APPROVED OCTOBER 27, 2004

MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
OCTOBER 13, 2004

PRESENT:	Steve Steinberg, Vice Chairman David Barnett, Commissioner James Heitel, Commissioner Eric Hess, Commissioner Steven Steinke, Commissioner
ABSENT:	David Gulino, Chairman Jeffrey Schwartz, Commissioner
STAFF:	Pat Boomsma Suzanne Colver Tim Curtis Kurt Jones Bill Verschuren Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Vice Chairman Steinberg at 5:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

September 29, 2004

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE SEPTEMBER 29, 2004 MINUTES AS PRESENTED. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

CONTINUANCES

19-UP-2004 (The Coach House) request by Jorden Bischoff McGuire Rose & Hiser, PLC, applicant, Jim Brower for Coach House, owner, for a conditional use permit for a bar on a 3,700 +/- sq. ft. parcel located at 7011 E. Indian School Road with Central Business District; Downtown Overlay (C-2, DO) zoning. **Continued to October 27, 2004.**

COMMISSIONER HEITEL MOVED TO CONTINUE CASE 19-UP-2004 TO THE OCTOBER 27, 2004 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

EXPEDITED AGENDA

25-UP-2004 (Los Padres Bank) request by Dave Wood, applicant, Northsight Corp., owner, for a conditional use permit for a bank in an existing building on a 20,800 +/- square feet parcel located at 14100 N. Northsight Blvd with Service Residential Planned Community Development District (S-R PCD).

COMMISSIONER HEITEL MOVED TO FORWARD CASE 25-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO IT COMPLIES WITH THE CRITERIA OF THE USE PERMIT. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

REGULAR AGENDA

6-ZN-2004 (Drift) request by Drift, applicant, Flip Weber & Associates, owner, to rezone from Highway Commercial District, Parking District, Downtown Overlay (C-3/P-3 DO) and Passenger Automobile Parking District, Downtown Overlay (P-2 DO) to Central Business District, Parking District, Downtown Overlay (C-2P-3 DO) on a .33 +/- acre parcel located at 4341 N. 75th Street.

16-UP-2004 (Drift Patio Extension) request by Drift, applicant, Flip Weber & Associates, owner, for a conditional use permit for a bar on a +/- acre parcel located at 4341 N. 75th Street.

MS. COLVER presented cases 6-ZN-2004 and 16-UP-2004 as per the project coordination packet. Staff recommends denial of the rezoning and conditional use permit requests. A set of stipulations for the rezoning case and the use permit case are provided in the event the Planning Commission chooses to recommend approval of these requests.

COMMISSIONER HEITEL inquired if people would be coming from the bar swimming pool in their swimsuits and walking to the parking garage. Ms. Colver replied the applicant would need to answer that question.

COMMISSIONER BARNETT stated there is a stipulation that has been added that the case is reviewed after one year and the parking requirement with the garage is a five-year minimum. He inquired how the applicant was to deal with locking themselves into a five year contract, spending a lot of money on a pool, remodeling the bar and restaurant, and come back in a year and possibly get denial. He further stated shouldn't there be some parallel with the parking requirement and stipulation for the 12 months. Ms. Colver replied this agreement does not incur any real cost it is a food trade so there is no real significant cost to the applicant for this agreement. Notwithstanding, if this were another scenario and they were paying money, we would still require a five year lease that is what is in the City code for remote parking so we are not in a position to waive that. The use permit stipulations are something we can look at changing.

Mr. Jones stated the purpose of the stipulation is to ensure things are running smoothly in the operation and if there could be other stipulations added to address the issues. It is a checkpoint to see if there are key issues with these bar uses. Not so much that we are going to review it in a year and revoke them. It is to ensure this use is not impacting surrounding businesses as part of the use permit. He explained that if this stipulation were not included the only process we would have to review the case would be to see if they are complying with the stipulations the City Council approved and if there were not impacts. If there were impacts, the revocation procedure would be the only way to look at that.

Commissioner Barnett inquired who would start the revocation process. Ms. Boomsma explained the point of the stipulation is to see how something operates for a year. See if it is an impact or not. Prior to something happening you do not know what the impacts will be and you can better assess once it is going on. If there is no time limit and has to go through the revocation process it would have to be initiated by staff or the City Council and there needs to be good proof a stipulation has been violated or violates the conditions of the conditional use

permit. She noted it is a more difficult process. Commissioner Barnett stated that makes sense but it seems the onus is on the applicant.

