



Approved December 13, 2006

APPROVED

**PLANNING COMMISSION
CITY OF SCOTTSDALE
CITY HALL KIVA
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
NOVEMBER 29, 2006**

STUDY SESSION MINUTES

PRESENT: Steve Steinberg, Chairman
James Heitel, Vice-Chairman
David Barnett, Commissioner (arrived at 4:47 p.m.)
Kevin O'Neill, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

ABSENT: Eric Hess, Commissioner

STAFF PRESENT: Tim Curtis
Lusia Galav
Frank Gray
Phil Kercher
Joe Padilla
Sherry Scott
Dan Symer
Don Meserve

1. **CALL TO ORDER**

The study session of the Scottsdale Planning Commission was called to order by Chairman Steinberg at 4:04 p.m.

2. **ADMINISTRATIVE REPORT**

None.

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5. **REVIEW OF NOVEMBER 29, 2006 AGENDA**

CONTINUANCES

16-AB-2006 Windmill Plaza Revitalization

Ms. Galav reported the Applicant's request was for a continuance to the January 10, 2007 meeting due to issues related to the property owners association and agreements between the parties.

13-AB-2006 Atalon

Ms. Galav reported staff's request was for a continuance to the December 13th meeting in order to provide an opportunity to correct a noticing error.

EXPEDITED AGENDA

22-AB-2006 Eckholm Residence

11-ZN-2002#2 94 Hundred Shea

In response to a question by Chairman Steinberg, Mr. Kercher explained that during the zoning case it was determined that the median break would not be a variance from the Shea Policy. He clarified that the Transportation Commission discussed the possibility of the median break setting a precedent, but did not feel it was of concern.

Mr. Kercher commented that theoretically only one car should pull out at a time, but two or three cars could fit in the queue area. The location is a quarter of a mile between the signals at 92nd and 96th Street, which leaves ample opportunity to make the turn.

In response to a question by Commissioner Steinke, Ms. Scott confirmed that a *deviation from the Shea Boulevard Policy requires approval of the Transportation Commission*. She requested time to research whether this would be considered a deviation.

Vice-Chairman Heitel requested that the item be moved to the regular agenda.

REGULAR AGENDA

9-ZN-2006/13-HP-2006 Scottsdale Estates

Ms. Galav noted the item was placed on the agenda at the request of Commissioner Schwartz to review and reconsider the decision.

6. **REVIEW OF DECEMBER 13, 2006 TENTATIVE AGENDA**

Ms. Galav briefly reviewed the tentative agenda for December 13th which included three cases for the Arte Development, the Avalon abandonment,

Caballo Estates, the Overgaard abandonment, a PBD Amendment, and a use permit for a fitness center.

In response to a question by Chairman Steinberg, Ms. Galav explained that the domestic farm winery would be included on the agenda because it was a different use than is usually seen and is not directly addressed in the zoning code.

Ms. Galav confirmed that Commissioner O'Neill's request for discussion on text amendments would be included on the December 13, 2006 study session agenda.

Study session recessed at 4:16 p.m. and reconvened at 4:30 p.m.

3. **DISCUSS AND CONSIDER THE CITY'S CURRENT HISTORIC PROPERTY OVERLAY ZONING DESIGNATION AND INITIATING A TEXT AMENDMENT TO THE CITY'S HISTORIC PROPERTY OVERLAY ZONE REGARDING NOTICE REQUIREMENTS FOR THIS ZONING DISTRICT**

Mr. Grant noted that at the previous meeting there was request for discussion on the concept of constructive notice and what might be involved in enhancing the notice, particularly relevant to Historic Preservation Overlay. The purpose of the discussion was to provide information on the current process, options for altering the process or requirements, and to discuss appropriate process.

Mr. Grant reviewed the current process for Historic Preservation, which includes a background study, public notification, the traditional rezoning process, and public hearings.

He recalled that at the previous Planning Commission hearing the Commissioners expressed a desire to discuss enhancing the notification and ways to bring awareness of additional restrictions to future buyers and citizens in general. It was suggested that notice be recorded against each property as well as installing additional signs and markers within the neighborhood indicating that it was an HP area.

Mr. Grant noted that if the HP Overlay were listed on a title search that restrictions would not be included. He suggested that they might consider how this overlay relates to other similar types of zoning, such as ESLO. He noted that title insurance coverage does not typically include zoning; people that want zoning included and discoverable must ask for an endorsement to the policy. If the zoning were to be indicated for each property, the City would have to provide a mechanism for recording; if recorded by boundary the zoning would not show up on a title search.

Commissioner Schwartz indicated that he would withhold his comments until the regular hearing.

Commissioner O'Neill clarified that in addition to notifying future buyers the Commission was concerned about adequately notifying current owners of the possible restrictions that would be imposed on their property. Noting that some

residents are not comfortable speaking out in a public forum, he mentioned one resident who spoke against the historic overlay following the hearing.

Mr. Grant reviewed the notice and public involvement process and requirements, noting that the process is made as convenient as possible for citizen involvement. It is a struggle to determine whether to consider silence from a citizen as support or not. For zoning that is not Historic Preservation a provision exists allowing an assembly of properties that does not require all owners to be signatories on an application; a mechanism does not exist to ensure every person's support every time.

