

**Summary Minutes
City of Sedona
Planning & Zoning Commission Meeting
City Council Chambers, Sedona City Hall, Sedona, AZ
Tuesday, April 2, 2013 - 5:30 p.m.**

(15 minutes, 5:30 – 5:45 pm for agenda items 1-4)

- 1. Verification of Notice, Call to Order, Pledge of Allegiance and Roll Call**
Chairman Losoff called the meeting to order at 5:30 p.m.

Roll Call:

Planning & Zoning Commissioners: Chairman Marty Losoff and Commissioners Eric Brandt, John Currivan, Michael Hadley, Scott Jablow, Geoffrey Messer and Norm Taylor.

Staff: Andy Dickey, Audree Juhlin, Cari Meyer, David Nicolella, David Peck, Donna Puckett, Ron Ramsey and Kevin Snyder.

- 2. Commission/Staff announcements and summary of current events by Chairman/staff.**

Commissioner Hadley asked about the ARCO Station and Audree Juhlin indicated that the City hasn't heard anything. Michael Stevenson, an applicant, indicated that it is a remodel. Audree then continued to say that Community Development hasn't seen anything and there hasn't been any application submitted.

Chairman Losoff then asked about the building by the bridge near the "Y" roundabout that was a commercial building. Cari indicated that is a commercial building, and they came in the end of last year for permits to finish the building. For the use they wanted, they needed additional parking. It is in the floodway, and the last we heard, it was with Coconino Flood Control. The Chairman asked about the kind of use and Cari indicated that it was going to be a law office. Audree Juhlin then pointed out that we are kind of getting off of the agenda.

- 3. Public Forum – for items not listed on the agenda within the jurisdiction of the Planning and Zoning Commission – limit of three minutes per presentation. (Note that the Commission may not discuss or make any decisions on any matter brought forward by a member of the public).**

The Chairman opened the public forum and having no requests to speak, closed the public forum.

- 4. Approval of the minutes of the following meetings:
January 31, 2013 (WS); February 5, 2013 (R); February 14, 2013 (WS); February 28, 2013 (WS)**

MOTION: Commissioner Hadley moved to approve Planning & Zoning Commission minutes of January 31, 2013; February 5, 2013; February 14, 2013 and February 28, 2013 as written. Commissioner Jablow seconded the motion.

Commissioner Currivan stated that because he was not on the Commission for these meetings, he is going to abstain from voting on this motion.

VOTE: Motion carried six (6) for, zero (0) opposed and one (1) abstention. (Commissioner Currivan abstained.)

- 5. Consideration of the following requests through public hearing procedures: (1 hour, 50 minutes, 5:45 – 7:35 pm)**
 - A. Discussion/possible action regarding a request for Conditional Use Permit approval to operate an outdoor entertainment venue at 215 Coffee Pot Drive (Studio Live). A general**

description of the area affected includes but is not limited to the western side of Coffee Pot Drive between Yavapai Drive and Jackrabbit Lane. The property is approximately 0.6 acres and is further identified as Assessor's Parcel Numbers 408-24-041 & 408-24-042A. (30 minutes) Applicant: Studio Live. Case Number: PZ13-00001 (CUP). Staff: David Nicolella

Chairman Losoff indicated that he has been told that the applicant has requested that this item be removed from today's agenda and be continued to a May 2nd work session with a public hearing on May 7th. Apparently, there have been several conditions put on this project and in reviewing them and going through the reports, the applicant felt more time was needed to perhaps comply with those conditions and answer some of the questions. The Chairman then indicated that he would entertain a motion to agree to postpone this item for the May 2nd work session.

MOTION: Commissioner Messer moved to postpone this until May 2nd. Commissioner Hadley seconded the motion. VOTE: Motion carried seven (7) for and zero (0) opposed.

Chairman Losoff explained that we have 5B, C and D, and this is the fifth meeting we are having on this project. It is a very complicated project and the main issue is the rezoning of the property, and once it is rezoned, the applicant wants to put a restaurant on it. The issue isn't necessarily the restaurant; the issue is if the property can be rezoned to accommodate the use as a restaurant. There have been lots of discussions about a slam dunk; let's put a restaurant up there, but the whole issue revolves around modifying the current zoning to allow for a restaurant, which it does not at the present time.

The Chairman then stated that as this is discussed, the Commission will go through three items. One will be a proposed Development Agreement, and it is an attempt by the City and applicant to provide some limitations as to what the land can be used for, to allow for a restaurant, and once that is discussed, the Commission will go to the Development Review item with some discussion as to what the project will look like, assuming it moves forward. Finally, the last item is the Zone Change, and if approved, the Commission wants to know what will go in it.

Cari Meyer wanted to point out that the Commission has copies of comments that have been received since the packets were distributed. One is an editorial in the Red Rock News from last Friday and the multiple-page packet contains emails received as of noon today, and staff received two more in support of the project since noon, and the last one is a letter that was left in the City Manager's Office this afternoon.

Chairman Losoff noted that normally the Commission doesn't like last minute items, so he asked the Commission to take a few minutes to read the comments. There is a letter from Tom Gilomen and several comments from various people. The Chairman then asked Kevin Snyder to encourage comments from the public ahead of time, and Kevin explained that staff always encourages the public to comment early, but the public process does allow them to submit comments right up to the public hearing, but certainly staff will continue to encourage that.

Commissioner Jablow asked if they were blotted out by staff and Cari indicated yes, those were email addresses and phone numbers with specific addresses, and that was done by her. Chairman Losoff then noted for the public that these are comments made by citizens in the community, both in favor of and some in opposition to some of the projects on the agenda.

- B. Discussion regarding a proposed Development Agreement that would limit the permitted and conditionally permitted uses at 700 W Highway 89A. Please note this item if being presented for information only. No Commission action is needed. (15 minutes). Applicant: Michael Stevenson. Staff: Kevin Snyder and Audree Juhlin**

Chairman Losoff introduced agenda item 5.B and stated for the record that the Commission has no authority to act on the Development Agreement, but the Commission can make a recommendation to the City Council as to what the Commission thinks should happen.

Presentation:

Kevin Snyder, Director of Community Development, explained that this item is a proposed draft Development Agreement that is presented to the Commission for your review only. As the Chairman pointed out, no action is desired or needed; this item will be reviewed and decided upon by the City Council. The primary purpose is limiting the potential uses of the property in question, and those uses are listed in the draft Development Agreement as a way to help address concerns on the part of the City and the community about potential future development. As the Chairman stated, a subsequent conversation on the proposed restaurant use will be conducted, but the Development Agreement is intended to cover and limit certain types of land uses. This is a vehicle that is allowed by state statute in order to address appropriate issues of zoning and land use, so it is an appropriate, legally valid vehicle for negotiation and agreement between an applicant and a jurisdiction, such as Sedona, to limit land uses.

Kevin indicated that it also recognizes that although there are no warrants or requirements identified by the Arizona Department of Transportation, which has ownership and control of SR 89A today, if there are, the applicant and City agree to work together jointly to address them in the future if they do arise, so that is a secondary purpose. The primary purpose, however, is to propose limitations on land use, and the City Attorney's Office is in attendance to answer any legally-based questions.

Chairman Losoff then indicated that it is his understanding that the applicant and City staff, as well as the City's Legal Department, have gone through this and agreed voluntarily. He then asked if that is correct and Michael Stevenson, Applicant, stated that is correct. The Chairman then asked for the remaining members of the applicant's team to identify themselves, and Luke Sefton, Civil Engineer, and Matt Dougan, Architectural Designer, stated their names and titles for the record.

Chairman Losoff asked staff to take the Commission through the history of the property for the sake of the public and others. The property is now zoned Office Professional and it has about 23 different uses.