VICE CHAIRMAN STEINBERG inquired if there is any existing precedence for this. He stated that The Works had a similar venue. He inquired if there was any negative feedback from that. Mr. Jones replied that he did not believe The Works had a use permit requirement. He stated that there were not any complaints regarding the pool.

COMMISSIONER BARNETT inquired about the fence or barriers between the rest of the city and the pool. Ms Colver stated the applicant intends to put a five-foot wall and the wall would not have footholds so nobody could climb it. The access to the pool would be from the resturant.

Commissioner Barnett inquired if the pool was visible from the street. Ms. Colver replied in the affirmative.

GREG DONNALLY, applicant, stated The Works was a nightclub that had after hour use and the complaints with that establishment were not related to the pool but more to fights that were happening after hours. He further stated if visibility is an issue screens can be placed so there is no visibility from the streets. He remarked if security is an issue we will take any steps possible because they do not want any potential dangers that this pool would impose. He expressed his concern regarding the one-year review stipulation.

He explained his concept is to create a resort atmosphere area where people can come and enjoy without a room rate.

He stated with regard to the parking and people accessing this is a new concept and we will be addressing those operating issues.

COMMISSIONER HEITEL inquired how deep the pool would be. Mr. Donnally replied it would be a wadding pool with a perimeter seat around the pool and two sets of stairs going into the pool. There would be no diving or jumping. Commissioner Heitel stated that there are always signs on public Jacuzzis warning people to not get in them if they have been drinking. He inquired how that would work here. Mr. Donnally replied by them monitoring it.

VICE CHAIRMAN STEINBERG inquired if the applicant is required to get Department of Health approval before this can be implemented. Mr. Donnally replied in the affirmative.

Vice Chairman Steinberg inquired about the demographic in the restaurant. Mr. Donnally replied 25 to 45.

Vice Chairman Steinberg inquired if they are required to have a lifeguard. Mr. Donnally replied in the negative but we plan to have people on premise that are certified in CPR at all times and would give lifesaving.

Vice Chairman Steinberg inquired if the City would be at risk if someone were to jump the fence and drown because this could be considered an attractive nuisance. Ms. Robberson explained that because this is on private property it should not be any more attractive nuisance than a pool at a hotel or on any other private property. Vice Chairman Steinberg inquired if there were any risks to the City because alcohol is being served. Ms. Robberson replied without looking at it she cannot give a definite opinion but it would be our opinion that it is primarily the property owner's responsibility to keep it safe.

Vice Chairman Steinberg inquired if the city requires the applicant to have an insurance policy that would indemnify the city. Ms. Boomsma replied in the negative. Mr. Donnally commented that he did check insurance and on a square footage basis it is 20 percent less than having a dance floor.

COMMISSIONER BARNETT stated that he is a fan of this project and felt we need to support unique fun concepts like this. He further stated that he did not see this as any different than the Hyatt at Gainey Ranch where you can swim up and get a cocktail. With regard to liability the applicant has contacted the insurance companies and obviously there, will be liability, and if they are willing to take that on he does not have a problem with this. As far as people walking in the streets with their swimsuits they can do that now.

(VICE CHAIRMAN STEINBERG OPENED PUBLIC TESTIMONY.)

NEIL SAREMBOCK, 4311 E. Devonshire Ave, Phoenix, AZ, spoke in favor of this request. He stated he is the lighting designer for the applicant. He further stated that he was in favor of the concept. He noted that the Drift is in a hidden location and the applicant has invested a lot of money and by doing what he is doing it will improve the business.

FLIP WEBER, 8502 E. Krail Street, spoke in favor of this request. He showed pictures of the area 43 years ago. He stated that he has had an ongoing interest in this property for many years. He noted that the applicant is his lessee. He further noted that he believed a great deal of this application deals with credibility of the lessor and the lessee and their track records. He added for the last 43 years he has been involved with this subdivision and his trust owns two restaurants in this area. He further added that his trust would not risk that property unless we honestly believed the applicant has the ability to fulfill all of the stipulations and do the job properly and that is the important factor.

COMMISSIONER HEITEL inquired if the use permit is tied to these two continuing as owner and tenant. Mr. Webber stated they are married to each other for 20 years. Commissioner Heitel inquired if you sold the property would the use permit still have the same assurances if Mr. Webber were not longer the property owner. Mr. Webber replied the use permit has to work with the city and the tenant. Ms. Boomsma stated the use permit runs with the land and is not tied to owner and tenant.

