

**Summary Minutes**  
**City of Sedona**  
**Planning & Zoning Commission Work Session**  
**Council Chambers, Sedona City Hall, Sedona, AZ**  
**Thursday, May 2, 2013 - 3:30 p.m.**

**1. Verification of Notice, Call to Order, and Roll Call. (5 minutes; 3:30 – 3:35)**

Chairman Losoff verified notice and called the work session to order at 3:31 p.m.

**Roll Call:**

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

**Staff:** Keith Chamberlain, Audree Juhlin, Cari Meyer, Donna Puckett, Ron Ramsey and Kevin Snyder

**2. Discussion regarding Agenda Item #6 for the regularly scheduled meeting of Tuesday, May 7, 2013: (30 minutes 3:35 – 4:05 pm)**

- a. **Discussion regarding a request for Development Review approval to redesign a portion of the previously approved Park Place Condominiums Project (DEV 2002-16 & SUB 2002-08) at 3865 W Highway 89A. The redesigned units will be smaller units with decreased height and lot coverage. The applicant is also requesting approval of a new community building. The project site is zoned RM-2 (High Density Multi-Family Residential). The parcel was originally approved for 88 residential condominium units. Twelve of the approved units have been built and the rest of the site is vacant. A general description of the area affected includes but is not necessarily limited to the area on the southern side of W Highway 89A across from Bristlecone Pines Road and adjacent to the Foothills South Subdivision. The parent parcel is identified as Assessor's Parcel No. 408-11-531 that is approximately 7.94 acres. The parcel numbers affected by the request are: 408-11-463, 408-11-463D, 408-11-463C, 408-11-463E, 408-11-469B, 408-11-469E, 408-11-469C, 408-11-469F, 408-11-469D, 408-11-469G, 408-11-460, 408-11-462, 408-11-459, 408-11-461, 408-11-456, 408-11-458, 408-11-455 and 408-11-457. Property Owner: Park Place, LLC Applicant: Don Woods Case Number: PZ13-00002 (DEV) Staff: Kevin Snyder**

Chairman Losoff pointed out that this item will be discussed on Tuesday, May 7th, in the public meeting and noted that the Commission had a site visit recently and some previous discussions on the changes.

**Presentation, Kevin Snyder, Community Development Director:** Indicated that this item involves a request to redesign a portion of the previously approved Park Place residential condominium project. As the Commission is aware, this project was originally approved for 88 residential condominium units in the early part of the 2000s, and the first portion or about 12 units of the initial project was built, and then there was the downturn in the economy, which put the project on hold. Subsequently, the applicant, Park Place LLC represented by Don Woods, Architect, came back to the City to discuss a possible redesign to address their perceptions and needs around market forces, and that resulted in a proposal for a redesign of a portion of the site affecting three buildings, plus the introduction of a community room facility and an associated outdoor pool, terrace and garden area, resulting in a reduction in the next phase from 18 units to 12 smaller units. It also would not have underground parking, as developed in the first phase. It would be surface parking and garage-level parking.

Kevin explained that staff did a substantive review of the application and is recommending conditional approval. There are a number of conditions that he tried to put in time orientations, so they occur at different phases of the development, but staff believes in general that the

project does comply with both the Sedona Land Development Code and the Design Review Manual as applicable. Other reviewing agencies also reviewed the project and their comments are included. There is perhaps an issue that may be of interest, as the applicant's representative is currently coordinating with the City and ADOT on the potential for a temporary access road off of S.R. 89A, as the applicant no longer has control over the commercial property that was associated with the original proposal, except for some minor easement relationships. We don't have resolution of that at this point, and the applicant, applicant's representative and City are waiting to see what ADOT decides.

Kevin noted that he has some slides available of the exhibits in the Staff Report, including a vicinity map, aerial map, recent site plans and elevation drawings, if the Commission would find those to be helpful, and Mr. Woods has large-scale plans that can be displayed.

**Commission's Questions of Staff and/or Applicant:**

Commissioner Jablow indicated that he understood that in the past there were some concerns from existing residents at the complex and asked if those have been addressed. Kevin Snyder referenced Attachment G, which is a letter dated April 8th from 12 residents of Park Place Condominiums and indicated that many of their interests were construction-related, which will be addressed through further Development Review, if approved. One issue area that they asked the City to condition that, after conferring with the City Attorney, we are unable to do was to require a condition to have the applicant and residents negotiate some outstanding concerns around the CC&Rs addressing assessments. Under Arizona State Law, that is not something the City can condition as a development approval -- that is a private party matter, so we were unable to fulfill that request. The rest of the issues were development-related and will be addressed through further building, planning and engineering reviews, if approved.

