SCOTTSDALE PLANNING COMMISSION
CITY HALL KIVA
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
SEPTEMBER 27, 2006

REGULAR MEETING MINUTES

PRESENT:  
James Heitel, Vice-Chairman  
David Barnett, Commissioner  
Eric Hess, Commissioner  
Kevin O'Neill, Commissioner  
Jeffrey Schwartz, Commissioner (departed 8:51 p.m.)  
Steven Steinke, Commissioner

ABSENT:  
Steve Steinberg, Chairman

STAFF:  
Lusia Galav  
Randy Grant  
Frank Gray  
Don Hadder  
Joe Padilla  
Sherry Scott  
Kim Chafin  
Tim Conner  
Phil Kercher  
John Lusardi  
Kira Wauwie

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Vice-Chairman Heitel at 5:24 p.m.

ROLL CALL

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

APPROVED
MINUTES REVIEW AND APPROVAL

1. September 13, 2006 (including Study Session)

Commissioner Barnett requested verbatim transcripts of the September 13, 2006 regular meeting, noting controversy over the case discussed.

COMMISSIONER BARNETT MOTIONED TO APPROVE THE MINUTES OF THE SEPTEMBER 13, 2006 STUDY SESSION AND REGULAR MEETING. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).

CONTINUANCES

2. 20-ZN-2002#2 One Scottsdale

Request by owner to modify the amended development standards for height approved to case 20-ZN-2002 on 120+/- acres located at the northeast corner of Scottsdale Road and Loop 101 (19701 N. Scottsdale Road) with Planned Community District, Planned Regional Center (PCD PRC) zoning.

COMMISSIONER BARNETT MOVED TO CONTINUE 20-ZN-2002#2, ONE SCOTTSDALE, TO THE OCTOBER 11, 2006 PLANNING COMMISSION MEETING. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). COMMISSIONER O'NEILL WAS RECUSED.

EXPEDITED AGENDA

3. 23-UP-2006 Tanners Live Entertainment

Request by owner for a conditional use permit for live entertainment in an existing 4000 +/- square feet building located at 6990 E. Shea Blvd. with Central Business District (C-2) zoning.

6. 11-TA-2006 Amendment to Penalty Section of the Zoning Ordinance

Request by City of Scottsdale, Applicant, for a Text Amendment to Scottsdale Zoning Ordinance (455) to amend Article I. Administration and Procedures Section 1.1403. Commencement of action.; section 1.1404 Authority to issue civil complaint.; Section 1.1405 appearance by defendant.; Section 1.1406 Default judgment.; Section 1.1407. Rules of procedure.; Section 1.1408. Collection of civil sanctions.; section 1.1409. Violations not exclusive.; Section 1.1410. Each day separate violation.; Section 1.1411. Injunction.; Section 1.1412. Reporting of Violations of the City of Scottsdale Zoning Ordinance (455). The purpose of this text amendment is to change and clarify violations and penalty provisions in the Zoning Ordinance.

COMMISSIONER BARNETT MOVED TO RECOMMEND APPROVAL FOR 23-UP-2006, TANNERS LIVE ENTERTAINMENT, WITH THE ASSUMPTION THAT IT MEETS THE CONDITIONAL USE PERMIT CRITERIA AND 11-TA-2006,

APPROVED
THE AMENDMENT TO PENALTY SECTION OF THE ZONING ORDINANCE.
SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED
UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

4. 19-UP-2006 Safeway @ The Summit Fuel Sales

Request by owner for a conditional use permit for a gasoline service station on a 57,439 +/- square feet parcel located at 32515 N. Scottsdale Road with Central Business District, Environmentally Sensitive Lands (C-2 ESL) zoning.

Mr. Hadder addressed the Commission. Highlights of his presentation included a contextual aerial photograph, zoning map, and site plan as well as a general description of the proposal. He noted there are no other gas stations within a five-mile area of this location and from a zoning standpoint there will be no opportunity for this use in the area. Staff recommended approval of the application.

Ms. Lynne Lagarde, 3101 North Central, addressed the Commission. She reviewed the application, noting the appropriateness because of the scarcity of fuel stations in the area. Safeway respected the natural desert setting and wanted to blend into that without intrusion while reflecting a high quality of design. She reviewed plans for additional screening with trees along Scottsdale Road minimizing visibility of the station.

