terms of Sunflower Market, PetSmart, drycleaners, and so forth. So across the board it was pretty much everyone.

With regard to here, most people saw the boundary expansion there as being a primary entry into Downtown, especially on Scottsdale Road. From a General Plan standpoint, that area that you see in orange is already mixed-use designation similar to all of Downtown. So from a General Plan standpoint it's almost identical to a Downtown operation now.

And then in terms of 3, it's actually a vacant residential property, pretty high density already. So that was the comments that we got there both from the development community and just regular community members as well.

COMMISSIONER SCHMITT: Okay. Thanks for that explanation.

And then just one final comment. You talked a little bit about the expansion of the Civic Center area as part of the Downtown central open space, which I think was a great idea.

Is there some concept of how that might take place in terms of acquiring property by the City, or how would that be opened up? Or have you thought that far into it?

MS. PERRAULT: Actually, some of what we showed – and I'm not sure, I think I have to go forward. Some of what we showed, most of that is privately owned, so it would have to happen in conjunction with a private property owner. It could be both public and privately funded, depending on the interest of the private property owners in that area.

COMMISSIONER SCHMITT: Is that something that the City would consider possibly acquiring and possibly expanding the –

MS. PERRAULT: That would be up to City Council, I couldn't answer that question.

COMMISSIONER SCHMITT: Okay. I'll make that suggestion then.

Okay. I like that idea because I think it really will allow this really special space to become a lot more a part of Downtown.

MS. PERRAULT: What this designation does do in the final plan itself, is show that it's part of Civic Center now. It didn't used to be previously. So those two properties that you're seeing – and like I said, it's best to see it in the Type 1 Type 2 map, but those properties were, I believe, designated as Type 1 in the previous plan. So this actually does make that change from a community goal standpoint of having it be Civic Center.

COMMISSIONER SCHMITT: Fantastic. Great job on this, I appreciate your work.

MS. PERRAULT: Thank you.

CHAIRMAN BARNETT: All right. Thanks.

Let's go ahead and do some public comment, get some feedback there, and then we'll go through a decision tree and have some comments from up here.

So if we could start off – it looks like we've got a couple of written comments. One from Denny Ryerson, who supports the Downtown Plan as drafted and supports the expansion of Downtown boundaries. Mr. Berry followed by Sonnie Kirtley and followed by Michael Kelly.

MR. DENNY RYERSON: Chairman Barnett, Vice-Chairman Hess, members of the Commission, my name is Denny Ryerson, I'm president and CEO of the Ryerson Company.

I am here to request support of your new Downtown Plan. We had a – our company has a specific interest – I guess as a matter of protocol I'm supposed to state my address; is that correct? 7181 East Camelback Road, Tower One.

As recently as yesterday afternoon my organization went under legal contract with the Orchid Tree property, which is your site 3 on the map – if I may ask that that go back up on the screen. Thank you – which is part of your new transitional design. I find it rather ironic standing here before you because I looked at this modification to the 1984 plan, one of my last communities in Scottsdale was the very first development out of the 1984 plan called the Marcasia (phonetic), which is near here. A lot has changed in Downtown

Scottsdale in the last 25 years, but not as much as the change in my hair color or the density of my hair in that period of time, I assure you.

I think that staff has given a very significant review and recommendation to the Commission. We unalterably support this request to the Commission on all three concepts: the conceptual urban neighborhood, Downtown future land use, and the Downtown development plan.

I don't believe it's necessary, if there are any questions I certainly will respond to them. I just want to go on public record for our support of this plan.

CHAIRMAN BARNETT: Thank you very much, Mr. Ryerson. You had filled out a written card, so that's why I hadn't called on you. So I apologize. But thanks for your comments.

MR. RYERSON: Thank you.

CHAIRMAN BARNETT: Mr. Berry, followed by Sonnie Kirtley.

MR. JOHN BERRY: Mr. Chairman, members of the Commission, for your record John Berry, 6750 East Camelback in Scottsdale and, of course, proud to be a longtime Scottsdale resident.

I'm here on behalf of Scottsdale Healthcare, who is not only the City's largest employer but the largest employer in Downtown. You have received, and it should be in your packet, a letter dated April 15<sup>th</sup> from Scottsdale Healthcare suggesting some changes to the proposed Downtown Plan as drafted. And I am pleased to say that staff has incorporated those changes into the recommendation before you. And if the keeper of the motion recognizes that the change with the withdrawal or deletion of the transition graphic, the change to character and design policies 2.1 and 2.2 and 8.2, all which were identified by staff in the recommendation are all Scottsdale Healthcare supports. I think it's important that the Commission and the Community know that Scottsdale Healthcare, long before it was vogue to do so and long before some very high profile zoning cases and successful developments came forward in Downtown Scottsdale such as the Waterfront where Mr. Ryerson lives and that I had the privilege of working on – long before those came forward Scottsdale Healthcare invested approximately \$90 million in our Downtown and was the first private sector developer to step up and make that commitment to Downtown when there were lots of voices suggesting that they leave Downtown and go someplace else in our community. So I just want to give you some of that perspective about Scottsdale Healthcare's long-term, longtime commitment to the health and viability and revitalization of our Downtown as Scottsdale's largest employer and as Downtown Scottsdale's largest employer as well.

Happy to answer any questions. And I would note for the record that I did not use all of my time, which is a first for a lawyer. Thank you.

CHAIRMAN BARNETT: Thank you, Mr. Berry. Ms. Kirtley, followed by Michael Kelly.

MS. SONNIE KIRTLEY: Good afternoon, Chairperson Barnett and Commissioners. My name is Sonnie Kirtley, I represent the Coalition of Greater Scottsdale, called COGS.

We really appreciate all the work that Erin and her staff have done. This is an example of what can happen in Scottsdale when citizens, small businesspeople, and staff work together and they're to be commended. In fact, they did such a great job that we think that goal number 9 should be included in the Planned Unit Development, which you're going to hear later this evening; so we'll campaign for that.

We were impressed with the economic vitality; it was strengthened considerably. The infrastructure was a total rewrite and it came out great. But we were wondering what happened to the solid waste collection, recycling, and disposal delivery system goal and policies; they weren't in there anymore.

I have a quick question for Erin and her staff. You mentioned that you had accepted most of our recommendations for change. The original goal 4 on page 35 in the previous draft is missing. It was rewritten and we feel that it had tremendous strength. Would you take a look at this again and see if it should be reinstated? We think it's very important to establish and maintain an innovative, sustainable, solid waste collection recycling and disposable delivery system in Downtown. If you walk the back alleys there are grease traps back there, there's all kinds of stuff back there that needs to be addressed and I think that a strong policy with specific terms would take care of that.

And also in our citizen town halls et cetera, we talked about expanding recycling programs to include commercial and multifamily components. We will have more and more multifamily components in the Downtown as we move to mixed-use, so it's really important to address that also in this Downtown Plan.

Any questions?

CHAIRMAN BARNETT: Erin, do you want to respond to that?