Commissioner Currivan indicated that regarding the CC&Rs, he understands that we don't have authority over that, but another provision deals with the waiver of diminution of value on page 36 of the report. The question is that it seems to say that all of the owners have to sign this waiver under the Arizona statute, so does that mean that each and every owner has a veto over this by being able to refuse to sign the waiver? Kevin Snyder explained that his understanding is that it would only apply to the party to the application who has ownership over the land in question. The 12 property owners have ownership rights on the properties they control, but not on the remainder of the property developed.

Ron Ramsey stated that Kevin Snyder is correct and that is some standard language that we normally insert, particularly with redevelopments, changes in design and any request for a zone change. Commissioner Currivan then indicated that the reference to the property owners of record means only the property owners of the property that is subject to the expansion, not the property owners of the existing portion of the project, and Ron Ramsey stated, right.

Commissioner Currivan then referenced page 7 of the report and indicated that the units are listed as one-bedroom, two-bedroom and two-bedroom with three different square footages, and he wanted to address differences between the numbers there and the numbers in the referenced letter from the 12 owners, because they were saying that the one-bedroom units go as low as 900 sq. ft., but according to this, it is 1,081 sq. ft., which is a substantial difference. Don Woods, Architect, indicated that the 1,000 sq. ft. is correct and confirmed that the letter is incorrect.

Commissioner Currivan pointed out that there seems to be an error in the third bullet point on page 7, where it says six and then three two-bedroom units, and that is in three different places; it is also on pages 17 and 30, if staff wants to make a correction. Kevin Snyder indicated that would be corrected.

Commissioner Currivan then referenced page 8 and indicated there is some reference to access and traffic, and it deals with the concept of secondary egress. The Commissioner then

indicated that as he understands it, the secondary egress referenced on the bottom of page 11 is the unpaved roadway that goes to Upper Red Rock Loop Road and Kevin Snyder explained that is partially correct, when the project originally came through there was a property owner relationship between the commercial piece of land that is immediately south and the Park Place residential project, and it was planned for a future access through there. Subsequently, there has been a change in ownership and that commercial piece is no longer controlled by Park Place, although they do have some minor easements, but nothing that would allow them to build that full functioning roadway, so there is no planned secondary access. There is a proposed temporary construction access off of S.R. 89A that is currently being considered by the City Public Works Director and ADOT, and his understanding is that would be removed upon completion. Don Wood stated that is correct.

Chairman Losoff asked if Section 5.A applies to the land or the owner and could it not have gone through regardless of who owns that parcel; does it not go with the land, so whoever owns it was obligated to build as initially stated? Kevin Snyder stated no and explained that at the time this was approved, the Development Agreement relationship was primarily on the residential portion; however, the Development and Settlement Agreement contemplated some transfers in density, but that was it between the two. It was not a full relationship in terms of circulation and access. Chairman Losoff then asked if this has been discussed with the new owner to see if there is willingness to compromise. Don Woods stated no and Kevin explained that the City has not had those conversations either. Don Woods then added that as far as he knows, it is a dead issue.

Chairman Losoff asked if, in terms of being proactive, anybody has talked to the owner of the parcel. Kevin Snyder indicated that staff has not talked with the owner; however, the owner was within the radius area and received notification of this project and the public hearing, but staff has not been contacted directly by that ownership.

Chairman Losoff then asked how important this issue is and Don Woods indicated that it will be an important issue if they don't get ADOT's approval to have the construction access. The Chairman then asked if it is something that City staff or the developer should take a proactive approach on and talk with the person. Don Woods stated that he can do that.

Commissioner Messer asked if the proposed road to the south is through the bottom of the property and Don Woods explained that is FootHills South and there is no way to have access from there. He then pointed out the property that is no longer under the owner's control, and pointed out where there is still an easement for Foothills South from an agreement that was made a long time ago for an emergency exit only. At one time, Park Place had proposed hooking around to that "no describe" easement, but all he can do is reenter that conversation, which he will be glad to do.

Kevin Snyder stated that if the Commission feels it is important to have someone address that, we could propose a condition for the Commission's consideration at the hearing that would go to the point that Mr. Woods just made, in that if for some reason there is not success in gaining approval from ADOT for a temporary access from S.R. 89A, we could direct the applicant to pursue temporary access through that property to the south to provide temporary construction access. Chairman Losoff indicated the Commission will see how this goes.