Safeway allowed an extended period of time for community involvement prior to filing their application. Neighbors' concerns were addressed and incorporated into the plans. The majority of neighbors were supportive of the use because of the need for fuel stations in the area. One of the main issues that surfaced was the size and operation of the kiosk, which Safeway addressed by reducing the size and making it a walk-up facility. Another concern was with the hours of operation which were agreed to be limited to the hours of operation of the store: 6:00 a.m. to 11:00 p.m.

In address to concerns regarding Scenic Corridor monument signage, the temporary sign was removed and an application is currently in with the Development Review Board for approval and should be installed long before the fuel services begin. The traffic study highlighted that the driveway does not operate at an acceptable level of service, which has nothing to do with safety; it has to do with timing. She noted that studies showed that median maintenance would help with visibility from that driveway. Directional access signage will be included internally on the property, sending traffic to Ashler Hills.

Ms. Lagarde noted that all Ordinance criteria were met both for gas stations and for general use permit criteria.

In response to a concern by Commissioner Hess about the hours of operation following those of the store in case the store were to extend its hours, Ms. Lagarde agreed to stipulate to the hours of operation.

APPROVED
In response to a question by Commissioner Steinke, Ms. Lagarde confirmed that diesel would be available at every pump, no separate pump will be available for trucks.

Commissioner Hess expressed concern about people exiting from the left turn across the north bound lane on Scottsdale Road. He opined that having directional signs to Ashler Hills would not prevent a problem. He reviewed personal experience in dealing with the turn and felt a solution should be found to mitigate the danger. Ms. Lagarde noted that the original traffic study for the Summit was consulted. Originally a restaurant was planned, which would have had more traffic impact than this use. Commissioner Hess argued that traffic in that area had increased and those traffic studies would not accurately reflect the current traffic.

Mr. Bob Vairo, Coalition of Pinnacle Peak, addressed the Commission in favor of the project. He noted that Safeway has worked with neighbors regarding concerns and has addressed those concerns. One concern still to be addressed was the left turn south on Scottsdale Road.

Mr. Howard Myers addressed the Commission in favor of the use. He suggested that the stipulations regarding lighting need to go further and specify the amount of light at the edge of the plot, not property boundaries which could be misconstrued; he encouraged the architects to look at the gas station at Carefree Highway and Cave Creek Road, because they addressed lighting appropriately for the area. Mr. Myers reviewed his concern was with circulation on the lot.

Mr. Hadder reviewed the problems with landscaping on the median at the left turn exit onto Scottsdale Road, noting the process for maintenance has been started.

Mr. Hadder noted that the Summit developers worked extensively with Transportation on the driveway designs and created a design standard to meet the City standards. Since the time of the traffic study the area has changed and continues to develop, but the projected traffic has not increased from what was originally understood for this area.

Commissioner Schwartz suggested that dealing with the vegetation issue would make a safer exit out of the shopping center. Commissioner Hess opined that a stipulation should be added to require regular maintenance of the island vegetation.

Commissioner Hess commented that when making a left turn the center land is not clear. He opined that making it longer would allow for cars pulling out to have a place to go so they do not block traffic; lining and marking would be a simple solution. Mr. Hadder noted that roughly three hundred feet was available to work with before the next driveway.

Mr. Hadder clarified that the key landscaping affecting the site was in the median. Maintenance for medians is done through the Parks Department. If regular maintenance is needed the City will reconfigure the landscaping and change the materials in order to maintain the lines of sight.

APPROVED
Commissioner Schwartz suggested removing the big tree in the median would eliminate the blind spot. Mr. Hadder clarified there are actually two trees and undertook that staff would look into that issue.

Commissioner Steinke suggested that the traffic issue not be made specific to the request, because it is an issue for the entire shopping center and multiple users.

Vice-Chairman Heitel opined that the traffic problem went beyond the landscaping. The design with a left out lane and no concrete median created the original problem.

Mr. Kercher explained that the medians were installed as a retrofit and added to existing pavement with drainage crossing over the pavement, which prevented extending along the full length of the front of the center. He suggested that a stipulation be added requiring the Applicant to come up with a design; through striping a refuge area could be provided. If the work is stipulated it would be required to be completed prior to issuing the certificate of occupancy.

Ms. Lagarde confirmed that the Safeway and the developer were both willing to incur the cost of restriping and to work with the City on the design. She noted that there would be no objection to changing the landscaping in the median for safety purposes.