(VICE CHAIRMAN STEINBERG OPENED PUBLIC TESTIMONY.)

COMMISSIONER STEINKE commended the applicant for putting your dream and thoughts on paper and trying to make them a reality. He stated at this time he has serious concerns about parking and the appropriateness of the use in that part of town. In the past, we have been sensitive to issues with noise and with activities outdoors with other applicants in the vicinity. There are still questions regarding those issues. He also has questions regarding people showing up suited up and leaving. He remarked that a stipulation of one year after they open the pool as opposed to beginning building might be fair. He concluded that his questions are serious enough about safety, trained personnel on site to handle water safety issues that he could not support this request.

VICE CHAIRMAN STEINBERG inquired if Commissioner Steinke's concerns about safety are during business operations or after. Commissioner Steinke replied both his primary concerns are regarding monitoring. Mr. Donnally replied they would be following the City and County standards for a resort pool.

Vice Chairman Steinberg inquired if they will be playing loud music because it might be disruptive to the retail in the area. Mr. Donnally explained that we play music right now and they have not had any complaints. The music will not be any louder than it is right now. This use will be promoted for Saturdays and Sundays and the Summer time.

COMMISSIONER HEITEL stated that he is wrestling with this because part of him is concerned about the constriction of the site maybe not enough room to try and have a resort use. He further stated this is a great concept. He commented that he is inclined to let this tacitly move forward and let the City Council because they wanted the ability to define the downtown so let them make that definition. If they are not comfortable with the public visibility issues and some of those issues let them put their imprint on this and go forward in that regard.

COMMISSIONER BARNETT stated that he loves this concept. He further stated that he did not see any real problems and would be voting in favor.

VICE CHAIRMAN STEINBERG stated it is a novel concept and they have a year to prove that it works.

COMMISSIONER BARNETT stated it sounds like the consensus is to keep the stipulation in although I'm not in favor of the stipulation.

COMMISSIONER BARNETT MOVED TO FORWARD CASES 6-ZN-2004 & 16-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL.

COMMISSIONER HEITEL noted that we are recognizing that someone's dance floor is another ones swimming pool so where are we to draw that line.

THE MOTION PASSED BY A VOTE OF FOUR (4) TO ONE (1) WITH COMMISSIONER STEINKE DISSENTING.

(Commissioner Hess left.)

17-ZN-2004 (Optima Camelview Village) request by Beus Gilbert PLLC, applicant, Optima Camelview Village LLC, owner, to modify the site plan and the stipulations of the approved Scottsdale Portales project on a 13.3 +/- acre parcel located at 7198 E. Highland Avenue with Downtown/Regional Commercial Office Type 2 District, Planned Block Development, Downtown Overlay (D/RCO-2 PDB DO).

MR. JONES discussed the goals and vision principles that were set forth for the downtown. He also discussed staff goals for this project.

MR. VERSCHUREN presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

JOHN BERRY, 4800 N. Scottsdale Road, representing the applicant, stated it is a pleasure and an honor being here this evening working with David Hovey and Optima adding they have assembled a great team. He further stated that staff and the Commission should be congratulated because again downtown Scottsdale is the envy of the rest of the Valley. Downtown Scottsdale is back. He noted there is buzz about Scottsdale because of the revitalization efforts. An important reason for the buzz out there about Scottsdale is because of the missing ingredient that has been missing and is finally coming and that is residential. He further noted that Westcor strongly supports this proposal.

DAVID HOVEY, architect, provided information on the Company history and the vision for the project. He discussed why we choose Scottsdale to develop a luxury residential project. He reported the design reflects the uniqueness of Scottsdale. He reviewed the design. He reported the parking would be below grade. He presented information on the green roof top concept.

MR. BERRY provided information on the details of the project. He discussed the public art component on the site. He reviewed the heights of the buildings. He discussed the initial design verses where the project is today that reflects the Developer's response to the community and staff input. He reviewed the site plan. He provided information on the traffic impact of this project. He showed pictures of other green roof projects. He discussed the benefits of this project. He concluded this plan deserves their support.

COMMISSIONER BARNETT stated this is a great plan and he did not have any problems with it. He stated with regard to the phasing of the project it would seem to make more sense to do Phase 3 before Phase 2. Mr. Hovey replied that could be done. It is the intent to have Phase 2 and 3 built simultaneously.