Kevin Snyder acknowledged that current zoning and explained that there is a combination of approximately 80 outright and/or conditional uses that could be applied to the property. The applicant has an interest in taking that property to a C-1 zoning designation, and in doing that, concern was expressed by staff and members of the community about the potential variety of land uses that could be allowed under the C-1 zone. The applicant and the City, comprised of staff from different departments including the City Attorney's Office, voluntarily entered into conversations and negotiations about limiting the potential number of uses. The draft Development Agreement before the Commission this evening for informational purposes proposes a combination of 23 permitted and conditional uses total, so that 80 has been whittled down to the 23 uses that are contained in this draft Development Agreement. If ultimately approved by the City Council, this would become an operating constraint on the types of allowable uses, either permitted outright or conditional, that could be developed on the property, so it does limit purposely, and again the applicant has voluntarily entered into these negotiations and conversations with the City, those land uses that could be developed, as a method of obtaining the C-1 zoning designation. Chairman Losoff then stated for the public that this is something that we could not impose upon the applicant; it has to be voluntary, which he has graciously done.

Commission's Questions:

Commissioner Brandt indicated that as the Commission has gone through the work sessions, it was realized that this property was going to be up-zoned for a restaurant and part of that was to be balanced by community benefits. The Development Agreement states that there is not to be a public dedication of these areas, so the question to staff is why that is not part of this.

Kevin Snyder referenced the recitals and indicated that in item F, staff and the applicant have identified those public benefits that would incur as a result of the Development Agreement. As part of that, it is correct that no public dedication of land was proposed and staff does find that acceptable. From staff's perspective, there are vistas and other opportunities that will be preserved for the enjoyment of the scenic views, and opportunities for future connections to trails, etc., so staff felt comfortable in not specifying a public dedication.

Commissioner Brandt stated that it is as though all of the benefits proposed during the work sessions have now been taken away by not having them be part of a dedication to the public. If it is not business hours, they could put a chain across the driveway and that is that, so there is nothing there. Chairman Losoff noted that when the Commission gets into the Development Review maybe some of those issues can be brought up as part of the project.

Commissioner Currivan indicated that he knows a long process was gone through in trying to reconcile the many uses under OP with the uses under C-1 and whittle that back, so he doesn't want to go through all of the uses, but his understanding was that the applicant wanted to preserve the rights he would have had under OP and add a restaurant, but that wasn't possible to do by keeping it OP and simply adding a restaurant use; therefore, it had to be changed to C-1, but the idea was to whittle it back and keep the uses the applicant could have had under OP. He just wants to make sure that he understands a couple of these that remain on the list; for example, apparel stores, convalescent homes and variety stores. The Commissioner then asked if those are things that would have been possible under the OP designation and Audree Juhlin stated that is correct.

Commissioner Hadley wanted to make the general comment that, as the Commission has watched this evolve through the work session process, he thinks it is an excellent way to alleviate some of the concerns he and maybe others had about possible C-1 uses, so this is a very creative way to solve some of these problems.

Commissioner Messer asked if he is correct that these restrictions stay with the land if ownership changes and have to be redone if a new buyer comes in. Kevin Snyder stated that is correct and explained that it is associated with the rezone of the property and it is a contractual relationship between the City and the applicant.

Commissioner Taylor indicated that this brings to his attention the deficiencies of the current zoning; the method of zoning should be changed if we are going to have good planning in the City.

Chairman Losoff indicated that, as Commissioner Messer asked, this agreement would go with the land, so if the applicant decided to take the restaurant down and put any of these uses up, it would still have to come back for a review. Kevin Snyder stated that is correct; the Development Agreement doesn't alleviate the applicant or any successor of the responsibility to comply with City ordinances and requirements, including requirements for Development Review and overall consideration.

Applicant's Comments:

Michael Stevenson referenced Commissioner Brandt's comment and indicated that he knows Commissioner Brandt brought the subject up once before, and one of the concerns was that if it dedicated some of these items to the City, it would be a liability issue for the City, and that was one of the subjects that came up in one of the meetings, so it does transfer liability to the City,

where it doesn't if it stays in his hands to take care of, but he is bound by all of these documents to put these things into effect and make them work. In the future, if something changes on the property, all of these benefits may not fit the new use and they would be coming back through the City, working for other benefits at that time, so this is kind of something set up for the use at this time.

Commission's Questions and Comments:

Commissioner Jablow asked if something of a negative issue comes up and the business doesn't succeed, which he is hoping doesn't happen, but if the building closed and a chain is put across it, then we no longer have that benefit. The property is owned by the applicant, so what assurances does the Commission have that it won't happen and we won't have to go through the process of hearings.

Mr. Stevenson indicated that anything he does to the property in the future has to go through this process, so everybody gets another bite at the apple, but hopefully, that will never happen. It can't be empty for very long; it is an expensive piece of property, so it wouldn't sit vacant and we wouldn't be doing this if we weren't positive about what we are going to do. Commissioner Jablow stated that he also is positive and very optimistic; it is just that some people have other issues and he wanted to cover all bases.

Commissioner Taylor stated that up the road there is the new parking lot for the trailhead and he presumes that is on private property, because it was put in by the developer as part of that development to come. The Commissioner then asked who is liable in that case; he can't close it. Audree Juhlin explained that the Commissioner is referring to Apache Trail and it is owned by George Moore and is private property, so he assumes all liability.

Commissioner Brandt wanted to clarify that his earlier comment about the chain across the driveway was in reference to off-hours and the business still in operation. It could be done at any time if there is nothing to say that it is part of public use -- not that it would go out of business and put a chain up, but it is a possibility when the restaurant isn't open.

Chairman Losoff asked the applicant if he sees that as an issue and Mr. Stevenson indicated that he doesn't right now, but that doesn't mean that at some point in the future . . . , because their plan is to leave everything open for the parking lot, vistas and everything 24-7, because it allows everybody to see the property and use it for what they have designed it for. The only thing he can think of in the future would be the possibility of vandalism, but our Police Department likes to park there, so he thinks they are pretty safe with that.

Chairman Losoff indicated that the Commission is a little off of the subject of the Development Agreement, so this can be brought up when we talk about the Development Review and possibly make that a condition or something like that. The Chairman then asked for a sense of the Commission, although we can't make a formal motion, perhaps just consensus; however, Commissioner Brandt stated that the Commission shouldn't do anything as it says in the agenda that the Commission is not to take action, so perhaps we shouldn't take action.

Kevin Snyder explained that in this particular instance, this is presented as an information item only, at the request of the Commission. The Commission has no direct authority to make a recommendation to the City Council, that authority to approve, disapprove or modify the Development Agreement is vested in the City Council, so this is an information item that we provided at the request of the Commission.

Chairman Losoff explained that for each project, there is a time to have a public comment on the subject. Since there are three different divisions of this and we have some cards, the Commission will take the cards at one time at the end of the three discussions, most of them are for 5.D anyway, so we will wait until that time to get the public's comments.

- C. **Discussion/possible action regarding a request for Development Review approval to allow redevelopment of an existing building and related site improvements at 700 W Highway 89A. The proposed project site consists of 2 parcels currently zoned OP (Office Professional). One parcel is vacant and the other has a vacant 3,224 square foot building. A general description of the area affected includes but is not necessarily limited to the area on the northern side of West State Route 89A across from Rolling Hills Road and the Rolling Hills Estates Subdivision. The project site is approximately 2.25 acres and is further identified as Assessor's Parcel Number 401-46-124A & 401-46-124B. (20 minutes). Applicant: Michael Stevenson. Case Number: PZ13-00003 (DEV). Staff: Cari Meyer**

Presentation:

Cari Meyer indicated that she was going to start with some general information on the project, and then get into the Development Review. She then referenced the Vicinity Map that has been used for each work session and explained that the property is a triangular-shaped parcel surrounded by National Forest and SR 89A. Cari also explained that currently this property is two separate parcels. The existing building is on the western property and the project has evolved since last June, when staff approved a Development Review for a minor renovation that would have allowed it to be used as office space; however in August, the applicant began asking what it would take to have a restaurant. They then submitted for a Conceptual Review of the Zone Change and Development Review in October, and the Commission held the first work session in November. The public hearing for the Conceptual Review was held the beginning of January and the applicant submitted for Final Review at the end of January. The Commission then held another work session at the end of February, and currently, we are here for the public hearing for the Final Review of this project.