COMMISSIONER SCHWARTZ MOVED TO APPROVE CASE 19-UP-2006 BECAUSE IT MEETS THE SPECIAL USE PERMIT REQUIREMENTS, NOTING STAFF SHALL DEVISE A STRIPING PLAN AND A REVEGETATION PLAN FOR THE NORTH ENTRANCE WHICH THE DEVELOPER, ONCE IT HAS BEEN APPROVED BY BOTH PARTIES, SHALL PAY FOR. THE HOURS OF OPERATION WILL BE STIPULATED FROM 6:00 A.M. TO 11:00 P.M. FOR THE FUEL SERVICE. SECONDED BY COMMISSIONER BARNETT, THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0).

5. 10-TA-2006 Accessory Buildings and Structures

Request by City of Scottsdale, applicant, for a Text Amendment to Scottsdale Zoning Ordinance (455) to amend Article VII. General Provisions Section(s) 7.200.A. General Provisions/Additional Area Regulations/accessory Buildings of the City of Scottsdale Zoning Ordinance (455). The purpose of this text amendment is to maintain the relative scale of the main buildings and accessory buildings on single-family lots of 43,000 square feet or smaller.

Mr. Hadder reviewed that staff was hoping to amend the language regarding accessory buildings to state that an accessory building to a single family district uses the R1-43 land use text and that on such lots if they are less than 43,000 square feet shall not be constructed to a height greater than the main building on the same lot. Presenting example photographs, Mr. Hadder explained that the provision would limit accessory building height to a height compatible with the character of the neighborhood. Staff recommended approval.
Commissioner Barnett commented that he would like to see some parallel at 35,000 square feet because even in the R1-43 single family district the sub clause for guesthouses specifically addresses the minimum lot size being 35,000 square feet. In the R1-43 accessory building use is already addressed at 35,000. He suggested if the 35,000 square foot criteria was going to be used it would make sense to map it with an R1-35 neighborhood with a 35,000 square foot regulation.

In response to a question by Commissioner Barnett regarding rights being taken away from citizens, Mr. Padilla explained rights would not be taken away because existing buildings would be grandfathered in and future buildings would be subject to land use regulations.

Commissioner Barnett commented that he was unable to recall any example of ownership rights being taken away from a specific type of neighborhood that was not neighborhood initiated. Mr. Grant stated that the approach is not uncommon among other cities. He explained the reason for the 43,000 square feet was because other than equestrian facilities, there are no scenarios where it would be preferable to have an accessory building higher than the main structure. Commissioner Barnett commented that numerous examples exist in his neighborhood where the pitched garage roof is higher than the main flat roof. Commissioner Barnett noted his only objection was that he would like to see the square footage changed to 35,000 square feet.

In response to an inquiry by Commissioner Steinke about the language regarding height, Mr. Gray explained one of the things staff studied was a ratio between setback and height. In the analysis staff found that regulating height to the height of the main structure accomplished their goal and simplified the process.

In response to a question by Commissioner Schwartz, Mr. Grant confirmed the situation was more of a district issue; anything in the R1-35 would be amended standards. If the stipulation were to be amended there would be a need to readvertise the item.

In response to a question by Vice-Chairman Heitel, Commissioner Barnett noted that reducing the number would encompass fewer properties. He clarified that R1-43 is a 43,000 square foot, one-acre neighborhood that allows 32,000 square foot lots; an R1-35 neighborhood has 35,000 square foot lots that can have smaller lots than that; and within the R1-43 the sub clause talks about accessory buildings being 35,000 square feet. Commissioner Barnett opined the purpose was to regulate urban-suburban neighborhood type issues; it does not seem to be a problem in older neighborhoods.

In response to a request by Commissioner Steinke, Mr. Grant explained staff’s concern about the 20 percent difference between 35,000 square foot and 43,000 square foot lots. Lots that fall within this range would be allowed accessory buildings taller than the main building. At one acre, the proportion between the main building and accessory building becomes important. Staff prefers using square feet, because lot sizes can vary within districts.

APPROVED
Commissioner O’Neill noted his support for leaving 43,000 square feet because that would include the 35,000 square foot lots; more homes up to the approximate one acre that staff would like included. He opined that the height limit would place unreasonable design restrictions on accessory buildings. Mr. Gray clarified that exceptions are permitted by the Ordinance. Also, the design guidelines allows the Board of Adjustments to look at the cuts and fills in order to grant a height variance.