MS. KIRTLEY: We also were pleased that they – of the 46 items that were in the glossary, that they are going to come back on the other 28 percent and put definitions. Because if you are like me you got the disk of the General Plan and you have to go through it and try to find the answers. They can respond to me later if they wish.

CHAIRMAN BARNETT: Thank you very much.

Michael Kelly.

MR. MICHAEL KELLY: Chairman Barnett, members of the Commission, I'm Michael Kelly, 8973 North 84<sup>th</sup> Way here in Scottsdale. For reasons of disclosure, I own no property in Downtown Scottsdale; in fact I'm just a resident of the community since '89.

I am here tonight as you will recall because I've spoken to you before, most concerned about the nexus, the connection, between Scottsdale's General Plan 2001 and the Downtown Plan. I've been pushing as much as I can to remind people that that 2001 Plan is a departure from previous General Plans in that it's voter ratified; required when the Legislature modified the statutes with the Growing Smarter Plus act. And our General Plan, in fact, has been ratified by 11,568 Scottsdale voters.

The statutes, as I read them as a non-lawyer, indicate that the standards, objectives, and policies contained in that General Plan are supposed to be implemented throughout

the community. And in fact that is what you as members of the Commission are responsible for in conjunction with what they describe in the statute as our planning department or planning agency.

If I could use the overhead here. I extracted these – any misspellings are my fault – pulled them right out of the statute. As to the areas of the Legislature, it says that our General Plan is supposed to address – I remember Commissioner Steinke back in 2008 when this came before you, the Downtown Plan, said that he was excited to be able to get his arms around everything. Well this, in fact, what everything is in terms of planning as I see it in the statutes.

You'll notice at the bottom of the list that there are three particular elements there that are not required by the State statutes, but they were put into Scottsdale's General Plan because of the drive of citizens and the importance of these elements to the community; character and design, economic vitality, and community involvement. So this is, in fact, what we're responsible for doing throughout the community. And since the Downtown Plan is a subsidiary plan, a character plan beneath the arch of the General Plan, I just have been trying to ensure that we're taking in the full account of these items as they pertain to the Downtown area.

I was the citizen that suggested we looked at having cost of development mentioned in the Downtown Plan because I think if, in fact, a developer just picks up the Downtown Plan he may or may not go back to the General Plan. I do think that what Ms. Perrault said here tonight, though, is the point that I'm trying to make and I think this plan is much better organized and formatted so that we can trace it back to the General Plan. And when she was saying that the cost of development element is, in fact, is in the General Plan, then at least we're beginning to explain and teach each other that these two documents have to work in concert.

I thank you very much for your long and hard work on this. And I especially appreciate the service of Chairman Barnett, Vice-Chair Hess, and Commissioner Schwartz. Thank you.

CHAIRMAN BARNETT: Thank you, Mr. Kelly.

We have one written comment by Steven Voss who supports the Downtown Plan amendment with the wording change and policy CD 8.2, using the word "promote" instead of "incorporate." And other than that, that's all of our speakers for tonight.

So I think Mr. Schwartz is down here, who I know has an interest in the Downtown Plan. So maybe we can start going down through some of the decision tree with Erin and address some of these points.

MS PERRAULT: In terms of Sonnie Kirtley's points, we have no problem including those policies back into the document. I think everything else was covered in the presentation; that staff was supportive with regard to the changes to the graphic and to the character and design, policies 2.1, 2.2, and 8.2, and those are actually on that laundry list for you at the end with regard to your recommendation.

CHAIRMAN BARNETT: Okay. Maybe we could just go ahead and start with the laundry list and use that as our talking points. Is this the one that's easiest to work from or the other one?

MS. PERRAULT: That is the list. In addition to that you may want to look at the COGS letter that you have in front of you as well; that is not included on that list.

CHAIRMAN BARNETT: Okay. Well, let's just open it up point by point I guess, which is a little bit different than what we normally do. But let's just walk down because it sounds like we have general support, conceptually, for pretty much everything that's in there and now we really have some minor, drill-down tweaks to do, and some final decisions to make. So I'll go ahead and maybe let somebody start the conversation.

I guess I'll start it with the boundary expansion. I'm comfortable with the way that you guys have presented it with items 1, 2, and 3 in the Downtown Plan. I think I originally asked for it to come out because we didn't use all of our developable space vertically, the maximum volume of space that we currently have. But I'm not too terribly opposed to expanding it and it sounds like the community is pretty strongly in support of those three.

So since I see a bunch of head nods, we'll go ahead and – Mr. O'Neill.

COMMISSIONER O'NEILL: Yeah, regarding that issue – and I may have misunderstood when you were going through there versus what it states in the document and you may need to point me to where the language is. As I understood in the document as it's currently written, it refers to those three areas, but then states that those are areas for consideration and if they're needed they'll be considered at that point or some kind of language like that?

MS. PERRAULT: Just a point of clarification, there is – land use policy 4.4 is the text regarding boundary expansion; that has not changed from the previous draft. With regard to the boundary expansion, what we will do is forward on those maps showing those three expansions.

So with the specificity to those three expansions, it would be included on the maps but not necessarily a specific written policy to that.

Did that answer your question?

COMMISSIONER O'NEILL: I think you answered my question, I just didn't hear it.

MS. PERRAULT: Oh, okay.

COMMISSIONER O'NEILL: So it's –

MS. PERRAULT: There's two items with regard to boundary expansion. The first one is the land use policy 4.4, which is just the text regarding boundary expansion a little bit more broadly but with specificity to those three areas that staff is recommending for your approval. Those would be shown on the maps as permanent expansion areas or part of the Downtown boundary and not crosshatched anymore as we move forward to City Council, if that's the Commission's recommendation on those three parcels.

COMMISSIONER O'NEILL: All right, I understand that better.

CHAIRMAN BARNETT: Okay. Mr. D'Andrea.

COMMISSIONER D'ANDREA: Just a quick comment. So in summary, regarding boundary expansion, is one to assume that no expansion can take place whatsoever outside of the three areas identified; is that an accurate assumption?

MS. PERRAULT: We would not be recommending any additional expansion at this time beyond those three areas.

COMMISSIONER D'ANDREA: Okay. Thank you.

COMMISSIONER O'NEILL: I'm sorry, Erin, one more time. Okay. So related to that, what you are proposing is that those three areas be included and that if we chose we can include those in our recommendation. If it went forward to City Council and they approved it as recommended, those then would be part of the Downtown?

MS. PERRAULT: Correct.

COMMISSIONER O'NEILL: And that in addition to that 4.4 says that if somebody else wants to – maybe the property north of area 1, which is – you know, on the north side of Camelback, which is not in the Downtown – that property owner or somebody may assemble some property there and say, boy we should create a gateway coming into Scottsdale at the intersection of Miller and Camelback so that Downtown is on both sides of Camelback, and they can make that application and make a proposal to bring it through. And this 4.4 says that we may approve it when it's demonstrated that such modification result achieves the goal for the policies of the Downtown Plan. So that somebody at that point then could bring forth – a year from now or ten years from now, if somebody assembled that land they could say, hey, we believe this land should be in the Downtown, bring an application forward, and it would be heard at that time whether the boundary could be expanded to include that area?