Cari explained that the site is identified in the Community Plan as a gateway location on the north side of SR 89A, between Uptown and West Sedona, and it is bordered by National Forest and across from the Rolling Hills subdivision. There are two driveway entrances to the site and the applicant recently installed a deceleration lane at the eastern driveway. In total, this property is just over two acres and it has about a 3,200 sq. ft. existing building that is vacant. We are looking at a rezoning from Office Professional to General Commercial, a renovation of the existing building, associated site improvements and some public scenic overlook areas.

Cari indicated that the applicant has completed the citizen participation for this project by contacting property owners within 500 ft. and affected homeowners' associations, holding open houses, creating websites, and there have been articles and editorials in the Red Rock News, and staff has included everything in the Commission's packet. They have also worked with affected neighbors to address concerns that have been raised throughout this process.

Cari indicated that the Development Review would renovate and expand the existing building. The actual building would be about 4,900 sq. ft. and they would have a 2,600 sq. ft. outdoor dining area. They are proposing 75 parking spaces and a total of 5% lot coverage with a 22 ft. height maximum, and the proposed colors have a maximum Light Reflectance Value (LRV) of 28%, where the Land Development Code allows up to 38%. The applicant has also proposed a mix of materials, which Cari showed on the sample board, including stucco, metal, copper, red moss rock, wood and wrought iron. Luke Sefton then provided the sample board of proposed materials to the Commission for circulation.

Cari referenced the proposed site plan and pointed out that the existing building will be expanded, and she identified the location of the outdoor dining area. Cari added that the rest of the area will be landscape and parking areas. The applicant will provide 75 parking spaces and based on the size of the building and outdoor dining area 62 parking spaces would be required. They also are proposing to use pavers in the parking areas and access is via the two driveways. The unused areas will be landscaped, and screening for the mechanical equipment has been integrated into the design of the building.

Cari then showed the proposed elevations and described the east elevation that is the main entrance, the north elevation that is the view from the Casa Contenta subdivision and National Forest, the SR 89A elevation and west elevation seen as you head to Uptown from West Sedona.

Cari indicated that the applicant is proposing 22 ft. from natural grade without alternate standards, although they would be eligible. Chairman Losoff asked about the current height and Cari indicated that the current building is 12 ft., so it would be 10 ft. higher. The colors and materials all comply with the requirements of the Design Review Manual, and the Landscape Plan is included in the packet. They are proposing more landscaping than required by the code and all plants are on the approved plant list. Staff is working with them to ensure that the landscaping requirement for the percentages for evergreen and native plants comply, and some changes to the Landscape Plan may be required, because some neighbors expressed concern about the new landscaping blocking their views, so before any plantings are put in the ground, they will move them to be sure views aren't blocked, so there may be some minor changes, but the plant count will remain the same.

Regarding outdoor lighting, they are primarily proposing low-level and curb lighting and no pole lighting in the parking lot is proposed, in response to a number of concerns raised by some of the citizens. They are using less than 50% of the lumens allowed and designing custom lighting features to achieve the lighting look they want. They also are planning to apply for certification as a dark skies restaurant.

For the Sign Plan, Cari indicated they have designed a monument sign and wall signs using the same materials as the building, so the wall signs will be integrated into the building design and the monument sign will match the building. They also included a "drive safely" reminder on the back of the monument sign, so customers exiting the parking lot will be reminded to drive safely.

Cari stated that based on compliance with all ordinance requirements and satisfaction of Development Review findings of the Land Development Code, staff recommends approval of case number PZ13-00003 (Dev), Mariposa Restaurant, subject to all applicable ordinance requirements, and the attached conditions of approval.

Applicant's Comments:

Applicant, Michael Stevenson, noted that they have been with the Commission five times and this is the sixth time, so he just wanted to thank the Commission for listening to their proposal. They have a nice project and he has had nothing but favorable responses from the community; a lot of people in the community have been very favorable toward the project. It will be an asset to the community and he is just asking for the Commission to look at this and give them the Commission's vote, because they really have done a lot of work with it and spent a lot of time with City staff. They have considered the Community Plan from the beginning of buying this property and they have done everything they possibly can to try and make this work, both for a commercial viable project that is going to stay in the community for a long period of time and at the same time be a community benefit, so there has been a lot of work in this, along with the Development Agreement. Much time has been spent on this whole project to get to this point, so they would like to open it for any questions.

Commission's Questions:

Commissioner Taylor asked how the number of parking spaces was determined and Cari explained that the City's parking regulations require one space per 100 sq. ft. for restaurants, and the general practice for outdoor dining areas is to require one-half of what is required for indoor dining areas, so a 4,900 sq. ft. restaurant would require 49 parking spaces, and a 2,600 sq. ft. outdoor dining area would require 13 parking spaces.

Commissioner Jablow referenced previous discussions about music, weddings, etc., that were addressed with the Commission, but for the audience, the Commissioner asked if that could be addressed now to answer questions about live music and bands. Michael Stevenson indicated that the design of the restaurant is to set the noise to the back of the property, if there is any noise. He would suggest . . ., Chairman Losoff interrupted to ask for that to be pointed out on the drawing. Mr. Stevenson then explained that along the front road, all landscaping will be bermed with a lot of trees, but lower in one area, because of the neighbors' views. It is all being designed to keep sound from going over and to keep the highway noise from coming back, so it is an asset to both the restaurant and the folks in Rolling Hills Estates to have it bermed and planted as a sound barrier, and the restaurant will be walled in the front and around the side. Mr. Stevenson then pointed out the dining areas and indicated it is quite a distance from Casa Contenta to the back of the restaurant. If you go to Lisa's restaurants, there isn't any noise to speak of and this restaurant will be used primarily for dining purposes.

Commissioner Jablow indicated that didn't quite answer the question and asked if they plan to have weddings and/or live bands, disc jockeys, etc. Mr. Stevenson stated he doesn't believe that is part of the plan at all. It is going to be a very busy restaurant and primarily for dining, so to have anything like a wedding, etc., it would be difficult to close the restaurant to do something like that; there just aren't the facilities for that. The Commissioner then asked if there is no party room or large meeting room.

Lisa Dahl, Sedona, AZ: Stated that she doesn't allow music other than solo guitarist at Cucina Rustica, and at Dahl & DiLuca they have had piano and bass and they always have been contained within the dining room, but at this restaurant, she doesn't have plans to have any musicians as part of the nightly addition to it, because they don't feel they have enough space to allocate a separate room or separate venue for that. As far as weddings, they are not the focal point of this particular property, because they feature weddings and corporate events at Cucina Rustica and if this project passes, her goal would be that the other two restaurants are specialized in what they are known for and this is something different for lunch and dinner, not as a venue for large capacity events.

Chairman Losoff then asked Lisa what "Mariposa" means and the kind of menu she is going to have. Lisa explained that "Mariposa" means butterfly and it is a Spanish interpretation of butterfly. The name came to her, because this property represents the natural elements and she doesn't question if something comes to her in a way that resonates in the way that this did. She felt that was the name that spirit was giving to her to be quite honest, so it is a privilege to be on such beautiful grounds and land, so the name is the right name. As a chef, she has wanted to do something different than Italian and Italian-Mediterranean cuisine. She would like to do a restaurant with a Latin American influence. She can't go into the details of the menu, because that is an evolution and until this becomes a reality, she will further her studies and her inquiry into how to best blend the Southwest regional and Latin American influences into a restaurant that is not really esoteric. It has to suit the needs of tourists and locals alike, so it has to be fresh and different with lots of local produce, organic, but not so different that you couldn't enjoy a wonderful lunch or a more high-end dinner, so it is not like the other two restaurants, but she hasn't written the menu at this point.