In response to a question by Commissioner Hess, Mr. Grant confirmed a parapet of up to 50 percent of the roof area is allowable, with the except within ESLO.

Commissioner Schwartz expressed concern about the effect on planned developments with varying lot sizes and suggested an if/and statement. Mr. Grant clarified that the City does not have the ability to amend height as a standard, because in reviewing a plat it is not clear under what conditions an accessory building should be allowed to be higher.

Commissioner Barnett suggested that the concern was more about an angular basis than a relative basis. He enquired whether a relative angle could be used that would take into consideration depths of lots, side lots, et cetera. Mr. Grant clarified that the goal is to set a relationship between the massing of two structures which could be done with setbacks; the Charter prohibits restrictions that would affect an architectural style.

Mr. Gray noted that the item could be continued in order to add a section on relief from standards. Commissioner Barnett agreed that a continuance would allow staff time to discuss opt-out clauses, flexibility on larger lots, and architectural variability for some of the smaller lots.

**COMMISSIONER STEINKE MOVED TO CONTINUE 10-TA-2006, ACCESSORY BUILDINGS AND STRUCTURES, TO A FUTURE DATE TO BE DETERMINED FOR THE PURPOSE OF REVIEWING THE PROTECTION CLAUSE AND ANY OTHER REVIEWABLE VARIABLES. COMMISSIONER SCHWARTZ SECONDED THE MOTION.**

Commissioner Hess expressed concern about leaving the return date to be determined. Mr. Gray requested the date be extended to December in order to allow for another open house.

**COMMISSIONER STEINKE MOVED TO CONTINUE 10-TA-2006, ACCESSORY BUILDINGS AND STRUCTURES, TO A FUTURE DATE NO LATER THAN DECEMBER 31, 2006 FOR THE PURPOSE OF REVIEWING THE PROTECTION CLAUSE AND ANY OTHER REVIEWABLE VARIABLES. COMMISSIONER SCHWARTZ SECONDED THE MOTION.**

Vice-Chairman Heitel encouraged caution when involving staff in judgment based decision-making within the Ordinance.

**THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**
7. 25-ZN-2005  Earll Drive Condominiums

Request by owner for reconsideration to rezone from Highway Commercial Downtown Overlay (C-3 DO) to Downtown/Office Residential Type 2 Downtown Overlay (D/OR-2 DO) on a 2.56 +/- acre parcel located at 7320 E. Earll Drive.

Ms. Chafin addressed the Commission. Highlights of her presentation included a contextual photograph and a review of the conceptual site plan. Traffic analysis based on more than allowable by maximum density was reviewed by the Transportation Department and indicated no significant impact. Rezoning would bring the parcel into conformance with the General Plan. Staff recommended denial, noting the site plan does not adequately address the context of the area.

Mr. Gray reviewed that the rezoning action was a discretionary action of the Planning Commission and City Council; the applicant has a right under C3 uses to build an office building; he does not have the right to build residential under the current zoning. Zoning and zoning categories assume a maximum box and a flat piece of land with no surrounding development, it is the job of the Planning Commission and City Council to assign appropriate constraints to make development fit within the surrounding context. Staff’s recommendation suggested that an envelope be approved that defines constraints; the current proposal assumes the maximum envelope and is not in the proper context and would zone the property to a specific footprint without developing the architecture of the buildings. The idea of the Downtown plan is to ensure that one property does not overpower another.

In response to a question by Vice-Chairman Heitel, Mr. Gray explained the specific constraints of the property noting the importance of considering that the neighboring properties may develop to a maximum allowable density at some time in the future and what can be done to ensure continued maintenance of light, air, and privacy.

Commissioner Schwartz inquired about the process some of the larger projects went through with site planning and long wall/tall wall. Mr. Grant clarified the larger projects were part of planned block developments, which is a different process than for a standard zoning; it requires review by the Development Review Board prior to zoning, allows for bonuses, and the height limit is relative to the district type. Mr. Gray added that this property was not subject to the same process as a PBD because it was a simple rezoning of a two and a half acre single parcel of land; PBD is reserved for lots 100,000 square feet and 200,000 square feet, the larger the project the more incentive for bonuses. Commissioner Schwartz opined that regardless of the lot size, this project was a big project because of the height, density, and capital improvements involved.