Commissioner Currivan explained that the reason for his question was that in the letter referenced earlier, there was an objection to what was referred to as the south end, although the road runs northeast, southwest, but he is talking about the parcel on S.R. 89A that is being referred to as the commercial parcel, and they were thinking that the construction access was going to be through that, which appears to be the plan. They were objecting to it, because it will run all of the construction vehicles up to what they call the north end of the project, where the new construction is, so he wanted to know how things like garbage and moving van access, etc., are handled now, are they coming in off of S.R. 89A? Don Woods indicated yes, and one

of the reasons it is important to get the ADOT approval off of the highway is that you don't want to take all of the construction traffic right in front of the neighbors' houses, so if the gate is only for them and everybody else comes the other way for the period of building time, that is a win for everybody. He has an application into ADOT, and in a long conversation, he was told by ADOT's representative that they think that can work. Additionally, Charles Mosley stated that if he got ADOT's approval, he would go along with it.

Kevin Snyder explained that the proposal for a construction access would occur off of S.R. 89A and Don Woods showed them the approximate location just at the northeastern end of the first phase that they are doing and just before the big hill. They don't want to go over the big hill, because then it would interfere with the decel lane to enter Foothills South. Kevin added that would be a temporary construction access that would be removed upon completion or the authorization period. Chairman Losoff noted that the Commission needed to decide if ADOT doesn't approve it, what the Commission's position is, but the Commission can come back to that.

Commissioner Currivan referenced page 32 of the report and indicated the question has to do with the public art issue; there was supposed to be \$25,000 of public art. The Commissioner then indicated that everybody is familiar with that and what happened to it. There was a Settlement Agreement in 2004 that used the \$25,000 figure, but for various reasons the art was not actually installed, so it is now being revisited as part of this application. His question is that when we look at the statute, the public art requirement in Section 1802 of the Land Development Code says that in computing the public art requirement, we are supposed to take into account the Consumer Price Index. This \$25,000 figure was arrived at in 2004, so he is raising for consideration whether or not the \$25,000 should still be \$25,000 or some larger number to take into account the increase in the Consumer Price Index.

Kevin Snyder explained that, from staff's perspective, the Commissioner is correct about the CPI. One of the challenges is that we do have a Settlement Agreement, which has legal standing, and we are obligated to follow that unless we seek an amendment to that. It does reference that it shall be at least \$25,000, so the applicant certainly at their own discretion could elect to pay more and may have to pay more to get a quality-level public artwork, although that is subjective. In this instance, the Commissioner is correct in terms of the code requirement, but we are operating under the auspices of a Settlement Agreement that has legal connotations, and we are legally bound to uphold the minimum of a \$25,000 investment and only seek through voluntary participation on the part of both parties, a modification. Ron Ramsey then indicated his agreement with Kevin's explanation.

Don Woods added that the developer has been exploring various means of how that might be accomplished and he knows that he has to do this. It is a timetable issue right now, but he isn't going to try to duck out of it. Kevin explained that this was a miss on the part of staff in terms of enforcing this requirement, when the original Building Permits came through, but he can assure the Commission that staff will make sure that it is not missed again. He also has talked to Mr. Woods and reiterated to him that it is our interest and a shared interest on the part of the applicant, so we will make sure there is follow-through this time.

Commissioner Currivan indicated that in paragraph 9 of the Community Development Department section on page 38, it says a to-scale site plan should be submitted, and it has to do with the lighting, and how it is being handled is fine, but he questioned if it should say "should" or "shall" be submitted, because "should" sounds like a suggestion. Kevin Snyder indicated that he will revise that before the meeting. It is intended to be prescriptive as a Condition of Approval, so that was a writer oversight.

Commissioner Currivan then referenced back to page 30 related to the parking and asked how the formula is applied that says if you have up to five units, it is so many spaces per unit, and above that, it is a lower number of spaces per unit. For example, in the two-bedrooms or more,

it is 2.5 parking spaces, but over five units, it is two parking spaces. No matter how you slice it, the developer is complying with this requirement, but his question is if you have a project that has been approved, and if the project was done in its entirety, you would meet the five-unit level, and then drop to the lower per unit number, but now they are coming back for a modification, so do we have to treat them as a completely new project? If they had done it all at once, they would have had a lower parking requirement, but if done in phases, they seem to be penalized by having to comply with the first five and a higher number over and over again.