Commissioner Jablow then indicated that he read the traffic survey and there was some comment that ADOT is fine with this proposal, and he and Cari discussed this yesterday. He doesn't know if that was in writing or verbal, but he would like for the applicant to go into the roadway, configuration of the ins and outs, etc.

Mr. Stevenson explained that he is not a traffic engineer, but ADOT has jurisdiction over the highway and they have been asked through the City's process of mailings to them, and in that letter, they were asked to respond if they had concerns, and they did not respond, so they don't have a written paper from them, but the answer was that they had no issues, and in follow-up questions to them and when meeting them on the property, they told him the same thing they

told Cari, so they have looked at this and there are no issues with the property. It meets the standards they have now and that is why in their conversation with the City, they felt if anything developed in the future, the City and the property owner, himself, would get together with ADOT and try to take care of those concerns. At the present time, they consider that to be a safe highway.

Commissioner Jablow stated that he values Andy Dickey's opinion and asked if he concurred with what was just said. Andy stated that he does; that sounds accurate to him. The Commissioner then asked if he is confident that . . . , Chairman Losoff interrupted to ask Andy to identify himself and Andy then gave his name and title.

Chairman Losoff stated that at the last work session Charles had some issues about getting in and out of the property and asked if that has been resolved. Andy indicated yes and stated that staff has met with the developer and come to an agreement on that. Commissioner Jablow asked what the issues were and how they were resolved, and Andy explained that it had to do with whether or not the City was going to force a right-in, right-out there or not, and as was stated, ADOT didn't feel that they were going to require that and it is ADOT's right-of-way there, so at this time, the City is not going to make that a requirement. The City did, however, put on record that in the future, if there are issues, the City will get with the developer and approach ADOT to make improvements.

Commissioner Messer commented that the building is beautiful and the hues reflect the rocks behind it. Mr. Dougan is to be applauded for his design and it is a beautiful project.

Commissioner Hadley indicated that in reading through all of the public's comments, the big issues seemed to be traffic generation, light pollution and noise. The applicant has answered the noise thing and through your designs and desire to have this be a dark sky compliant building, certainly the lighting is no longer an issue, but he is wondering about the parking. There are 13 parking spaces in excess of what you need and at the ratio required by the City that would allow you to expand this building by about 1,300 sq. ft., so it can't grow very much unless there are parts of the site that could be developed with parking and part of the northwest part is on fill, so the Commissioner asked the applicant to address if any additional parking is even possible on the site.

Mr. Stevenson indicated that it would be difficult. Luke, at SEC, has gone through that layout and along with the customers, there are also some employees that need to park. This is a landlocked piece of land, so there is no other place to park, and they need a little excess for employee parking, but there isn't much that can be done, and this is just about all you can really do with this property. The Commissioner indicated that he presumed that, but he wanted to make sure.

Commissioner Currivan indicated that one of the letters that the Commission received today makes the following claim, and he doesn't know if as a factual matter this is true or not, but it has to do with wastewater treatment and it says that the City is unable to hook the property up to the sewer system, and then it talks about what the implications of that would be. The Commissioner then asked if that is true that the City can't hook that up to the sewer system and Andy Dickey stated that is true at this time. The City is currently conducting studies regarding capacity at the wastewater treatment plant, so the City has not allowed for some time now extensions of the sewer system. Current services in place that aren't connected can be connected, but new extensions of the system currently are not allowed. The Commissioner indicated that it goes without saying then that the prior use of this property, when it was a real estate office, was not hooked into the sewer system, and staff indicated yes.

Commissioner Currivan then asked what the implication of that is and if that is a problem, because the letter goes on to say that means this high-water usage project will have to be hooked into the septic system, so perhaps you can tell us if that is a problem or not. Chairman

Losoff asked if that was addressed in condition number 8; there is a Condition of Approval on page 20 that says, "If no connection is available, the property owner shall build an onsite wastewater system, subject to approval of the Coconino County Health Department".

Mr. Stevenson indicated that is correct; they have contacted the County. The County has been out and ran test holes, and there is a very small existing system there, but they can expand or build a new standard septic system and they feel if that is absolutely necessary to get open . . . , but he has already put pipe across, underneath SR 89A, so everything will be set up, and the minute the City can allow them to hook-up to the City's system, they will be able to go to the City's system. They would much rather be able to hook-up to the City and that may happen; by the time they get finished, it may be a possibility.

Commissioner Currivan referenced the name of the restaurant and indicated that he is concerned about the signage and consistency in spelling, because he noticed that "cocina", the Spanish word, is listed on the application, but the signage shows "cucina", which is the Italian spelling. The Commissioner then asked which one is correct.

Lisa Dahl explained that she would like to not have bella cocina in the name. They put that there as a mock-up or flavoring to the flair of the name "Mariposa". It could be that it said steaks, seafood or something of that nature, but Mariposa with somewhat of an image of a butterfly in font that has not been determined yet is all they wanted to commit to. "Cocina" implies a Spanish influence, and she feels they are leaning much more in that direction than to Italian, but they were basically trying to fill that little gap and say it is going to be beautiful cuisine, until further The Commissioner then stated that is fine; he didn't mean to pin her down on that.

Commissioner Brandt referenced Commissioner Hadley's question about parking and asked what his concern was. Commissioner Hadley explained that his concern was . . . , Chairman Losoff interrupted to ask for the site plan to be displayed again. Then, Commissioner Hadley continued to say that his only concern in looking at the amount of land available to the northwest of the existing parking is that you could conceivably add more, and he understands as a designer that there is always a balance between how much parking you can get to support a building and vice versa. The two things reach a point of balance; you can't have more building or more parking, because there is not enough space. His only concern was if the building were to be expanded greatly in the future, what we would be dealing with at that point, but he doesn't think the parking truly can be expanded much beyond what it is, if any. Commissioner Brandt then commented, unless it goes underground.

Commissioner Brandt asked Cari about the comment that there was an update to the Landscape Plan and Cari explained there are some things to work out in plant counts and how many evergreens and natives they have. There also may be some changes; the applicant mentioned one area where there were some concerns from neighbors that the new landscaping would block their views, so there may be some changes to the heights, by moving some of the higher plants out of that area to preserve the views; however, the plant counts would remain the same, and the Landscape Plan is the same one that is in the packet.

Commissioner Brandt indicated that he noticed that the concentric circles for Junipers has three called out, but there seems to be a lot of them. Matt Dougan explained that he and Commissioner Brandt have discussed that, with the adaptive and native species plant list, the requirement being that they have to meet 50% native species, there are so many varying plants that he has made it legend-wise that he meets that. The Commissioner's question to him previously was in the fact of the trees, Piñon Pines and Austrian Black Pines, and he gave the Commissioner his word that they would address that in terms of specific trees, but the Austrians would be an adaptive species that would meet the . . . , along with the 50% native Piñon Pines, that species of trees -- the Piñon Pines and Austrian Pines, and that is why he is showing, in terms of the concentric circles, more of that species of trees. He hasn't listed those specifically

and may not have it as clarified for the Austrian Pines versus the Piñons and Junipers. Commissioner Brandt then stated that he agrees with Commissioner Messer that it is a beautiful building and project, and the attention to detail that you have put into the whole works really stands out to being a very artistic project, so he commends you on that.

Commissioner Brandt indicated that there are a few things that he talked about regarding the different parts of the project, so he will go through those now. First, the cove and indirect lighting for the parking lot is going to be an excellent idea, but he is not sure there is anything like that in town that we can use to see how that works. Mr. Stevenson noted that there is something on the screen that the Commission can see. It is an illustration, but you can see a representation of what they are talking about for curb lighting with a rope light underneath it that puts the lumens out to each side, both in the landscaping bed and the parking area. Commissioner Brandt explained that he is wondering about having some conditional approval when it is installed, since there is nothing to compare, and from the illustrations, it looks like there are places that you could see the lights not shielded entirely, because the highway is so low and there are lights on the roof eaves that if for some reason are not shielded, it would be reviewed. Mr. Stevenson indicated that they have talked with the homeowners' association across the street and the neighbors in Casa Contenta, and they want no exposed light bulbs anywhere, so they are going to ask everybody to call them if they see something and tell them where it is, and they will address it.