Commissioner O’Neill noted his support for the Applicant’s proposal; the context is of a changing downtown urban neighborhood, which is what the City has been promoting. He opined that the surrounding context would change in the future and those changes would need to design to the context of this building. The purview of the Planning Commission is to review the zoning and how the project fits within a context and general massing, not to discuss the architecture.
In response to an inquiry by Commissioner Barnett, Mr. Gray confirmed that this was similar to form based zoning. The suggestion staff was making was to step back off of the alley in order to preserve the relationship between the two properties. Assuming the adjoining property will in the future want maximum density they would step back, which would create a space that would be more open. Commissioner Barnett commented that the one-to-one should be on the front of the project rather than the back. Mr. Gray clarified the one-to-one is trying to preserve the sun angle down to a one-story level; other buildings in the downtown overlay in a similar situation would have a one-to-one.

Commissioner Barnett commented that from a developer standpoint planning would be difficult because there is no standard ratio and standard setback; the reason for zoning is to come up with the envelopes and setbacks to give some predictability to a developer. Mr. Gray agreed that there should be an expectation if zoning were in place. When zoning is not in place it is a discretionary action for the Planning Commission to regulate the property according to the existing constraints. Mr. Gray confirmed if the PUD ordinance were in place this would be a classic place for applying it.

Commissioner Schwartz commented that in the past developers have shared their vision of what a project was going to be, which enables the Planning Commission to grant zoning and the permission to build.

Lou Jeckel, Applicant, addressed the Commission. He compared the City's recommended envelope to their proposal which has used the Ordinance as a guide for the rear step back. He noted the renderings submitted were a fairly comprehensive depiction of the volume and massing; the site plan meets the code.

Commissioner Steinke acknowledged that the Applicant had addressed sensitive edge concerns the Commission had at the previous meeting. He expressed concerns about the lack of articulation of detail that as a matter of course the City Council expects.

Commissioner Schwartz commented that the proposal was an acceptable use and the height is needed. The issue is how the building will fit in the context of the surrounding neighborhood; the Commission is only able to make decisions with adequate information.

In response to a question by Commissioner O'Neill, Mr. Simpson from Odyssey Homes clarified the location of the east property line and a 25-foot access easement. In anticipation of future redevelopment the building has been set back another 25 feet in order to provide substantial space between buildings.

Commissioner O'Neill reiterated that what the Planning Commission was trying to do was identify whether the use, density, and height was suitable and appropriate for the neighborhood, not the architecture. He did not see the need for additional detail.

Mr. Simpson reviewed the sun angle analysis and shading impact, noting staff's report was based on the worst-case scenario, which is a single point in time.
Mr. Gray reviewed the options to either provide more specific details of what is being proposed or define an envelope. He opined using a simple diagram to zone the property would give flexibility to the property owner and future property owners to design a good project.

Commissioner Schwartz opined that the Applicant was not asked for the right information; he inquired why the policy was changed on what was being required for the applications. Mr. Gray explained that the same process has been followed for many years; the PCD and PBD districts require more information when changing from one base zoning district to another base zoning district. This is consistent with the comprehensive plan, quite often there is no architectural detail supplied.

Mr. Grant explained that outside of Downtown, basic zoning is generally relied upon. Projects within Downtown often present more information in order to gain support for the project early on in the process. He explained that the sensitivity on the north side was because of the senior care facility and preserving quality of life for those people for as long as that facility is there. He clarified that the long wall/tall wall process would apply to PBD projects; projects that are straight zoning must meet Ordinance.

Vice-Chairman Heitel noted that many of the issues being discussed extended beyond the Applicant. He suggested that each Commissioner clarify their position on the issue.

Commissioner Barnett reviewed the options: approving or denying the Applicant's proposal, accepting staff's suggestion of the envelope which would not include the physical structure site plan, or continuing to allow time to address concerns. Mr. Jeckel noted that they would rather go with staff's recommendation than with a continuance.

Commissioner Barnett stated that his preference would be the staff option. He opined the way the project was presented allowed less flexibility on a site with possibility for interesting architecture; however, if the Applicant wanted 50 feet on the site he would not be opposed. Mr. Gray reiterated that staff had not had an opportunity to review the Applicant's proposed envelope.