MS. PERRAULT: That's correct in thinking of this as a long-range plan, that's why that text is in there under land use policy 4.4 for future boundary expansion. But in terms of what we heard, just to clarify for the community, is very limited at that time. And that's those three areas that you're considering currently.

CHAIRMAN BARNETT: Okay. So I think we've got general agreement on that. So you know your motion direction on that.

Deletion of transition graphics. Does anybody have any problems at all with that section?

COMMISSIONER O'NEILL: You skipped one, the Galleria.

CHAIRMAN BARNETT: Sorry. Well, let's do the easy one, deletion of transition graphic. That one's easy, right? We don't have any problems with that.

Okay. We'll back up now and have the Galleria identifier.

Erin, you've given us six or seven different suggestions. Are those suggestions that have come from the community or are those suggestions just from staff?

MS. PERRAULT: The only comment we've heard with regard to that Galleria label was actually from the Commission. We've not heard anything from the community regarding that label.

It only shows up on the one map, which is the urban neighborhoods map. It's not written in any of the text or the policies.

COMMISSIONER O'NEILL: If I remember correctly, that came from me.

I would support – for reasons I mentioned earlier, I just don't think labeling it the Galleria is the best label for that. And given that Drinkwater bisects that, I would just propose – that was one of them on their list – that we refer to it as the Drinkwater neighborhood.

CHAIRMAN BARNETT: Okay. Well, I don't think there were any no's so I guess that's a yes.

Okay. We've done deletion of transition graphics. Qualifications on policy CD 2.2. Can we get the Elmo to show the – I think we had some suggested verbiage on that one? That's it.

Okay. So that was a fairly straightforward one to define the difference between Downtown in core and outside. Who would be supportive of that? Is there any comment from anybody?

Mr. O'Neill.

COMMISSIONER O'NEILL: Not a comment but just a question. In making a motion then, can I in my motion just refer to the policy change for CD 2.2 as clarified in staff's presentation or do I need to write down this and read this into the record when we make a motion?

MR. PADILLA: Chairman Barnett, Commissioner O'Neill, members of the Commission, your motion can just simply be that your recommendation would be to include CD 2.2 as clarified. It doesn't need to regurgitate the entire verbiage.

COMMISSIONER O'NEILL: All right. Thank you.

CHAIRMAN BARNETT: Okay. So we've got agreement on that.

You can go back to the checklist. Go to the next slide. Modification policy 8.2; I think we've got another slide on that. One forward. Okay, it's just a verbiage change; changing the word from "incorporate" to "promote."

Okay. I think everybody is okay with that.

So if we can go back to the checklist. All right. Mr. O'Neill.

COMMISSIONER O'NEILL: Real quick. One that – and it isn't on the checklist but I believe was mentioned by Ms. Kirtley, was CD 2.1. So what was – was that something we need to refer to COGS.

MS. PERRAULT: CD 2.1 was the graphic deletion.

COMMISSIONER O'NEILL: Oh, I see; 2.2 is the graphic. Okay.

MS. PERRAULT: Yes.

CHAIRMAN BARNETT: Although I think we are in the COGS letter, which would be other community suggested changes.

MS. PERRAULT: Right.

CHAIRMAN BARNETT: So let's go down through some of the – actually, Erin, maybe you can walk us through the ones that you've made changes on or ones that we still need to discuss on this letter.

MS. PERRAULT: With regard to LU 4.5, staff is supportive of everything but the and/or change on that. And then the other that was discussed during the presentation was PSF policy 1.7, which is on page 45. There was a suggestion to include “financially” and then I believe Commissioner D'Andrea clarified that to “financial obligation” instead of “financially.” So that was a Commission suggestion change on that one.

Outside of that we're supportive of making the other suggested changes that COGS has in their letter.

CHAIRMAN BARNETT: Okay. Does anybody have any questions or comments or concerns with anything there? It seems pretty straight forward.

Mr. O'Neill.

COMMISSIONER O'NEILL: Just because I need to put this together here. So other than – and I'm reading as I'm trying to listen here. Other than the land use 4.5, what was the other thing you referred to on the COGS letter?

MS. PERRAULT: The other is on the second page of the letter. PSF policy 1.7; the suggestion by COGS is to change or to add, actually, “financially” into that statement right before – to the infrastructure system.

And I believe that Commissioner D'Andrea suggested instead of “financially,” actually adding in “financial obligation.”

COMMISSIONER O'NEILL: All right. Thank you. So maybe for us to discuss here, I know that Mr. D'Andrea brought up that comment. I actually support, I think, staff's direction on this if I understand it. And Mike, maybe I don't understand your thought. I think if I understood you, Erin, that you were saying it's not just financial. I mean, someone as an applicant of a developer could chose to do it instead of contributing financially.

And I think maybe if I understood Commissioner D'Andrea was saying there's some financial implication put on them by doing that but it just doesn't – you know, it's not a check or anything they're writing to -- a fee or anything like that they're writing to the City.

That same logic, though, could be used with – I mean, the applicant is spending lots of money doing different things and it's not referred to anywhere what things they do and don't spend money on. I think their clarification here was just to say that they don't necessarily need to contribute financially as in lieu fee, but that they can just do the work in lieu of contributing financially.

So I support the deletion of that how staff presented it.

COMMISSIONER D'ANDREA: Well, you mentioned, there is an in lieu fee that has to do with infrastructure relative to retaining water, not retaining water, so there are a lot of different things relative to this. If you guys are comfortable with it, that's fine.

My point was whether or not they contribute financially by writing checks, so to speak, to the City of Scottsdale or whether they contribute to actually putting in an infrastructure. I mean, it's costing them money either way. So I think from the City's perspective so that they understand there is a financial obligation whether they provide the infrastructure or otherwise.

So that was my only concern.

COMMISSIONER O'NEILL: So I know how to construct this motion, I guess I need to look at whether we want to support staff's opinion of not including it or support Mr. D'Andrea of including it.

CHAIRMAN BARNETT: Mr. Schwartz.

COMMISSIONER SCHWARTZ: I just am fearful that somewhere down the road somebody's going to read "financially" on this and believe that they need to write an additional check. So whether that may be staff future, down the road.

So I'm not in favor of having "financially" in there, I think it's just implied. To put "infrastructure" in whether it may be improvements to a road or to a sewer system in front of a development, that's a financial contribution. I don't think it needs to be stated "financial."

COMMISSIONER O'NEILL: You don't think it needs to be stated "financial." All right.

CHAIRMAN BARNETT: And I'm okay with that. Anybody else?

COMMISSIONER O'NEILL: So again, just as thinking about a motion on this, when it comes to the things that aren't on that list that I'm going to go through point by point in making the motion and it comes to the items that are on the Coalition of Greater Scottsdale's letter, can I reference the letter and say that we're accepting and including in our recommendation all of the things listed on this letter with exception to, and then just read the two exceptions? All right.