Commissioner O'Neill inquired whether it would be reasonable to require each owner's signature approving the zoning change and if they do not sign the document their property would be *excluded from the zoning change*. Mr. Gray explained that with a historic district a group of homes represents something significant to the community. If individual homes were excluded it would degrade the entire district.

Commissioner O'Neill inquired whether it would be possible to require a majority approval. Mr. Gray explained that the current practice is to assume by the lack of participation that people agree with the change. He suggested that a regulation could be written requiring a petition with a certain percentage to represent a valid application.

Ms. Scott confirmed that a text amendment could be made requiring a petition or document indicating the percentage of community support. The percentage of community support could also be considered when voting to recommend approval or denial of a case.

Commissioner O'Neill suggested that once the Historic Preservation Commission has completed the process the community itself could come forward with the application for a zoning change. Mr. Gray noted that it was more economical for the City to be the Applicant because of fees involved; arrangements could possibly be made to waive fees if the neighborhood brought the request forward. He recalled that this neighborhood came forward during the processing of two other historic overlays requesting they be considered.

Vice-Chairman Heitel noted that citizens have a responsibility to speak out with their opinion during the public process. He *opined* that there is no overlay more restrictive than Historic Preservation. He suggested that a memorandum could be recorded with the City describing historically preserved areas.

Mr. Gray reviewed that the Historic Preservation Commission took great care in marking the streets in such a way as to denote the historic nature of the area without detracting from the neighborhood. Vice-Chairman Heitel recalled that street signs were promised for the Foothills overlay up north and were never provided, leaving many residences uninformed about the designation.

In reference to a question asked earlier regarding the street master plan, Ms. Scott clarified that the opening in the median is not being increased. The ordinance which was part of the 2002 zoning case supersedes any later enacted

policy. She noted that the legal department was comfortable with the 94 Hundred Shea case moving forward.

Commissioner Steinke commented that the stipulation as he understood it stated that left turns out onto Shea were prohibited. Mr. Curtis clarified the difference in the medians: the approved median opening provided two left-ins and the proposal suggested a left-in and left-out of the site.

Study session recessed at 5:05 p.m. to commence the regular meeting and continued at 6:25 p.m.

4. **TEMPORARY FENCING DISCUSSION**

Commissioner Schwartz commented that the signs around the Optima and the Safari were beautiful.

Mr. Symer addressed the Commission noting that staff provided a worksheet in order for the Commission to express their wishes for requirements to be placed in the Ordinance. He reviewed earlier discussions regarding whether regulating fencing through a text amendment or the DSPM would be more ideal. He reviewed photographic examples of different temporary fencing, screening, and signage noting that temporary fencing is required under certain situations involving safety and welfare.

Commissioner Barnett reviewed the worksheet indicating his preference for each item. He expressed the following preferences with regard to fencing:

Non residential - required
Multifamily - required
Single family - should be discussed with a preference for requiring on R1-35 and above
Unimproved vacant lots - prohibited
Improved vacant lots - should be discussed
Vacant buildings - prohibited
Demolition - required
Temporary security fencing would be the same choices.

Regarding signage:

Non residential - allowed with the preference of signs similar to those used at the Safari site
Multifamily - same as non residential
Single family residential - prohibited
Improved vacant lots - prohibited
Vacant buildings - prohibited
Demolition - allowed

Commissioner O'Neill commented that requiring fencing during demolition would be unreasonable because of the limited time it takes to complete, as well as restricting mobility on smaller sites. Commissioner Barnett agreed demolition

should be changed to "allowed". Mr. Gray noted that the building code controls fencing on demolition as well as vacant buildings regarding safety issues.

Commissioner O'Neill commented that owners should have the option of providing fencing on unimproved vacant lots for security reasons. Mr. Gray reminded the Commission to look at the difference between "required" and "elective"; if elective, should the owner be required to screen the fencing? Commissioner O'Neill noted that if fencing was prohibited owners would not have the option. Mr. Gray suggested requiring the use of bollards and chains as opposed to fencing for unimproved vacant lots would be a more aesthetically pleasing option.

Commissioner Barnett addressed the issue of problems with temporary fencing being left beyond 90 or 180 days which should be considered a permanent fence. He opined that the bollards and chains would be a good option.

It was the consensus of the Commission to allow fencing on unimproved vacant lots, giving discretion to staff in how to implement a solution.

The consensus of the Commission was to mark "allowed" for improved vacant lots.

Mr. Gray clarified that temporary fencing is classified as 90 to 120 days with an allowance for renewal. He suggested the Commission include a regulation on the number of times an application can be renewed.

Commissioner Schwartz suggested drop down screening depicting the site plan on large buildings under construction. Mr. Gray noted that staff was hoping to allow signs with screen-printing with that idea in mind.

Discussion ensued regarding whether to allow fencing and signage for single family. Commissioner Barnett suggested lots under R1-35 should be left to the discretion of staff on an individual site basis. Commissioner O'Neill noted that many times construction insurance requires fencing. It was decided that temporary fencing would be allowed for single family and signs would be prohibited.

Regarding the choice between the zoning ordinance and the DSPM, the consensus of the Commission was to use the zoning ordinance because it would provide more teeth in instances of noncompliance.

7. **ADJOURNMENT**

With no further business to discuss, the study session adjourned at 6:49 p.m.

Respectfully submitted,
A/V Tronics, Inc.

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