Commissioner Steinke opined that discussion needed to take place beyond this project about the city's vision for the future of Downtown. During the original presentation of this project there was no discussion about envelopes or shadows, which was unfair to the Applicant. The Applicant made reasonable accommodation to the wishes of the Commission and outreach. Commissioner Steinke expressed disappointment in not having more architectural vision. He was in favor of working within the City's envelope approach.

Commissioner Schwartz reiterated that he would be more comfortable with the project if he had more detail. He opined there was a disconnect with the level of standards that should be discussed so people do not waste a lot of time.
Commissioner O'Neill opined that a change from C3 DO to DOR Type 2 would be an appropriate use and an appropriate height for the part of town. He noted that the developer was not originally instructed to create a site plan to be held in conformance within an envelope; the massing model is sufficient at this point. If applicants are going to be required to build within a certain site plan or design to a site plan, the information should be provided up-front. In order to fit within the bubble the City has outlined, most of their work would have to be redone and they would have wasted time and resources. It would be a great idea with future applications to build within a three-dimensional bubble, but this Applicant should not be asked to conform to that standard at this point.

Commissioner Hess agreed that it might be unfair and unreasonable to ask this developer to conform to criteria after the fact. He expressed concern about setting a precedent for future projects; the City's long range vision needs to be defined. He opined that the developer fulfilled the City's request and although he would be more comfortable with additional detail, he felt the Applicant should be given the opportunity to go forward to City Council.

Vice-Chairman Heitel remarked that the larger Downtown projects that have come through with more detail have created an expectation that has caused much of the discussion. He expressed concern about the direction being presented for approving basic models. In an effort to support a continued desire for more detail with these projects, Vice-Chairman Heitel stated that he would vote to deny the application for lack of a specific site plan.

Mr. Gray clarified that from the pre-application staff has been consistent with their recommendation to step back from the property lines.

COMMISSIONER SCHWARTZ MOVED TO DENY CASE 25-ZN-2005. VICE-CHAIRMAN HEITEL SECONDED THE MOTION.

Commissioner O'Neill noted adamant opposition to denial, as opposed to a continuance which would allow the Applicant to return with additional information.

Commissioner Schwartz stated that he was under the impression that the Applicant did not want a continuance because they wanted to move forward to City Council.

Commissioner Hess encouraged a continuance, noting with more information the Applicant would have a good chance at a favorable outcome.

THE MOTION TO DENY FAILED FOUR (4) TO TWO (2). COMMISSIONER HESS, COMMISSIONER O'NEILL, COMMISSIONER BARNETT, AND COMMISSIONER STEINKE DISSENTED.

COMMISSIONER STEINKE MOVED TO RECOMMEND APPROVAL OF EARLL DRIVE CONDOMINIUMS, 25-ZN-2005, WITH THE CITY'S ENVELOPE DESCRIPTIONS AS THE GUIDING PRINCIPLE AS SHOWN IN ATTACHMENT 12C AND 12E. THE MOTION FAILED FOR LACK OF A SECOND.
COMMISSIONER O'NEILL MOVED TO APPROVE EARLL DRIVE CONDOMINIUMS, 25-ZN-2005, WITH THE ATTACHED STIPULATIONS 1 AND 1A AND THAT THEY ARE WITHIN SUBSTANTIAL CONFORMANCE TO THE ATTACHED SITE PLAN, ATTACHMENT NUMBER 10.

In response to an inquiry by Vice-Chairman Heitel, Mr. Gray confirmed that there is a slight conflict in the step back plane between the two site plans.

COMMISSIONER O'NEILL MOVED TO APPROVE EARLL DRIVE CONDOMINIUMS, 25-ZN-2005, REMOVING STIPULATION NUMBER ONE TO ATTACHMENT ONE AND REPLACING THAT WITH THE APPLICANT BEING IN SUBSTANTIAL CONFORMANCE TO SITE PLAN ATTACHMENT NUMBER 10. SECONDED BY COMMISSIONER BARNETT, THE MOTION CARRIED BY A VOTE OF FOUR (4) TO TWO (2). VICE-CHAIRMAN HEITEL AND COMMISSIONER SCHWARTZ DISSENTED.