MS. GALAV: And Chairman Barnett and Commissioner O'Neill, you might just say the "Coalition of Scottsdale Letter, dated April 22<sup>nd</sup>, 2009."

COMMISSIONER O'NEILL: Thank you.

CHAIRMAN BARNETT: Mr. Schmitt.

COMMISSIONER SCHMITT: While we're on that letter, the item that I had brought up earlier about land use, item number 4.6, which relates to transfer of development rights, also the COGS letter asks for some clarification on that. So I think we're kind of thinking the same way there. And as I've been sitting here reading that paragraph over and over again, I wonder why it's even in there and what purpose that it serves.

I would -- unless there's some compelling argument not to, I would suggest perhaps just striking that paragraph.

COMMISSIONER O'NEILL: Thank you. When you mentioned that earlier I had the same -- after you mentioned it and read it, it did nothing but create confusion in my mind. So I'd also like to better understand it. And if we can't get to the better understanding, maybe just, you know, look at removing it.

MS. PERRAULT: With regard to land use policy 4.6, the intent was to allow for either -- at the transitional edge of the Downtown boundary, of creating lower density there and being able to transfer some of your development rights somewhere else either on site or to somewhere else in Downtown to maintain that transition buffer.

With regard to the Type 1 development, it was to try and preserve that lower scale or small lot character in development that may have future land use pressures on it to develop to a greater intensity.

COMMISSIONER SCHMITT: But as a Type 1, a designated Type 1 area, there's no entitlement for a greater density, is there?

MS. PERRAULT: Not at this time, but we will also be opening up the Zoning Ordinance as well, so.

COMMISSIONER SCHMITT: Okay. I just think that it's going to create some -- a lot of assumptions on the parts of property owners and developers and everybody's going to assume that they have basically Type 2 level density allowed on their site, whether or not it's a Type 2 site.

CHAIRMAN BARNETT: Mr. O'Neill.

COMMISSIONER O'NEILL: So is the intent, Erin -- if I understood you right, if somebody has a property that's in the -- I heard you say in the kind of buffer area of outside of the Downtown and inside of the Downtown in that transitioning area, that if somebody has, for example, Type 2 property that's in that buffer, we're trying to encourage them to maybe develop it to Type 1 standards and allow them to say, well, okay well I'm -- in exchange for developing that a little less intense, I'm going to transfer those rights that I have in that location to another property within the Downtown?

MS. PERRAULT: That's correct. It's being intended as a cure at that boundary transition area to keep it lower density in respect of what might be adjacent or on the other side of the Downtown Boundary.

COMMISSIONER O'NEILL: So how does that relate to then Type 1? Because like in what I just said, if you've got a Type 2 property on the boundary –

MS. PERRAULT: We can remove the Type 1 confusion out of here if you'd like; if you'd like to preserve that transition for the Type 2 at the Downtown boundary area.

COMMISSIONER O'NEILL: All right. And is there any – I think I understand the intent and like the intent, but I'm trying to figure out then, if I owned – it would be easy if I, as an applicant, owned property at the buffer and also owned property somewhere else and I wanted to within my own structure, say oh, I'm going to transfer these rights from property that I'm in control of to another property that I'm in control of because it would benefit me. If it – for example applicant one has property in the boundary and applicant two has a property in an area that's desired to be more intense, I mean, could applicant one to applicant two say, oh, boy by the way I've got these extra rights and for one dollar I'd be happy to sell them to you?

MS. PERRAULT: It's not that specific at a policy level, and we can't get into that specificity –

COMMISSIONER O'NEILL: Right.

MS. PERRAULT: -- but that could be an option that's looked at in the Zoning Ordinance text amendments associated with the implementation program.

You can also think of the Type 1 development. You can go up to three stories currently in Type 1, but most of the things are only built to one story. So potentially, you have a little bit of wiggle room to work with there; not a lot. Obviously, not as much as you might have in Type 2. But there could be a little bit of wiggle room if you just kept your one-story structure in Type 1.

COMMISSIONER O'NEILL: It's interesting. I can, on one hand, understand and support that theory. But also just even in application of – as another transfer of, like, NAOS, you know, in the northern areas where undeveloped property you can transfer NAOS from one property. I mean, it just creates problems. To me it just doesn't seem that's really been the intent. And the only experience I've had with transferring rights and things in Scottsdale is NAOS and it just never seemed to feel real good.

I guess I'd lean more towards saying, I mean, the rights you have are the rights you have. And let's not encourage people to be transferring them and come up with the issues that are related to that.

CHAIRMAN BARNETT: So your suggestion is to take out the entire LU 4.6 paragraph?

COMMISSIONER O'NEILL: Yes.

CHAIRMAN BARNETT: Okay. Mr. Schwartz.

COMMISSIONER SCHWARTZ: Just for reference -- Joe, you might know the answer to this -- didn't One Scottsdale -- wasn't there a transfer of development rights from DC Ranch down to One Scottsdale and they did it within just the codes that were available?

MR. PADILLA: Chairman, Commission, I'm not familiar enough with that deal to answer the question.

COMMISSIONER SCHWARTZ: Okay. I'm just as concerned as you are about the development rights becoming a commodity. So whoever can get the development rights and then they start going around to property and grabbing development rights, and all of a sudden somebody says, well, I can do this now, and that might not be on their property and that might not be the project we wanted on that property, the density on that property.

So I'm in support of removing policy 4.6. It probably should just stand on its own.

CHAIRMAN BARNETT: Mr. Steinke.

COMMISSIONER STEINKE: Yes. I also was wrestling with that one, both on language perspective and also in sitting here right now and understanding that as focused as this group is on this particular item at this moment, we're confused by -- we know the intent, but we are confused by the potential impact of this. So I made a note to myself to also suggest we remove that particular policy and maybe in practice find a way to use it, but I don't think it makes sense to leave it in as a policy.

CHAIRMAN BARNETT: Okay. I'm comfortable taking it out as well, because "development rights" is such a vague term. So unless anybody wants to keep it in?

Mr. D'Andrea.

COMMISSIONER D'ANDREA: Just a question. You know, I think of -- I won't mention the name, but I think of a prominent developer here in town that owns property, for example, in the Downtown core, Type 1 and also owns some property in the Type 2, which is along the canal. And I wonder -- I think I'm in agreement for the most part with what everyone's saying, but I wonder if to remove it is getting away from the intent of it, which is to allow the rights to transfer away from boundary areas.

I mean, I think -- if I'm understanding that right, it's incentive for developers whether it's the same owner or multiple owners to transfer rights to help buffer the borders or transition areas. And so I would hate to remove it because of what we think could be bad and then eliminate the potential or the value of what -- the whole reason why it was in there, which was to give people the incentive on these transitional areas, whether it's between, you know, Type 1, Type 2, the core and multiple use, I think that was the intent.