COMMISSIONER HEITEL commented this is a uniquely creative project. It is an open visually appealing project. He further commented the use of the green roof concept is exciting in this area. He applauded the project.

VICE CHAIRMAN STEINBERG inquired about how basic services such as trash removal, emergency vehicles, and deliveries will be handled. Mr. Berry explained how those services would be handled and pointed out on the graphic where the truck access was located.

Vice Chairman Steinberg inquired about the amount of office space. Mr. Berry replied it is stipulated to a maximum of 33,000 square feet a combination of retail or office on the site.

(VICE CHAIRMAN STEINBERG OPENED PUBLIC TESTIMONY.)

PATTY BADENOCK, 5027 N. 71st Place, spoke in opposition of this request. She discussed the goals approved by the City Council in 1983. She discussed the height and density discrepancies in the original site plan. She noted on the plans the open space is placed in the interior of the project and takes away the setbacks from the main roads. She added we do not need to be setting negative density precedence for in fill projects that impact mature neighborhoods.

DR. CHRIS MARTIN stated that he is currently involved with research with ASU consortium for the study of rapidly urbanizing centers in the World and particularly involved in research regarding urban heat islands. He further stated that leads him to support this project because it is a project trying to mitigate the urban heat island effect. He explained the green roof top concept mitigates the urban heat island effect.

MICHAEL MERRILL, 8713 E. Vernon Avenue, representing Citizens for Responsible Redevelopment, spoke in favor of this request. He reported that he has not seen a project that is entailed as this one and it is a great project for the

downtown area. It fits the downtown area. He noted we have not been a small town for a long time. He concluded their organization supports the project.

DAVID LAYMAN, 4709 N. 70TH Street, spoke in support of this request. He stated he lives close to this project. He further stated that he cannot see anything wrong with this plan. He added he could not think of anything better than what is being proposed.

JAMI LAYMAN, 4709 N. 70TH Street, spoke in support of this request. She stated she would echo what David Layman had to say.

KEITH LOFTIN, 7171 E. Orange Blossom Lane, spoke in support of this project. He stated he lives directly north of the project. He further stated many of his neighbors are excited about this project. It is nice to see the residential as opposed to just business in there. He commented they appreciate how Optima has modified the design per their feedback. He further commented his only concern is access through the development.

DOUG SYDNOR stated he represented American Institute of Architects and they support this request. He reviewed the reasons that AI supports this project noting it is a good example of desert urban residential living. The development is consistent with the surroundings. This project is environmentally sensitive. This project would be a welcome and positive architectural addition to the downtown. It is the right project in the right place. He concluded the American Institute of Architects strongly recommends the Planning Commission supports this project.

(VICE CHAIRMAN STEINBERG OPENED PUBLIC TESTIMONY.)

MR. BERRY stated he could not be more thrilled to have the support of the American Institute of Architects. He further stated that he respects Patty Badenock but this is not the first time they have disagreed on the direction of the downtown. He added the facts speak for themselves. He reviewed the access through the site.

COMMISSIONER STEINKE inquired in the Commission Report under Community Impacts it states: “The proposal increases the density originally proposed for the site, but also reduces the non-residential intensity of the site”. Mr. Jones explained that statement was to state there is about 1.1 million square feet approved for this site for retail, office, and hotel and no residential so it is 750 unit increase in density that was not there prior.

Commissioner Steinke stated that he believes the Highland Bridge however it is bridged for pedestrians is a critical issue that needs to be worked out with the city and the developers.

COMMISSIONER BARNETT stated this is one of the best projects that have come through as far as depth of the plan and consistency of the plan. He thanked Mr. Hovey for coming in with a great plan and he thought everyone will enjoy it.

COMMISSIONER HEITEL stated he shares Commissioner Barnett's thoughts that it is a wonderful plan. He further stated he looks forward to seeing it built.

VICE CHAIRMAN STEINBERG stated this project would be a wonderful addition. He further stated that he appreciate the live, work, play environment that is so important to the downtown vision statement. He remarked that architecturally it will fit well and will be sensitive to the environment and he liked the green roof concept. He commented on the quality of the detail of this project. He concluded that he wholeheartedly supports this project.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 17-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER STEINKE.

THE MOTION PASSED BY A VOTE OF FOUR (4) TO ZERO (0).

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 7:10 p.m.

Respectfully Submitted,

"For the Record " Court Reporters