Cari Meyer asked if the Commissioner wants to add a condition to do a night inspection to ensure that everything is fully shielded and Commissioner Brandt stated yes, because of it being a different kind of customized system. Mr. Stevenson explained it is their own design and they will probably make a sample of it and have it available for City staff or anyone that would like to see it, they will have it onsite.

Commissioner Brandt then noted that it is an interesting project since the service area is the most visible from the highway. It shows screening around the trash area, but he wonders if the whole area isn't unscreened compared to the intensive use of the back door of the restaurant, the deliveries, the way the employees go in and out, whatever. Matt Dougan referenced the Site Plan and explained that for architectural purposes, it doesn't show the landscape screening that you would see in that view. Mr. Dougan then identified the area and explained the location of native vegetation and the trash container and indicated that they have a conceptual design of a surround in block, with the same finishes as the building, to conceal the trash containers, and on the Landscape Plan, they will be doing additional plantings of trees and shrubs as needed to shield the view. In the elevation view, to show the architecture, he doesn't show the screening, but it will all be bermed and screened, and it will be the taller landscaping, so they can screen all of it effectively as you move east on SR 89A.

Chairman Losoff asked if Commissioner Brandt had some specific recommendations or if he is satisfied with that and the Commissioner indicated that he is satisfied that the direction is heading in the right way, but we need to see that on an updated Landscape Plan, to see how the density is on the screening and . . . , Chairman Losoff interrupted to ask if he wanted to recommend it for a Condition of Approval and Commissioner Brandt stated yes. Cari Meyer noted an updated Landscaping Plan to ensure full screening and Commissioner Brandt added, screening of the service area.

Commissioner Brandt then indicated that there are also some existing trees in the highway right-of-way that are not shown and should be incorporated into the Landscape Plan. Matt Dougan stated that everything that exists along there at this time, as far as existing trees, will be kept. Their intent is not to remove anything that is useful for screening and is a nice feature. The only thing that would be removed would be anything such as Cat Claw or scrub brush that is not decorative in nature. Chairman Losoff stated that without going into too much . . . (audio unclear) . . . Condition of Approval, if it's approved, with an updated Landscape Plan and all of these issues.

Commissioner Brandt then referenced a comment in the Staff Report about the 50% mix of plants that had to be native, and since there were more plants than needed, that total number should be 50%, not just what is required to be 50%.

Commissioner Taylor commented that, as far as acoustics go, landscaping really doesn't affect sound and the people that live across the street from the new restaurant will probably experience the same sound level that they do now. The building is a little higher and a little more sound will bounce back, but the trees, etc., aren't going to do anything.

Cari Meyer explained that the way the Sound Code is written, we measure sound from the receptor property, so no matter what the use of this building is, the sound level that is able to be heard on a residential property wouldn't increase. If this property is rezoned or a new development is put on it, the sound that is allowed to be heard on the residential properties will not change.

Commissioner Taylor then indicated that following up on what Commissioner Brandt said about the lighting, he understood that they are thinking of customizing the lighting appliance, and they have to get the stamp of the National Electric Code to use it, so that being the case, they better get started; however, Mr. Stevenson clarified not if it is low-voltage lighting and Commissioner Taylor noted that he doesn't know about low-voltage.

Chairman Losoff opened the public comment period at this time.

Scott Shrader, Sedona, AZ: Indicated that he is a local resident and conspicuous consumer of good food, which means that he is a patron. He read through the proposal online and had some of the same questions and concerns, and it sounds like they have been addressed pretty effectively through staff's comments and amendments to the plan, and he is just in support of doing something other than looking at that derelict for the past 20 years on SR 89A as he rides by. He noted the concern about the left turn and tried it himself, and it works fine. The sightline seemed to be very easy, must better than other places along the highway. As far as sound and light is concerned, we have ample codes written and certainly the enforcement arms to make Lisa and the developer comply, and he doesn't see much problem with that. The current structure, well actually the Village restaurant, Cucina Rustica, and Dahl & DiLuca right on the highway are sort of like works of art in terms of building, which he appreciates being a builder himself, so it has his stamp of approval. He hopes that the committee in its wisdom and deliberations will approve the zoning change and allow it to go through.

Bruce Misamore, Sedona, AZ: Indicated that he has been a homeowner and part-time resident in Sedona for about the last five years. He is also a local businessman as part owner of Javelina Leap Winery and Vineyards, and to give you some background of where he is coming from on this, when he lived in Ohio, he was an Executive Committee Member of a Regional Planning Commission. He also chaired a Zoning Commission at the county level and also at the city level, so he does have some background in these types of things, planning and zoning, and he has reviewed this and has really enjoyed Lisa's restaurants, so he is coming in support of this, but he is coming at it from the zoning standpoint too, which is really the critical issue here. He doesn't have the history of this particular property; it appeared that maybe when Sedona came up with a Zoning Code, it fit the zoning to the existing use, because he can't determine any logic for why it was zoned that particular zoning versus something else, other than perhaps the existing use. It seems that there is very little difference for this particular property as to what you zone it -- the C-1 versus OP, and he is not familiar with all of the uses under your particular Zoning Code, but it appears that is a proper use for the property. The second thing is just to make an observation; he thinks the development plan is highly professionally done, very well done, and the development is certainly a major improvement over the eyesore that exists there now, and this would be entirely appropriate for the community. He can see the property from his house in Uptown and he certainly would like to see something more along what we are seeing on these placards than what exists today.

Richard Dahl, Sedona, AZ: Indicated he is a 33-year resident of the City of Sedona and no relation to Lisa Dahl regrettably; good friends yes. Many of you are probably aware of the fact that he was a member of the initial Planning & Zoning Commission for the City and chaired that, both in the interim phase and for three years after it became permanent. He has reviewed this project and he would only echo a lot of what Mr. Shrader had to say. He agrees with all of his comments and would simply add that he is really impressed with the sensitivity and creativity that has gone into this design. It will be an icon for the City of Sedona; not an alien, but an icon.

Maureen Nealon, Sedona, AZ: Indicated she is an almost 25-year resident and she has always wondered why we didn't have a restaurant at that location, because it seemed ideal, but from her point-of-view, Sedona needs this restaurant there, because there are people who are leaving from Sedona and not getting into the western end of Sedona, and feeling as though there aren't the kind of restaurants that we need to have here, especially for lunch. Lisa is a proven commodity -- what she puts out there is something we all want to enjoy, so she (Maureen) suggests that the community itself will benefit directly from this.

Stephen Huff, Sedona, AZ: Indicated that he is the President of the Casa Contenta HOA. He has been here many times and he just wanted to restate their support for this project, support for the restaurant and particularly support for the zoning change from OP to C-1.

Having no additional requests to speak, Chairman Losoff closed the public comment period at this time.

Chairman Losoff summarized that the Commission has heard five times about this project, from both the developer and staff, and we have heard some public comments and gotten all of the information. The Chairman then asked for any final comments or questions.

Commission's Comments:

Commissioner Messer indicated that he has been on this Commission going on his sixth year and seen a lot of projects come and go, and he is very impressed with the concessions the applicant has made toward the zoning change, with the restrictions taking it down from a possible 80 to 23. He loves the design and this is a great project; he is in total approval of it.

Commissioner Hadley indicated that he would go with what Commissioner Messer just said. He has watched this for several months now and as a Casa Contenta resident, he has looked down on that building for a long time. He'd be very happy to see this; you have done an excellent job and he doesn't see how it could be any better.

Commissioner Currivan stated that he thinks this will be a real improvement to what is currently in place, and even if there were nothing in place there, he thinks this would be an improvement, so he is in favor of it.