So I don't know if -- I mean, it's just up for discussion in a case where that would happen and are we really getting away from the intent of why that was in there?

CHAIRMAN BARNETT: Mr. Schwartz.

COMMISSIONER SCHWARTZ: If we remove the language here, Dave, does it preclude us in the future to go back and look at the development rights transfer issue as we get into more of the, you know, day to day clean-up of the code and all that; can it still be addressed there?

MR. RICHERT: Chairman Barnett and Commissioner Schwartz, I don't believe it does preclude you from anything. We wanted to raise it because of the issues of having single-story development and the pressures if in fact this plan is successful on putting pressure on those lower level buildings and trying to keep the community in sync with that, that they would like to keep that, they soon will get a property value shift that will be so great that buildings may become in disrepair. I mean, we've seen it in other parts of the country. Scottsdale is one of the areas and the legislation exists at the state level, that we can adopt the transfer of development rights ordinance that would allow this to happen.

All this does is give you an ability to discuss that as part of development in the future because I know darn well there's going to be some things that some people are just going to want to keep and there's other things that might go by the wayside. So having that flexibility there is why this was put in. And if anybody's responsible for trying to promote those types of things it would be me, not the staff, because that's my sense down the road. That the way this configuration is on the plan, those are not necessarily good land use configurations unless you've got a mechanism to protect it.

COMMISSIONER SCHWARTZ: Well, I go back to my earlier statement. I would remove this out of the plan and I think it needs to be readdressed when there is more information about how it can work so that it doesn't leave in our minds a feeling that we opened a door that we don't know where it's going to lead us to.

So I would recommend that you pursue something in the future to better – so the Commission and the Council can better understand it and vote on it. But for those purposes, I think we should remove it.

MR. RICHERT: Mr. Chairman, maybe you replace this with something in the action plan that directs us to do that. Because in the budget situation that we're in, any of these things that you want us to do are going to be scrutinized in terms of why we're doing them and where it comes from and who supports that.

So if you'd put something in the implementation plan that encourages looking into that, then that gives us what we need and we can amend it back into the policies later if it's appropriate.

COMMISSIONER SCHWARTZ: Good point. Thank you.

Then add a recommendation to add that to the implementation section.

CHAIRMAN BARNETT: I see general head nod for that, so if we can get that in the motion, Mr. O'Neill. Okay?

And I guess we've taken care of that letter from Coalition of Greater Scottsdale, the last one is other Commissioner items. Just general comments, suggestions, room for improvement, areas you want to make some wordsmithing to.

Mr. Steinke.

COMMISSIONER STEINKE: Just a comment. First of all, my apologies for leaving early at the last meeting three weeks ago or whenever that was and arriving late at this one; they really had nothing to do with each other.

But I wanted to suggest and commend – as I've said before, I like the idea of getting our arms around as many things as we can and looking forward as far as we can. I definitely am pleased with the amount of effort and focus put on section 6, starting on page 43, which refers to infrastructure and the definitions of infrastructure. Using words like "anticipate" and "plan" and "proactively coordinate" and discussing such things as working with public utilities and so on for future projects, is especially rewarding for me to read that. I truly can tell there was a lot of effort put into that, and I wanted to give my endorsement of specifically that section for the amount of work that went onto it and hopefully for the amount of foresight that it represents down the road. So thank you.

CHAIRMAN BARNETT: Mr. D'Andrea.

COMMISSIONER D'ANDREA: While we're thanking everyone, I want to get this in really quick because I know you guys got beat up pretty good on this. I think the document that we have here – it's a lot shorter, it's a lot more concise, and I'd like to thank not only Erin, staff, Tim, Lucia, everyone that worked really hard, but, you know, the Commissioners – Commissioner Schwartz here, he worked pretty hard on it. I know Kevin had a lot of input on the vision statement. I think we all had our input, but in particular, Commissioner Steinke, Commissioner Schwartz, and Chairman Barnett; a lot of people had a lot of good input. And I've never seen Jeff Schwartz work so hard in his life. I mean, he had oodles – he walked into these meetings with oodles and oodles of information and kudos to him. You guys did a great job.

I think it's – you know, as we mentioned before it's a work in progress; there's going to be things that aren't 100 percent worked out about it. But I think if you look at this in comparison to the first just overwhelming amount of information that was there, I think this really starts to get at what we need to do.

And I look forward to you guys – I mean, I know I was particularly hard on the implementation part and I would – the one thing I would like to know is what timeline that you anticipate that this can start getting into actual code form. Never mind, there's a schedule right there. See, he's on it, he's on it.

But thank you, again, and I think it looks really good.

COMMISSIONER SCHWARTZ: I just want to say kudos to staff, we've really come a long way. And thank you for all your long work and effort and our long tedious meetings to go over this stuff. We should all be very proud of what we've got here, because this is a good start for us and now we just need to move if forward to ensure, you know, the viability of our Downtown. So thank you very much.

CHAIRMAN BARNETT: Mr. Schmitt.

COMMISSIONER SCHMITT: I already thanked the staff for their hard work, so I'm done. Thank you.

CHAIRMAN BARNETT: Mr. Hess.

VICE-CHAIRMAN HESS: Well, I have – really it would be very nice for me to add my thank you, which I am, to the staff. And it's very nice to be up here with such an articulate group who can say thank you in so many different ways.

But this is really a very fine piece of work and I commend the entire staff. Thank you.

CHAIRMAN BARNETT: I'll just make one more comment before Mr. O'Neill will make his motion and his comments.

You guys have done a fabulous job. We've come a long ways and worked with 30 percent of the volume of the previous one, which I think is a really, really good working document. I think everybody is in support of sort of the functionality of this. I think it gives some security to the neighborhoods to give some direction to the developers. It gives the developers some guidance on how to move forward. It gives good transportation, good pedestrian access, it gives a good vision on a lot of the things that we've been looking for.

So I'm really, really happy with this. I think you guys have done a great job and I appreciate you guys for all the hard work that you've done.

So with that, Mr. O'Neill can you either make a motion or pontificate some more how fabulous it is?

COMMISSIONER O'NEILL: Yeah, it was very – there were a lot of emotions from a lot of different people and many points in the process. I'll simply just say thank you as well, everybody did a great job. And I include the citizens, everybody in that that's participated in this process.