8. 4-GP-2006  Winstar Pro

Request by owner for a major General Plan Amendment of the Land Use Element from "Cultural/Institutional or Public Use" to "Office" on a 5+/- acre parcel located at 9909 E. McDowell Mountain Ranch Road.

Vice-Chairman Heitel noted that Commissioner Schwartz recused himself from the remaining cases.

Mr. Lusardi noted cases 4-GP-2006 and 5-GP-2006 would be heard concurrently with a separate vote because they were different property owners. He added that all three GP amendments were included on the agenda in order to allow them to be heard by City Council on October 30th.

Ms. Wauwie reviewed the amendment requests noting they do not include a concurrent zoning case. She reviewed the geographic adjacency the two properties had with surrounding properties which could be developed together.

Ms. Wauwie noted that in the staff report traffic access needs for 5-GP-2006 were addressed towards the Applicant's desire to access onto Thompson Peak Parkway. Since that time the Transportation Department has looked into designing that access point so that it would be feasible. She clarified that the property was not landlocked because there were possibilities of opening up to Thompson Peak Parkway, as well as existing GLO easements to the north.

Ms. Wauwie briefly reviewed General Plan amendment history on this site and the adjacent properties. Staff recommended approval.

Commissioner Steinke expressed concern about the comment in the staff report that the undeveloped areas should work together to define a street system. He opined that a more proactive approach should be taken by the City to work together in defining a street system. Other options should be stipulated during the zoning.
Mr. Paul Gilbert with the law firm of Beus Gilbert addressed the Commission. He noted that the two issues of concern at the previous hearing were access to Thompson Peak, which has been addressed and height, which could be reviewed at a future time with the site plan. He gave a brief review of the history of the site noting the current requested use has had no opposition.

**COMMISSIONER BARNETT MOVED TO APPROVE 4-GP-2006. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).**

9. 5-GP-2006 2005 R.E. Investments

Request by owner for a major General Plan Amendment of the Land Use Element from "Cultural/Institutional or Public Use" to "Office" on a 5+/- acre parcel located at 15522 N. Thompson Peak Parkway.

**COMMISSIONER BARNETT MOVED TO APPROVE 5-GP-2006. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).**

10. 6-GP-2006 Lone Mountain Office

Request by owner for a major General Plan Amendment of the Land Use Element from "Rural Neighborhoods" to "Office" on a 2.5+/- acre parcel located at 7171 E. Lone Mountain Road.

Vice-Chairman Heitel noted cases 6-GP-2006, 7-ZN-2006, and 17-UP-2006 would be heard together.

Mr. Connor addressed the Commission regarding case 6-GP-2006. Highlights of his presentation included an aerial view and a review of the surrounding context. The Applicant's request was to change the land use designation from rural neighborhood to an office designation. Staff recommended denial because the plan was not in conformance with the existing allowed uses of the character area of the Desert Foothills. Mr. Connor expressed concern about the precedent that may be posed for future decisions in the area.

Mr. Connor reviewed the major issues of concern: preserving the rural character of the residential areas, vehicular access, and the precedent-setting change of character and land use. Community involvement produced mixed input.

Mr. Connor reiterated that staff recommended denial.

Mr. Hadder addressed the Commission regarding cases 7-ZN-2006 and 17-UP-2006. He reviewed that a zoning change would represent a change from a single family residential district that allows for minimum lot size of 70,000 square feet in the ESL Overlay with the Foothills Overlay to SR, which is primarily an office use zoning district in the ESL Overlay. The FO district is only applicable to certain R-1 districts and by going to a non-residential district, the FO district would no longer be applicable in the SR condition.

APPROVED
The use permit application, 17-UP-2006, is for a bank. Mr. Hadder clarified that from a decision street standpoint one case leads to the other: the zoning case could only go forward with approval of the General Plan case, the use permit case could only go forward with approval of the zoning case.

Mr. Hadder noted the site was part of a GLO area developed into low density residential area over several decades. He described the surrounding area, noting that construction of a retail center across the street was slated to begin this winter.

Mr. Hadder reviewed the staff report noting if approved this would be the first elimination of a parcel from the original FO Overlay which would be significant from a policy standpoint. A clear and present need does not exist to establish additional office use in the area.

With regard to traffic, the corner of Scottsdale Road is part of Prop 400; however it is not slated for improvements for at least a decade. No projects are planned for improvement on Lone Mountain Road. A bank use would substantially change the character and traffic of the vicinity.