Commissioner Brandt indicated that he had nothing more to add as far as the Development Review.

Commissioner Taylor stated that he is an idealist and he is disappointed that the City apparently didn't even consider taking or purchasing the property, because it would have been a smart move for Sedona, and it shows kind of a lack of imagination on their part, so with that and the traffic situation along there, he just can't support the project. It is not about the restaurant, this particular restaurant or any restaurant, he just thinks there is a better place for the restaurant and to make this more of a community, which is what he feels is really lacking. There is no real plan in this town for making this a community, and he feels pretty strongly about it, and that is where he is on this project.

Chairman Losoff indicated that he agrees with everything that has been said. As a developer, you have come before us and have been very good to work with. You respected our comments and concerns. You have addressed the community's issues and it sounds like you are going out of your way to modify the project to conform with a lot of the issues. He was curious about the National Forest; you don't own the land and there is not much you can do with it, but part of not just a Development Review, but with some of the rezoning issues as well, is that you butt right up to the National Forest. You have been in talks with them, but have there been any more recent conversations?

Mr. Stevenson replied not since the original conversation, when they said they would have to do a study for about a year or so, if it came up on their project list. The Chairman then asked if there was any discussion about a public/private partnership to make that access to the forest land easier to get to, and Mr. Stevenson indicated that he asked them if they would like to use the property to get through to the National Forest, and they assured him that they didn't want to use National Forest for anything but National Forest, and they would rather have the parking on his property, and he agreed to that, so it is a matter of them moving forward. The Chairman stated that he would like to make that a condition, but he knows it is not the applicant's land; maybe that is something staff could talk about later, maybe we could talk to the Forest Service about it being something they could move up on their agenda. It would be great to have your property have access to the land and be able to walk down and hike around. Mr. Stevenson explained that the Forest Service actually asked them to basically barricade it, so no one can go from their land onto the National Forest until they decide where they want it and how they want that connection.

The Chairman then noted the Commission's options; one to recommend approval, another to recommend disapproval, a third to recommend continuance, etc., and he would entertain a motion at this point.

MOTION: Commissioner Hadley moved to approve the proposed development review for the Mariposa Development as set-forth in case number PZ13-00003 (DEV) based on compliance with all ordinance requirements and satisfaction of the Development Review findings and applicable Land Development Code requirements and the conditions as outlined in the staff report with the addition of two conditions. 1. There shall be a site review of installed lighting to ensure Lighting Ordinance requirements. 2. The applicant shall submit an updated Landscape Plan to ensure compliance with applicable Landscape Ordinance requirements. Commissioner Jablow seconded the motion.

Commissioner Hadley indicated that he roughly worded those two conditions and he presumes staff has latitude to modify that as needed. Kevin Snyder stated that staff finds the conditions appropriately stated.

Commissioner Brandt asked if that Landscape Plan would come back for the Commission's review or staff's review and Commissioner Hadley stated that he presumed for staff's review. The Chairman then asked Commissioner Brandt if he was okay with that and Commissioner Brandt stated sure.

Chairman Losoff indicated that if the Commission approves this, the approval is based on the rezoning which is the next agenda item, so even though the Commission may vote in favor of this motion, it is still predicated on the next subject, which is the rezoning that the City Council has the final voice on. This vote is for approval of the Development Review only.

VOTE: Motion carried six (6) for and one (1) opposed. (Commissioner Taylor opposed.)

Chairman Losoff recessed the meeting at 6:53 p.m. and reconvened the meeting at 7:00 p.m.

- D. Discussion/possible action regarding a request for Zone Change to C-1 (General Commercial District) to allow a proposed restaurant located at 700 West State Route 89A. The proposed project site consists of 2 parcels currently zoned OP (Office Professional). One parcel is vacant and the other has a vacant 3,224 square foot building. A general description of the area affected includes but is not necessarily limited to the area on the northern side of West State Route 89A across from Rolling Hills Road and the Rolling Hills Estates Subdivision. The project site is approximately 2.25 acres and is further identified as Assessor's Parcel Number 401-46-124A & 401-46-124B. (45 minutes). Applicant: Michael Stevenson. Case Number: PZ13-00003 (ZC). Staff: Cari Meyer**

Chairman Losoff requested that staff include some history on the zoning of OP versus C-1 for this property in the presentation.

Presentation:

Audree Juhlin explained that the zoning was inherited with the City's incorporation as Office Professional (OP) before . . . , Chairman Losoff interrupted to ask inherited from . . . , and Audree Juhlin replied from Coconino County's zoning.

Cari Meyer indicated that this is an OP zone, so when the applicant first talked with staff about what it would take to have a restaurant on this property, staff told him that he would need a Zone Change to a commercial zone. When staff looks at zone changes, we consider what the Community Plan says about a specific property and this property is designated as a Special Planning Area in the Community Plan. It is the SR 89A Special Planning Area and the planning areas describe why specific community benefits stated in the Community Plan are wanted for the area and would be required for a Zone Change.

Cari explained that as far as the change from OP to C-1, the Development Standards are essentially the same, but C-1 doesn't have a rear setback requirement while the OP does. Staff focused primarily on what the Community Plan says and our Land Development Code allows us to do conditional zone changes based on the site plan and development proposal; however, once the development of the approved site plan is complete, the zoning would be vested and that is when the proposed Development Agreement would come into play to limit the uses.

Cari indicated that the Staff Report includes a summary of the following community benefits that the Community Plan lists for this area and how this project complies with them:

- One of the uses is the low-traffic generator and as mentioned earlier, doing the parking based on the square footage of the building creates some issues or circumstances where the area of the building and the parking required will limit what can be done on the site, so the size of the building cannot increase very much beyond what was just approved, because there isn't enough room for parking. Even though the restaurant use is a higher traffic generator than some of the other uses that may be allowed, the restaurant as shown will actually generate less traffic than if the site were developed to its highest potential as an office site.
- The Community Plan identifies this area should have development that is single-family residential in scale, and although it is a large building, the 22 ft. height limit shown on the plans keeps it single-family residential.
- The Community Plan says that the pedestrian mobility should be enhanced and they have proposed an internal trail system that connects to the sidewalks along SR 89A, so as people walk along that area, they are able to get off of the highway and enjoy the views on the site.
- The Community Plan specifies that there should be minimal building and paving coverage and the building coverage is only 5%, and although the paved areas are 40% of paving coverage, all of the paved areas besides the building are permeable surfaces and pavers.

- The Community Plan says there should be significant buffering from the highway and although the existing building is built 20 ft. back from the property line, all new areas of the building are on the opposite side of the building from the highway, so there is nothing closer to the highway, and then with the landscaping planned, there will be additional buffering.
- The Community Plan talks about consolidating parcels and this project is currently two parcels, but in order to develop this project as shown, they would need to combine the parcels to do the parking and signage the way it is shown.
- The Community Plan talks about controlled access to the National Forest and the National Forest Service has not said they want that connector that is not an official connection yet, and it is not known if it ever will be. The applicant is open to that and is working with the National Forest Service to ensure there is no uncontrolled access from this property.

Cari then indicated that based on compliance with ordinance requirements and as conditioned, general consistency with the Land Development Code and the requirements for approval of a zone change, consistency with and conformity to the Sedona Community Plan and compatibility with surrounding land uses and character of the surrounding area, staff recommends approval of the proposed rezoning as set forth in case number PZ13-00003(ZC), Mariposa Development, from OP (Office Professional) to C-1 (Commercial) subject to applicable ordinance requirements and the conditions of approval listed at the end of the staff report and the terms of the Mariposa Development Agreement.

Applicant's Comments:

The Chairman then asked for any comments from the applicant, Mr. Stevenson, and Luke Sefton the Civil Engineer. Mr. Sefton indicated that it has been a long process and everything has been discussed in detail; that is why Mr. Stevenson has become an expert in zoning and engineering, etc.