Kevin Snyder explained that his understanding is that a decision was made to treat this as a new application, in part because of the expiration of the Development Review approval that is scheduled for September 1, 2013, and any rights under that will expire. Although there is an association to the previous approval, this phase is being considered as a new application and all remaining future phases will also be considered new applications, because beginning September 1, 2013 that previous approval has expired and has no validity, so the applicant will have to comply with the regulations and standards in effect at that time.

Chairman Losoff stated that he understands that the applicant has agreed that it would be treated as a new application, because it is expiring. In essence, they haven't met the conditions of the current timeline or completed what needed to be done in the current timeline, so they are kind of waiving that. Kevin Snyder added that the final phase had to be under construction no later than September 1, 2013, and we are now in the second phase, so they will not meet that obligation.

Commissioner Currivan referenced the letter from the owners and noted that there was a reference to an observation deck and he didn't see a discussion of that, so is there one, and if so, what is the status of that? Don Woods explained that they are having a few problems with that, but it hasn't been changed. It is far enough away and blocked off visually, so it isn't a detriment. The Commissioner referenced the privacy issue raised in the letter and Don Woods indicated that is probably an issue between the developer and the owners. Kevin Snyder added that from staff's perspective, it is not an inconsistent use with the community building use. If the Commission felt that it wants to direct the applicant to address some of the screening issues, through some design considerations, that might be an opportunity, but from staff's perspective, it is a single-story building at a lower height than the existing or proposed structures, so staff didn't view it as a negative relative to the overall site design.

Don Woods added that in his presentation to the owners that was brought up by one couple and he didn't think it had tremendous support, although he may be wrong, among the other people, so they felt after further discussion, they were going to run with it right now.

Commissioner Brandt asked Don Woods to show the Commission where the observation deck is and Don pointed out the area of the observation deck, and identified the location of the units and the highway side. Chairman Losoff suggested that for Tuesday's meeting, the Commission get a more definitive picture. Don Woods stated that it is the farthest away from the unit across the street, and the Chairman repeated his request. Kevin Snyder then asked if the Commission would want an elevation view, a plan view or both, and Commissioner Brandt indicated just to figure out where it is and how it is configured. Don Woods then pointed out the railing on an enlarged drawing and explained that there is a solid wall on the back side. Chairman Losoff asked if it is going to block anyone's view and Don stated no.

Kevin then indicated that his understanding is that it would be helpful for the Commission to have a perspective drawing, either elevation, plan or both, of the observation deck area for Tuesday's hearing. Don Woods asked if by Tuesday, and Chairman Losoff asked what the Commission thought. Commissioner Jablow stated that he understands this is in front of the other side of the building facing S.R. 89A and below the height of the existing building, and Don stated yes. The Commissioner then asked what the people are concerned about -- that people

standing on the observation deck can look into their homes. Mr. Woods explained that they wouldn't be looking that way; they would be looking towards the view.

Chairman Losoff stated that the confusion is that we can't really point to it, and Commissioner Jablow stated it would help the confusion, if the Commission could see a diagram. Kevin then asked if it would be helpful to have a blow-up of that area in both a plan view and an elevation view. The Chairman indicated that it is probably not that big of an issue, but it has been raised, and there isn't much clarity to it, so clarify the answer on Tuesday, although in the scheme of things, it is not a major issue.

Commissioner Brandt then referenced the landscaping in the area between the wall of the project and the highway and indicated that he doesn't think the plan shows any landscaping in that area, other than what is there. Don Woods indicated that is correct. Commissioner Brandt stated that what is there is shown dashed, meaning to be removed or that it is . . . Don Woods explained that it is existing vegetation in the ADOT right-of-way and the reason it is dotted is that in the past, it hasn't been part of the count in the Landscape Plan; it is not on the property. Those are existing trees to stay, but if the Commission wants them to put more there, he doesn't think that is an issue. Kevin added that is how staff understood the plan as well. There is existing vegetation in the ADOT right-of-way that will not be affected by the proposal.

Commissioner Brandt asked if there are limitations with ADOT as to what can be planted in that area, and Kevin explained that ADOT controls through their Right-of-Way Permit process what can and can't be planted. There are specific standards about acceptable vegetation and his understanding with this project is that all vegetation action is onsite. There is some relocation and transfer of vegetation that will occur as a result of construction, and from the site visit, there were some freestanding potted trees that will be relocated from their current location, which will be planted, and then a couple that will be relocated to allow for building construction, but will be replanted.