Staff recommended denial for both cases.

Tom Reif from Land Development Services addressed the Commission. He reviewed the current context and traffic issues in the area as well as constraints property owners would be subject to under the current zoning. Presenting photographs of steps which have been taken by current property owners in an attempt to deal with constraints and conditions, he noted that he City currently had no control over property in the area.

Mr. Reif respectfully disagreed with staff's analysis of other similar sites on Scottsdale Road. He opined that the site was unique and, if precedent-setting, would raise the bar and set the tone for the area. He reviewed the purpose of the service residential district, noting that the parcel fit the criteria and followed a pattern of what the SR district intended. He opined the Foothills Overlay was met or exceeded by the application.

Mr. Reif confirmed that extensive neighborhood outreach had been conducted and the two adjacent property owners were two of the strongest supporters.

Ms. Teresa Twiggs addressed the Commission in opposition of the proposal. She expressed concern about traffic and preservation of the scenic corridor.

Mr. Howard Myers, 6631 East Horned Owl Trail, addressed the Commission in opposition to the proposal. He agreed with the staff analysis that the development is not supported by the Desert Foothills Overlay. Noting that he worked on development of the Overlay, he stated that it was written to protect the desert, rural equestrian character of the area and there was no intent of allowing commercial. He opined that allowing commercial in the Desert Foothills Overlay would be precedent-setting.
Mr. Bob Vairo, representing the Coalition of Pinnacle Peak, addressed the Commission in opposition of the proposal. Approval would be a land use policy planning decision and citizens do not want to see commercial.

Mr. Reif reiterated that the Overlay would still be in place through the development standards they were imposing on themselves. He noted that they achieved 200 signatures of support from residents.

Commissioner Hess complimented the presentation, neighborhood outreach and conceptual design of the project. Noting that use on this corner may be appropriate he opined that it was important to respect the Foothills Overlay and the Scenic Corridor. He mentioned similar sites in the area that he knew first-hand were available for commercial use. He remarked that the project would be easily approved if it were in a different location, but he would not be able to support the application because of the domino effect it may create.

Commissioner Steinke complimented the Applicant on a nice presentation and outreach and accommodations. He agreed that it was a good project in the wrong location and noted that he would not support an approval.

Commissioner Barnett noted his appreciation for the presentation, the outreach that was conducted and all that had been done in support of the City. He agreed with Mr. Myers about the potential change to the area; changing the General Plan for a small site goes against the reason the General Plan is in place. He stated that he would not support approval.

Commissioner O’Neill opined that the control the City would have over this site under the application was greater than if it were controlled residentially. The proposal meets all of the design guidelines for the Desert Foothills area and would be a valuable improvement. He would support approval of the application.

Vice-Chairman Heitel complimented the Applicant, reiterating the opinion of fellow-Commissioners that this was a great project in the wrong location. He opined that the control the City has is the control currently in place through the Foothills Overlay. He would not support approval of the application.

COMMISSIONER BARNETT MOVED TO DENY 6-GP-2006, LONE MOUNTAIN OFFICE. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED BY A VOTE OF FOUR (4) TO ONE (1). COMMISSIONER O’NEILL DISSENTED.

APPROVED
11. 7-ZN-2006  Lone Mountain Bank

Request by owner to rezone from Single Family Residential Environmentally Sensitive Lands, Foothills Overlay (R1-70 ESL FO) to Service Residential, Environmentally Sensitive Lands (S-R ESL) on a 2.5+/- acre parcel located at 7171 E. Lone Mountain Road.

12. 17-UP-2006  Lone Mountain Bank
Request by owner for a conditional use permit for a bank on a 2.5 +/- acre parcel located at 7171 E. Lone Mountain Road with Single Family Residential District Environmentally Sensitive Lands, Foothills Overlay (R1-70 ESL FO) zoning.

COMMISSIONER BARNETT MOVED TO DENY 7-ZN-2006 AND 17-UP-2006, ASSUMING THAT 17-UP-2006 MEETS THE CONDITIONAL USE PERMIT AND ASSUMING THAT NEITHER ONE OF THESE CAN GO FORWARD BECAUSE THERE IS NO GENERAL PLAN ACCOMPANYING CASE. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).

WRITTEN COMMUNICATION

None.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 10:01 p.m.

Respectfully submitted,
A/V Tronics, Inc.