**COMMISSIONER O'NEILL MOVED TO RECOMMEND APPROVAL OF CASE 3-GP-2008, CHARACTER PLAN AMENDMENT TO THE DOWNTOWN PLAN, WITH THE FOLLOWING AMENDMENTS:**

- **INCLUDE THE BOUNDARY EXPANSIONS 1, 2, AND 3 AS IDENTIFIED IN THE GRAPHIC;**
- **AMEND THE GALLERIA IDENTIFIER ON THE GRAPHIC TO THE DRINKWATER NEIGHBORHOOD;**
- **DELETE THE TRANSITION GRAPHIC IN THE LAND USE, PAGE 21, CD 2.1;**
- **USE THE CLARIFIED LANGUAGE TO POLICY CD 2.2;**
- **USE THE CLARIFIED LANGUAGE ON POLICY CD 8.2;**

- **INCLUDE IN THE RECOMMENDED DRAFT TO THE CITY COUNCIL THE CHANGES AND RECOMMENDATIONS PER THE LETTER DATED APRIL 22, 2009 FROM THE COALITION OF GREATER SCOTTSDALE WITH EXCEPTION OF LAND USE 4.5, BULLET ITEM 9, THE DELETION OF AND/OR, AND WITH REMOVAL OF PSF 1.7;**
- **REMOVE LAND USE POLICY 4.6 FROM THE BODY OF THE DRAFT AND MOVE IT TO THE IMPLEMENTATION SECTION OF THE PLAN.**

**COMMISSIONER D'ANDREA SECONDED THE MOTION.**

CHAIRMAN BARNETT: So not only was that the longest motion of all time, it was one of the longer cases we've ever had. So thanks for the motion. Could you repeat the motion, is what Mr. Schwartz would like.

COMMISSIONER SCHWARTZ: I've got to get one more jab in, it's my last night.

**THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

CHAIRMAN BARNETT: Erin, I'm not sure if you're leaving for the night, but thanks for your work, appreciate it. And obviously the three of us are leaving so we won't see you from this side of the dais, but thanks a lot for everything you've done.

(End verbatim portion)

**RECESS**

A recess was taken from 5:25p.m. to 5:46 p.m.

8. 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 104<sup>th</sup> Street with Central Business District/Environmentally Sensitive Lands (C-2/ESL) zoning.

Chairman Barnett requested that the presentation as well as public comments be limited to the changes that were made to the site plan.

Mr. Hadder briefly reviewed the case history and citizen concerns. The area of interest on the site was depicted using a zoning map and context aerial. He noted that the area to the west is part of the overall development but is not subject to the public hearing process. He pointed out proposal changes that would limit the five units to one-story buildings, 18 feet in height with 15 feet between buildings and a 3,000 square foot maximum size, which will create a finer scale and an assurance of view corridors. He noted that staff felt that the parking garage would provide adequate parking and noted that if needed additional parking could be placed in the existing trailhead parking area. Stipulations have been included to accommodate the changes to the proposal. He noted that the Parks and Recreation Commission has reviewed and is in support of the conceptual proposal.

Mr. Grant reviewed the proposed changes, stressing the fact that the final design plans are required to go in front of the Development Review Board for approval.

Mr. Foster Barber (phonetic) presented photographs of several Capella locations. Capella is interested in attracting the top three percent of travelers and residents in gateway cities and towns throughout the world. Residents will be provided with the same amenities and experience as hotel guests.

In response to a question by Commissioner O'Neill, Mr. Barber explained that including the residential units, it is anticipated that approximately 180 employees will be required. Ample on-site parking has been provided for employees.

Mr. Grant highlighted the key issues of concern including parking, the residential units, and traffic safety. He reviewed the existing parking situation and highlighted ways in which the 217 spaces that would be provided would benefit the area and the park. If the parking garage is not built with seven years, the City has the option to purchase the land intended for parking at the fair market value. Lowering the height of the residential units and providing 15 foot view corridors and tree landscaping mitigates the concerns of Desert Highland residents. Height will be determined as defined by ESLO at 18 feet from the lowest natural grade. Proposed setbacks from the property line have been increased to 60 feet. In order to enable one-story casitas across from Desert Highlands, square footage has been transferred to the northern area of the property through a mix of one- and two-story buildings. To address traffic safety concerns, a stipulation agreeing to specific site plan changes has been included.

In response to a question by Vice-Chairman Hess, Mr. Grant explained that the restaurant/café will be open in the evenings and patio service will be provided during the day as an amenity for park patrons.

Commissioner Schwartz asked what assurances were being provided in response to the letter from the Coalition of Pinnacle Peak. Mr. Grant noted a willingness to stipulate to a maximum of seven units along the property line as an assurance to neighbors that the buildings will be designed within certain parameters.

Commissioner O'Neill commented that the Planning Commission was being asked to approve a conceptual site plan with no conceptual site plan being provided; the Applicant was presenting the previous version of the site plan with an explanation of the updated elements to be included. Mr. Grant argued that the casitas along the frontage would be aligned in a pattern roughly equivalent to those contained in the existing site plan. Commissioner O'Neill felt that an accurate site plan should be provided for recommendation.

Mr. John Milander stressed how difficult it is for a developer to bring forward a project of this level for site plan approval. From an architectural standpoint he felt that the scale was appropriate for the area and that the development would be a visual improvement. The development will be an asset in that it will bring opportunity for more activity to the area.

Ms. Sandra Singer agreed that the project would be beneficial for the community but felt that an adequate site plan should be provided to the Commission and the public. She asked for an explanation of how the height would be calculated and clarification regarding the parking.

Ms. Joanne Netland reiterated concerns from the Desert Highland community and requested clarification as to how the building height would be calculated. She noted that the Applicant met with neighbors for the first time the day before this meeting and provided no site plan. Neighbors continue to be concerned about the proposed building angles, the 15-foot open space between buildings, and the approximate 3,000 square foot size of the casitas. A continuance would allow time for concerns to be rectified.

At the request of Chairman Barnett, Mr. Hadder explained the way that the building height is measured from the natural grade in both the Hillside Ordinance and the ESLO. Eighteen feet will be measured directly vertical from the natural grade, providing a significant incentive to cut into the terrain and tying the buildings into the configuration of the land.

Ms. Jane Rau agreed that the Applicant had not provided a site plan adequate for the Planning Commission to base a recommendation on. She felt that more explanation should be provided to neighbors regarding how the building heights will affect their views.

Mr. Marvin Richman noted that he has past experience developing properties and that the site plan provided by the applicant is inadequate. He expressed concern about the amount of underground parking being provided and the café's hours of operation as they will relate to parking and the Pinnacle Peak Park use. Ventilation for underground parking will be an ongoing maintenance issue and will create noise that could have a detrimental effect on the park.

Ms. Luba Grosz, representing Friends of Pinnacle Peak, expressed concerns about the park access and security, the café, parking, and the ingress and potential bottlenecking at ingress and egress points. The site plan does not reflect assurances that will protect the park and the public interest.

Ms. Linda Whitehead, representing the Coalition of Pinnacle Peak, felt that the site plan is too dense, incompatible with the neighborhood, intrusive to the trailhead, and unacceptable. The revised plan would increase the number of units west of 102<sup>nd</sup> Way, creating the effect of a solid wall. The proposed parking structure encroaches on City-owned Pinnacle Peak Park trailhead land, which was purchased with dedicated Preserve tax dollars. She recalled that the Planning Commission rescinded their previous denial in hopes of seeing significant changes; Ms. Whitehead opined that the Applicant did not provide the promised changes.