Commission's Questions of Staff and the Applicant:

There were no questions asked and the Chairman noted that all public comments were addressed in the last item and there aren't any more.

Commission's Questions and Comments:

Commissioner Brandt referenced the trail that runs through the property on the site plan and indicated that it is labeled a public trail. The Chairman then asked that to be displayed.

Kevin Snyder pointed out that technically this is scheduled for public hearing, so even though there are no anticipated comments, staff would ask for formality purposes that the Chairman open and close the public comment period for the record.

The Chairman opened the public comment period and having no requests to speak, closed the public comment period.

Commissioner Brandt then indicated that the site plan also labels the vista as a public area, which he then pointed out on the site plan. The Commissioner explained that the proposal the whole time was to be public; that is what this was about, so not having it dedicated doesn't work for him. Then the project isn't holding up their end of the deal, as far as working in good faith, so if it is the City that has a problem with the liability, then he guesses we should have been having work sessions with the City, so they could have told us this before and we could have worked out the situation, but also it was mentioned earlier that the Forest Service should look at bringing a path up here; however, if it is not a public space and it is private property, they aren't going to be looking at doing anything, so another reason for making sure that there is some public space dedicated -- easement, deed restriction is the biggest hammer, but even easements that say this is open for the public. At first he was thinking that to make this the up-zone that they are requesting, the public benefit, if this is really going to be a public space as it says on the site plan, then it should be even signed as a public vista, public way. He can understand where that might cause more problems than the property needs -- let's just let

people find it on their own and let it be a passive open space, but it needs to be dedicated in some fashion.

Chairman Losoff asked (audio unclear) and Commissioner Brandt stated whatever is labeled public on the property. He doesn't know how that would be done, that is a Legal Department kind of thing. The Chairman then asked (audio unclear) on the site plan, and Commissioner Brandt indicated that it is labeled public on the site plan, but those areas should be dedicated to the public. Chairman Losoff then asked staff if it is not currently in OP and Audree Juhlin stated that is correct, it is not.

Mr. Stevenson stated that he doesn't know what the avenue would be. The conversation came up and there was a liability issue. After the Commissioner's comment, he brought that up in a meeting and said that you were requesting an easement through there, and the reply he got was that it would put the City in a liability issue, so he is not sure how to take what we are trying to do to provide all of these public -- the whole site is public. It is all going to be used by the public; that is what the whole site is about. How to identify and get locked in, in some way, he doesn't know what the avenue is. Legal would have to tell them; he doesn't really have an answer for it. He still would like to have the ability though to manage the property; you still need to be able to take care of the property and maintain the trails and vistas. Those are all going to be their responsibility, so he is not sure if you want him to give up ownership to them; is that what you are asking him to do? He is not sure that is a way of doing it.

Commissioner Brandt stated that it is not a giving up of ownership; it is a dedication to the City, like a deed restriction. It is still your property, but it is deeded so the public can use it. His concern is that if the restaurant goes out of business or there is a redevelopment of the property and there is not something that establishes what we have done for the last months in creating this plan in the work sessions, then it was just a pretty picture. It was some words on a paper, but it really doesn't have any teeth, so it doesn't go in perpetuity as the up-zoning does. The zoning change goes in perpetuity.

Mr. Stevenson stated that if the project didn't make it and they decided to do something else with the property, he would be back here again with a new set of community benefits and a new set . . . Commissioner Brandt interjected right, and a new board and a new City staff. Mr. Stevenson continued to say that, for instance, he has another 22 uses of the property and these current benefits may not fit on one of those other uses, so it has to be adjusted somehow for those future uses.

Commissioner Taylor expressed that he agreed with Commissioner Brandt on that and it seems that if it is not deeded or legally somehow turned over to the City, it should be signed that this is a walkway that is open to all, but that is as far as you go. They can walk on it, but you are not making any promise to the City about that in the future. It could be there today and gone tomorrow.

Mr. Stevenson pointed out that all the documents they have gone through with the City, the City's Staff Report, all of the documents, including the Development Agreement are all legal documents and it said over and over and over again of the community benefits, so it would be very difficult for him to just walk away from this without having something coming back at him. Commissioner Taylor indicated that he is not suggesting that you would walk away from it; he is just furthering this public/private thing. The other thing you should walk away from is anything to do with the Forest Service and trails. He sees that just as a problem down the line. The Forest Service should get themselves a parking lot down near the "Y" and a real access. If they can't increase the one out Soldier Pass, they should build a real parking lot and it should be Forest Service, just as they have out in Boynton Canyon.

Mr. Stevenson stated that with all of the suggestions that have come from not only the Commission, but City staff and the community, they have tried to bend over backwards to try to

do everything they possibly could to accommodate, and they just can't make it with everybody. Commissioner Taylor stated that he understands that, because he thinks it is too complicated with hours and when you need the parking lot and hikers might want the parking lot. They go out and come back at 8:00 p.m., so he just thinks it is too much of a hassle for everybody and he doesn't see it as swaying anybody to vote for or against the project.

Commissioner Jablow referenced Commissioner Brandt's comments and indicated that he is quite concerned; he has nothing to add, but he does have concerns. Chairman Losoff indicated that at this point we have had five meetings and he thinks this is the first time this has come up. He is not aware that we made this a mandatory or even a significant issue that the applicant had to conform to dedicate land to the community or to the public, so he is kind of thinking of how to get through that.

Commissioner Messer indicated that while he can see Commissioner Brandt's concerns, it is his opinion that the applicant has acted admirably through this whole process, and he is content with a gentleman's agreement at this point.

Commissioner Hadley referenced Commissioner Brandt's point and indicated that when you show the Commission a site plan, you say what it is going to be and we have a Development Agreement, so you are legally bound to do that, and as long as you are the owner that feature has to stay as it is. If the restaurant changes occupancy or something else happens on the site, it does have to come back to Planning & Zoning for approval, so he understands the concern, but the City apparently very clearly has said they don't want ownership of it for the liability concerns, which makes sense, so he is good with the fact that it is shown on the site plan and you have identified it, maybe not as a publicly-owned feature, but a publicly-accessible feature, and it looks like the City Attorney wants to say something.

Ron Ramsey, Assistant City Attorney, explained that the agenda item is to discuss the rezoning as presented by staff, which focuses on the Community Plan, Special Planning Area and that sort of thing, and it is a vote to recommend or not recommend to the Council. This issue has come up in prior discussions about the trail systems, the vista point, the painter's point, whatever those are, and it reminds him of some of the same discussions we had years ago with the creek walk, and the dialogue back and forth with the Forest Service about creek access, and there was considerable question about the liability of the City to continue to pursue those easements and that was definitely something that caused that whole discussion to sort of be set aside. In addition to the liability, if you start putting together public points of access, you have ADA issues -- widths, slopes, material composites, and there are also discussions as to who is going to maintain it, if the public has unrestricted access, for instance, in that creek area. This point that we are talking about here is actually more thoroughly discussed in the Development Agreement, which will remain in the control of the Council. It says, both of the things that have been brought up by the Commission and it lists in paragraph F in the recital all three of these areas, but then it ends up saying, "The Developer shall continue to have the right to control access to the Property and the use of the vista overlook area with parking, Painter's Point area and internal trail system in the Developer's sole discretion to control misuse or public nuisance. Moreover, the provisions for a vista overlook, Painter's Point and internal trail system are not a public dedication of these areas", so that is something that has been negotiated to this point between the applicant, his counsel and the City's staff and City Attorney's Office, so where it may go from there . . . , he is sure your comments are being recorded and your concerns, but it is going to be something ultimately up to the City Council and the applicant, concerning any modification of that section concerning these public points.

Commissioner Hadley indicated that his point was that he believes that the Development Agreement allays any concerns that he would have about future use of the publicly available features. Additionally, when the concept of a zone change first came up, which you need to do the restaurant, there were concerns on his part that the change to a C-1 opened a Pandora's Box of uses that were not necessarily too good for the City, but your Development Agreement

has solved all of those problems in his opinion and he is very pleased with how you have handled it.