Commissioner Brandt indicated that it would be a benefit to have the great wall effect softened with native vegetation, not a forest or thick, but something to soften that, and it appears that all of the Landscape Plan is within the confines of the wall. Don Woods stated that he would buy that.

Commissioner Brandt then indicated that for the record, it is interesting that it has to be considered as a new development proposal, but it obviously has a lot of history, and if it was to be something completely new, it would need more variety to the architecture to have it be less of a half-mile long development -- something subtle, but more than what is there. Also, he finds it ironic that everyone thinks it is great that the architecture flows from the existing buildings to the new, when he is thinking the opposite would be best. The question is the plat shows the last northernmost buildings turned 90°, and the Commissioner asked if that is going to stay that way with the redevelopment plan. Don Woods stated most likely, because that is the view again. Once the hill goes up on top of the hill in a northeasterly direction, they all turn. Commissioner Brandt then stated those are looking towards Thunder Mountain, as opposed to the west, and Don stated exactly. The Commissioner then noted that it helps to break up the long lines of the project, and Don added that it is also a northeast orientation, which is much better for sun control.

Commissioner Brandt indicated that since the buildings are getting smaller, the footprints are getting smaller and there is less density, and that seems like a fair tradeoff for allowing the colors and everything to stay the same, without having the major break-up, but for future development, he would look for something that would be more broken-up, so it is softer in the natural environment.

Chairman Losoff stated that the Commissioner raised a good point; it is complicated, because we have an existing project that is being pushed aside for a new, but in essence they are the

same, and we have to deal with that. Kevin added that in future applications, the lines will be clearer, because now there is still validity to the current proposal, but subsequent to September 1, 2013, although there is history, the relationship will not be as strong as today. It will be treated much more as a straightforward new application.

Don Woods indicated that he sympathizes with the Commissioner's comment, but they have done a lot to change the massing, height and have more open space. He would hate to see a change in materials, and yet, they have a palette that allows about four or five exterior colors and four or five roof materials, so the variety within the overall design is pretty good, and he hates to see different designs. He can mention some subdivisions where that was poorly done. As an architect, he is happy with what they have done.

Chairman Losoff indicated that he understands that it is not the Commission's purview to get involved in the internal operations of the CC&Rs, but we are asked by people why we can't do something about it, so what is the recourse of the tenants if this is approved? Kevin Snyder explained that he thinks it would be a civil matter and Ron Ramsey agreed. The Chairman then stated, so they can't take it out on the Commission or the City Council; it is civil matter between the owner and the tenants. Kevin noted that government can be sued at any time, but whether or not it would have standing is another question.

Commissioner Brandt noted that if the adjacent homeowners were to come in and speak at the public hearing, that would have weight, but at this point, they are just talking about CC&Rs internally, as opposed to coming to a public hearing. Kevin explained that they have been notified about the public hearing and they certainly have the right to participate in that, but specific to the CC&R issue is where the City Attorney's Office has indicated that we don't have any authority to legally require a condition as a part of any approval the Commission makes.

Chairman Losoff referenced the citizen participation and indicated that the Commission saw the letter from several of the owners, and then asked if there was nothing else that staff was aware of. Kevin Snyder indicated that staff has received no other comments other than what is in the record. If any are received before the public hearing, staff will bring those to the hearing.

The Chairman then referenced the last bulleted point on page 10 of the report indicating that if approved, they have to file an amended final plat for the Park Place subdivision and that will be a Major Amendment. He then asked staff to elaborate on that and Kevin Snyder explained that when the original project was approved, it was platted as evidenced by the maps that show the platted footprints of the buildings, and since the proposed modification is being brought forward by the applicant, it requires that the plat be amended, and in reviewing that against current standards, staff has determined that would qualify as a Major Amendment, which requires that both the Commission and the Council review and approve that -- the Commission as a recommending body and the Council as the decision-making body, so this is an action that will need to occur to effect Development Review approval, because it is an association and you have a platted map situation that would be out of sync with any approval you might give. Kevin further explained that the applicant has only requested Development Review approval, and it is his understanding that they sought that first to have the surety before going for the plat amendment.