Mr. Howard Myers, a member of the McDowell Sonoran Preserve Commission noted that a memo should have been received by the Planning Commission requesting that recommendation be delayed until the Preserve Commission has been afforded the opportunity to review the proposal including the café use, which is incompatible with the high-use park and encroaches into Preserve

property. Mr. Myers was concerned about the parking and the growing popularity of the park. He felt that additional parking was needed and that the City needed assurance that the parking will be provided in perpetuity. He felt the NAOS revegetation plan is inadequate and stressed the importance of providing a trail along the road leading to the trailhead.

Mr. Douglas daCosta, the owner of Villages at Pinnacle Peak, a commercial property located adjacent to the project, spoke in support of Capella. He felt that the use was appropriate for the site, which was zoned commercially prior to the park dedication. The addition of the parking garage is an enhancement to the parking situation, which is currently unsafe.

Mr. Fred Widding read a statement of opposition on behalf of the Desert Highlands community. He noted that the developer has not worked with neighboring communities; the first contact since the rescission was made with the neighborhood the day before this meeting. Desert Highlands continues to have concerns regarding the residence units and requested that the Planning Commission recommend denial of the application.

Chairman Barnett mentioned that many written comment cards were submitted both in support and opposition of the application.

Mr. Grant expressed frustration because of the extra consideration that has been given to creating the site plan, even though the design and layout is subject to Development Review Board approval. He maintained that the Planning Commission site plan review is not the appropriate time to judge the level of detail in the project. He reviewed aspects to the site plan that had been improved and ways in which those improvements would benefit the neighborhood and the park.

Commissioner D'Andrea presented a hand-drawn depiction of how the height of the residential units will be measured, commenting that at a minimum that level of detail should be included in the presentation. Referencing a hand-drawn depiction of the 15-foot spacing between the casitas, he commented that with the angling of the buildings the open space would be visually less than 15 feet from Desert Highlands. He stressed the importance of creating an entrance feature that would maintain the identity of the Pinnacle Peak Park as well as Capella. He was supportive of the parking garage and the café, which would be an amenity to the park users as well as resort guests. Details of the site plan need more specificity so that neighbors and City Council members will understand the intent.

In response to a question by Commissioner Steinke, Mr. Hadder confirmed that a recommendation would need to include added stipulations to change the minimum setbacks to 60 feet and to limit the number of units along 102<sup>nd</sup> Way to seven.

Commissioner Steinke felt the parking was adequate for the current park use. Although he felt the use would be beneficial for the area, he was discouraged with the sloppy presentation and lack of visual content.

In response to questions by Commissioner Schwartz about the stipulation to conform to the site plan, Mr. Hadder explained that as part of a recommendation a stipulation would be added restricting the site plan to seven units. Commissioner Schwartz noted that he would prefer to see a full site plan with full detail so that the city and the neighbors will have assurances that the site will be developed as presented.

Mr. Grant noted a willingness to stipulate to the lot arrangement presented in Commissioner D'Andrea's drawings. Commissioner D'Andrea pointed out that the configuration of units five, six, and seven would allow for little visual continuity, even with a 15-foot separation. Mr. Grant agreed to stipulate to six units in an effort to provide additional open space.

Commissioner Schmitt commented that he was supportive of the proposed parking solution, which would resolve current safety and parking problems, but he was not comfortable forwarding a recommendation to the City Council because an adequate conceptual site plan had not been presented.

Commissioner Schwartz felt the best solution would be to continue the case and have the Applicant return with a complete, updated conceptual site plan. Forwarding a recommendation to City Council based on the materials provided the Planning Commission could potentially set a bad precedent. Mr. Grant noted that because the changes were minor, he would prefer to obtain a recommendation with the stipulation to resolve the site plan concerns prior to the City Council hearing.

Commissioner O'Neill commented that because the revisions were minor, a complete and professional conceptual site plan should have been prepared for presentation in time for the Planning Commission hearing. Although he is supportive of bringing an amenity like Capella to Scottsdale, he was not willing to recommend approval based on the current site plan.

Chairman Barnett commented that the process involved a lot of give and take because the developer is providing amenities for the City as well as a lower density project than could have potentially been developed under the existing zoning. He felt the Applicant had addressed all concerns of the Planning Commission and he was satisfied with the solutions that were presented.

Discussion ensued regarding the best way move the project forward. Mr. Richert suggested that a special meeting could be scheduled, allowing time for the Applicant to return with an updated site plan prior to their hearing with City Council. Commissioner Steinke noted that additional public outreach was needed to provide clarity to the neighbors. Commissioner Schwartz reiterated his position to continue the case.

Mr. Wanager presented the site plan with six units hand drawn along 102<sup>nd</sup> Way, which he felt satisfied the neighbors' concerns. Continued delays are unnecessary and costly. Mr. Grant noted that the 15-foot area between buildings is more open space than is seen between buildings in the Desert Highland Community.

Mr. Richert suggested another option would be to forward a recommendation to City Council with the understanding that a complete site plan would be provided at that meeting. Planning Commission members could speak at the City Council hearing if the site plan was not to their satisfaction. He noted the importance to the community of moving projects such as this forward.

Vice-Chairman Hess felt that the developers had put forth effort to develop solutions to the issues that were raised by the Commission. He supported Mr. Richert's suggestion that the project be recommended to City Council with the stipulation that the site plan would be satisfactorily updated prior to the hearing.

Mr. Padilla confirmed that the additional sketches could be attached to the application at the discretion of the Planning Commission.

Commissioner Schwartz suggested that the item could be tabled to allow the Applicant to create a proper site plan that could be presented before the end of the meeting. Mr. Grant reminded the Commission that there were open meeting laws and protocol that might be violated. Commissioner Schwartz agreed and reiterated his opinion to continue the case. Mr. Grant indicated that they would prefer to have an up or down vote.

Chairman Barnett noted that several City Council members were present and could convey the essence of the discussion to the rest of the Council.

**COMMISSIONER ONEILL MOVED TO DENY CASE 14-ZN-2008, PINNACLE PEAK RESORT (CAPELLA). COMMISSIONER SCHWARTZ SECONDED THE MOTION.**

Commissioner Schmitt commented that he would support the motion out of principle because the Planning Commission is charged with making a recommendation to City Council of a site plan, which was not provided. He was confident that the Applicant would develop the site plan prior to the City Council hearing. If shown an acceptable site plan, he would be willing to attend the City Council hearing in support of the project.

Commissioner Schwartz was hopeful that staff would ensure that a detailed site plan is attached to the case to provide assurances to City Council and the neighbors. The materials that were presented to the Planning Commission were unacceptable.

**THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO TWO (2). CHAIRMAN BARNETT AND VICE-CHAIRMAN HESS DISSENTED.**

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

Request to approve a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance 455), Article III. Definitions.; Article IV. Districts and boundaries Thereof, Sec. 4.100. Division of City into Districts; Enumeration.; Article V. District Regulations.; Article VIII. Sign Requirements.; Article IX.

Parking and Loading Requirements.; Article X. Landscaping Requirements. For the purpose of establishing a Planned Unit Development zoning district.