Commissioner Currivan indicated that he appreciates Commissioner Brandt's concerns. He doesn't think they rise to a level that would cause this to be a show-stopper. He is satisfied with the way it is being handled, and he thinks it is fine.

Chairman Losoff indicated that Commissioner Brandt has good comments and a rezoning is not something the Commission takes lightly. Rezoning is a major decision, because it does change the landscape so to speak. We could argue back and forth about why it was zoned OP to begin with, and OP versus C-1, and that involves discussions that are on the books, and that is what we are governed by, so we have to live with it. As a community benefit, it would be great if part of that land was dedicated to the community and the City took it over; he thinks that is ideal. He understands the City's concern in terms of liability and everything connected to it, and he understands that is a major issue, but to him this is not a significant enough issue to change his overall thought of the project.

Commissioner Brandt referenced the minutes from the last work session on January 31st and read the following:

Commissioner Brandt then stated that there just needs to be something that dedicates the public space, if the applicant isn't going to dedicate it through the use, then there needs to be stronger language as far as dedicating the public open space for the trail, the right for the public to park on the property to use the trail and things like that.

Chairman Losoff asked if the Commissioner is asking if that is going to be dedicated regardless of who owns the property down-the-road and Commissioner Brandt stated absolutely. The Chairman then noted that it will have to be part of the Development Agreement. Audree Juhlin stated that these kinds of comments can be incorporated into the Development Agreement, and staff is already doing that to a great degree by talking about what the public benefits are, including what Commissioner Brandt was talking about, so that is being incorporated into the Development Agreement, which will be filed with the County, and she thinks we are even going to look at a deed restriction, so that will run with the property. Commissioner Brandt stated good."

Chairman Losoff stated that he stands corrected; he guesses we did discuss it, but apparently in negotiating the Development Agreement, this was discussed with the City and the City decided not to take advantage of it. Kevin Snyder stated that is correct. Those comments were in the early stages of conversation, and after significant internal conversations regarding potential and real liability to the City, it was staff's collective opinion, including the City Attorney's Office, that those liability concerns did limit our interest in a dedication situation, and as already discussed, the Commission previously approved a site plan that does show the construction and the Development Agreement as the Assistant City Attorney pointed out does provide some opportunities, but also some limitations on the public use of that, which staff believes is a reasonable compromise, and that is staff's opinion only.

Chairman Losoff asked how that would have worked if it was deeded public, would that be 24-hour access for the community or what would be the restrictions or limitations on people using community property. Kevin Snyder explained that would have to be determined. When you provide land for public benefit and public use, you can place some reasonable controls on access. You might limit the hours of operation, for example, no access after dusk and that is done on park properties and other public access situations, but that would be determined through a consideration process, and again, staff's consensus among the involved departments was that the liability concerns outweighed the opportunity, and staff felt it was appropriate to limit the public dedication opportunity or not pursue that.

Mr. Stevenson indicated that a lot of time has been spent on the Development Agreement; it is not something that was just back and forth once. There were quite a number of drafts going back and forth with his attorneys and the City Attorneys, so there has been a lot of thought in it. It is not something that was just a snap decision. It is not an easy thing to be able to dedicate property that is private property to the public, especially like the zone change is for restricted use for 22 or 23 uses, and not all of those uses fit these public uses, and they will have to come back to the City to work on another one someday if something changes, and during that time period, other things may be -- these things might be used with that project or they might not be, but other than what Commissioner Brandt says is somehow easements, deed restrictions, etc., then that takes away the use of the property in the future also, because if you have a trail dedicated right through the middle of the property, because there is a restaurant there and it is not in the way, the future use of the property is going to be limited.

The Chairman indicated that he would entertain a motion for recommendation either in support of or not in support of, since it goes to the City Council for approval.

MOTION: Commissioner Hadley moved to recommend to the Sedona City Council approval of the proposed rezoning as set forth in case number PZ13-00003 (ZC) from OP (Office Professional) to C-1 (Commercial) based on compliance with Land Development Code requirements, conformance with the requirements for approval of a zone change and consistency and conformance with the Community Plan, and subject to all applicable ordinance requirements and the conditions as outlined in the staff report and the Mariposa Development Agreement. Commissioner Currivan seconded the motion.

Chairman Losoff indicated that it talks about Land Development Code requirements, and then it goes on about the Mariposa Development Agreement, and the Chairman then asked if we need to be more specific and date it or anything, in terms of the Mariposa Development Agreement signed on or approved by. Kevin Snyder explained that statutorily the City Council will have to approve it and they may or may not approve the version in front of you, so the reference is appropriate.

VOTE: Motion carried five (5) for and two (2) opposed. (Commissioners Brandt and Taylor opposed.)

6. Discussion/possible action regarding future meeting dates and agenda items: (10 minutes 7:35 – 7:45 pm)
- | | |
|--------------------------|----------------------------|
| Thursday, April 11, 2013 | – 3:30 p.m. – Work session |
| Tuesday, April 16, 2013 | – 5:30 p.m. – Regular |
| Thursday, May 2, 2013 | – 3:30 p.m. – Work session |
| Tuesday, May 7, 2013 | – 5:30 p.m. – Regular |

Audree Juhlin indicated that the next work session is Thursday, April 11th, and regarding the meeting on the 16th, Kevin Snyder explained that the Citizens Steering Committee met today and they are working on the development of an outline and a draft document that ultimately they anticipate bringing to this Commission later in the summer for your review. At this point, he would recommend that since staff is still in progress with the Citizens Steering Committee that the Commission give us a little more time before coming back, and if the Chair concurs, we will have some more substance to share with the Commission, but not by April 16th, because that is their next meeting date when they will be discussing some outstanding issues.

Audree then recommended canceling both the work session on the 11th as well as the meeting on the 16th. Chairman Losoff suggested planning something perhaps on May 7th; however, Commissioner Jablow noted that May 2nd and 7th are very busy agendas, so the Chairman mentioned May 21st, because it is time for the Commission to talk about the Community Plan a little more as a Commission, and we also need to agendize a new officer; we don't have a Vice Chairman.

Kevin Snyder indicated that for May 2nd, the Commission will have a work session on the Studio Live proposal, so we could also conduct a work session on the Community Plan; however, Cari Meyer added that the work session on the 2nd and the meeting on the 7th are both very full agendas at this point. On the 2nd, the Commission will have Studio Live as Kevin Snyder mentioned, and the regular work session on the other items on the May 7th agenda, which the Commission saw for the first time last week -- Park Place, the outdoor food trailer at Over the Edge and the Kayenta Plaza Office's condominium conversion. We also received two new applications that will have a preliminary work session, and the Chairman had mentioned wanting to do site visits for some of the projects.

The Chairman then suggested going back to April 11th and April 16th and not putting them all up at one time. Audree suggested doing the site visits on one of those two dates; we wouldn't want to move the projects forward, because staff will not be ready. She then asked if the Commission would prefer to have site visits on the work session date and meet at 2:00 p.m. or at 3:30 p.m. and visit Park Place and Studio Live. Commissioner Messer noted that he knows those sites already and Commissioner Hadley stated that he is okay whenever they are set. Audree then stated that staff will probably set that up on the 11th. The Chairman asked the Commissioners to keep the 11th open for a site visit to at least two of the projects.

Commissioner Taylor noted that a site visit isn't needed on the condo; that is just a change from a rental to a condo and Audree explained that staff is not recommending a site visit there. In staff's opinion, we should do a site visit to Studio Live and Park Place.

7. Adjournment (7:45 pm)

Chairman Losoff called for adjournment at 7:37 p.m. without objection.

I certify that the above is a true and correct summary of the meeting of the Planning & Zoning Commission held on April 2, 2013.

Donna A. S. Puckett, *Recording Secretary*

Date