Ms. Galav provided a brief review of changes made to the proposed text amendment in response to comments heard at the March 25<sup>th</sup> Planning Commission hearing. Qualifying language regarding City Council's ability to approve an acreage change reads: " – when the PUD is the most appropriate district to achieve mixed-use development," which reiterates that the district is intended for creative projects that do not fit any of the other planned districts or zoning districts.

Reference to a maximum allowable building height has been removed, keeping the limit to 48 feet with a 10-foot mechanical allowance as well as the ability for City Council to increase height to 72 feet where appropriate. The requirement for 50 percent of the building to be on the setback line has been eliminated. The existing setback line will be used in calculating an average. Additional minor modifications were made for consistency.

Ms. Galav reviewed the key components of a PUD, stressing the importance of keeping it out of the ESL and Downtown areas. It is the most appropriate for major and minor arterials and major collectors.

Ms. Galav responded to comments received from citizens. Staff maintains that the district is not appropriate for Downtown because the Downtown has its own overlay district. Staff does not feel it would be appropriate to do amended development standards in this district. As structured, the district allows for multifamily; no additional language is necessary. She noted that the majority of appropriate PUD areas would not require a major General Plan amendment.

Any changes will move forward to the June 1, 2009 City Council hearing as Planning Commission amendments.

In response to a question by Commissioner D'Andrea, Ms. Galav clarified that this district will be the least restrictive of the districts and it does have some precautions and standards. When dealing with adjacency, particularly to single-family neighborhoods, buffer safeguards must be included as an assurance to neighbors.

In response to a question by Commissioner Schmitt, Ms. Galav explained that environmentally sensitive standards were attached to the section regarding building height as a tool for additional performance criteria towards achieving height. The hope is to encourage all development to be built using environmentally sensitive design standards. Commissioner Schmitt commented that environmentally sensitive design is not a trend, it is just responsible design.

Commissioner Steinke asked what method was used to determine appropriateness when determining allowable acres. Ms. Galav explained that this Planned Unit Development district would be used in cases where the project did not meet criteria under any other zoning district.

Commissioner Steinke commented about the amount of math used throughout the document to determine things such as distances, suggesting that because the calculations are difficult staff should document them thoroughly to aid future staff with making determinations. He noted that he would like to see more calculation requirements in the area specifying setbacks and curb lines, because it would be difficult to determine curb lines in advance of a project. Mr. Hadder explained that because many areas of the community rights-of-way have differing dimensions it is difficult to achieve standardized placement based on right-of-way or property lines. The Transportation Master Plan provides very specific back of curb requirements for each street cross-section, and every street has a designation used for setbacks.

In response to comments by Commissioner O'Neill, Ms. Galav explained that one reason for including a dual height limitation is because height is an issue for this particular district. A consensus has been achieved for 48 feet, but staff through their analysis feels that there should be an option for additional height.

Ms. Galav explained that the graduated massing requirements was intended to avoid the impacts of massing adjacent to single-family residential areas and to provide diversity. Commissioner O'Neill felt the requirement was limiting to developers and defined an objective as opposed to providing a solution.

In response to a request by Vice-Chairman Hess, Ms. Galav clarified that a section regarding location on major and minor arterials and major collector streets and outside of environmentally sensitive areas and downtown was included.

Ms. Sonnie Kirtley commented that one reason the Coalition of Greater Scottsdale prefers to see precise text in any new materials is because city staff turns over often and text that is not clear needs to be reinterpreted. She highlighted a few points discussed in the letter from the Coalition of Greater Scottsdale to the Commission, stressing the importance of including R-4 properties along with the single-family residential when determining buffer areas as well as sustainability.

Mr. John Berry stressed that the community and the City Council should have the flexibility to say yes to a good project. Constraints should be limited to outside of the ESL and height regulations. Artificial constraints should not be placed on aspects of a project that can be regulated through the development review process.

Mr. Mike Leary reviewed his concerns as stated in a letter submitted to staff and the Planning Commission. One major concern was that the language limited the PUD to areas designated by the General Plan for a combination of land uses. He agreed that because of revolving staff, minimum average setbacks should be included for clarity.

Ms. Lynne Lagarde noted appreciation for the improvements made to the text since the previous review. She stressed the importance of including amended development standards.

Ms. Galav noted that if it is the recommendation of the Planning Commission, amended standards could be included.

Commissioner O'Neill recalled that the key concern of the community has been with height, while allowing flexibility.

Commissioner Schmitt agreed that amended development standards would open the door to creativity and good development solutions.

Chairman Barnett noted his support for amended development standards and lower height. His primary objection to height is that it is unknown what ramifications will come from allowing height outside of the Downtown area. He felt that when the PUD is reevaluated better insight will be available to the most appropriate height allowances.

**COMMISSIONER STEINKE MOVED TO APPROVE 9-TA-2007, PLANNED UNIT DEVELOPMENT (PUD) TEXT AMENDMENT, WITH A CHANGE IN BUILDING HEIGHT TO BE 48 FEET, PLUS 10 AND WITH THE INCORPORATION OF LANGUAGE PROVIDING AN OPPORTUNITY FOR AMENDED DEVELOPMENT STANDARDS. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER SCHWARTZ WAS NO LONGER PRESENT.**

10. 14-TA-2008 Terra Verde Sign Amendment

Request by applicant for approval of a text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455), to amend Article VIII. Sign Requirements, for the purpose of aligning Commercial Office District (C-O) zoning district sign requirements with other commercial districts sign requirements.

Ms. Tessier reviewed the updates made to the proposal made following the last Planning Commission hearing. In addition to those elements reviewed at the March 25<sup>th</sup> hearing, master sign programs equal to and less than 500 feet from and facing private residential districts or existing dwellings with more than one sign for each 125 lineal feet of building wall for any story are subject to DRB approval. She reviewed the master sign program elements that would be subject to staff approval.

Mr. Brandon Frazee from Land Development Services noted that the only real change since the April 1<sup>st</sup> study session was an addition of the limiting factor for the number of signs. He presented an elevation of the subject property as a demonstration of potential appearance with signage as proposed, which would be the worst case scenario allowable under staff approval criteria.

Commissioner D'Andrea thanked staff and the Applicant for working to find an acceptable solution for a complicated problem.

Chairman Barnett noted appreciation for the changes to the proposal and the efforts that were made in developing the sign amendment.

**COMMISSIONER SCHMITT MOVED TO APPROVE 14-TA-2008, TERRA VERDE SIGN AMENDMENT, SUBJECT TO THE INCLUDED STIPULATIONS. SECONDED BY VICE-CHAIRMAN HESS, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER SCHWARTZ WAS NO LONGER PRESENT.**

Chairman Barnett and Vice-Chairman Hess thanked staff and City Council for their efforts during their six year tenure on the Commission.

**ADJOURNMENT**

With no further business to discuss, the regular session of the Planning Commission adjourned at 10:03 p.m.

Respectfully submitted,  
A/V Tronics, Inc. DBA AVTranz.