Chairman Losoff then referenced page 11 and the Community Development Department's comments about public art and landscaping, etc., and the issue of public art fell through the cracks, but those are significant issues, so regardless of who is at fault, it should be done. It is a condition going forward before a Certificate of Occupancy is approved, but he would like to see that done now and would make it a Condition of Approval, because it has been nine years, and that is a significant item that the applicant could have done voluntarily, so he is afraid that if we wait until a Certificate of Occupancy on the new one . . . it shouldn't be done that way. It should be done upfront now as part of the Commission's approval process.

Commissioner Jablow agreed and Commissioner Brandt stated that he also agreed, but it seems that it would be a condition of a Building Permit for this next phase -- that would be what would trigger it. Kevin Snyder explained that if the Commission wants to set an earlier timetable, we can tie that back. One suggestion is that the Settlement Agreement requires that both the City and the applicant review and approve the public art, so there will be a necessity to go through that, including going through the Arts & Culture Commission, so it needs to be a reasonable timeframe. Chairman Losoff suggested that staff come up with a quick draft for Tuesday and talk with the applicant to see what you can come up with.

Chairman Losoff noted that he is glad to see that staff said that even though the applicant asked for five years and the ability for an additional five-year extension, we aren't going to do that. We don't want to start setting those kinds of precedents on any of these projects. Kevin indicated that it was an inconsistent request with previous practices and staff feels that seven years is adequate under current conditions.

The Chairman then noted a comment in terms of landscape that there seems to be some inconsistencies, so he would think that for Tuesday, we should make sure that the Landscape Plan is consistent. Kevin Snyder explained that the inconsistency was that there was some information required in the detail that was missing, and staff felt that wasn't necessary before Tuesday. It was basically sizes of trees and shrubs that could be resolved prior to a Building Permit issuance for the first building. It wasn't substantive in the sense that the Landscape Plan itself was a problem; it was just closing a loop on some of the . . . Chairman Losoff interjected that as long as staff is pretty good about following up on this, but we've seen a couple of developments and think we have approved something, and then we see that the tree or bush isn't the height we thought it would be, but it is going to grow that high, so we have to make sure that whatever we say, we are consistent with and we follow-through on the condition we set up. Kevin explained that the Commission will be approving the Landscape Plan, and the only thing that would be different would be the legend with some heights that are indicated in the information, but not shown exactly on the Plan. Chairman Losoff noted that he knows that Commissioner Brandt will keep us on track on that.

Chairman Losoff then referenced number 7 of the Engineering comments on page 37 that says there is a constant stream of water exiting an 8" pipe within the area and asked what that is all about. Kevin described the pipe seen at the site visit that had water flowing from it and indicated that this will be in the Engineering review if the Commission recommends approval, and the applicant will be required to demonstrate the source of that water, because it is a fairly constant stream of water. We aren't certain where it is coming from or if it is a leak, etc., so the applicant has been asked to address that.

The Chairman noted that it says prior to the issuance of final engineering approval, but he would feel more comfortable knowing what that is before we approve it. Any water leakage is a serious concern and he is not sure if we shouldn't, before taking final action, know what that is rather than take action on Tuesday and find out later that there is a problem. Kevin explained that by the Commission's action, they still have to get final Engineering approval, which means they have to go through a detailed engineering review with the City Engineering staff and address this question. If for some reason, it turned out to be an issue that required a modification to the site design, it might warrant coming back to the Commission if necessary. The Chairman indicated that he understands, but he is saying that it is significant enough that we should reverse the process and find out what the water leak is first.

Commissioner Jablow stated that there is also an issue that some of these projects don't continue; they stop for whatever reason, so say that we approve it and that water is running. If they run out of finances and stop the process, that water is still running. It should be done before anything . . . Chairman Losoff interjected that not only that; we also had another project within the last year that we approved and talked about safety on Airport Road and some issues, and we found out about three months later that there is crumbling on the side, but the project

was already approved based on some other conditions. He is not trying to forestall this project, but something like that is significant. He understands that we approve projects and there is some follow-up, Building Permit issues, etc., and the Commission doesn't want to get into all of those details, but this may be significant or it may be nothing, but he would be more comfortable knowing upfront that there is no problem or the problem is identified and will be addressed.

Commissioner Messer asked what kind of flow is being talked about -- a trickle or you could fill a 5-gallon bucket in five minutes. Kevin Snyder indicated that it is closer to the trickle side, but Mr. Woods would like to respond.

Don Woods reported that he spent two hours there this morning and about three weeks ago, they pretty well traced the kind of water. It is domestic water coming from the meter of that building, so it is not floodwater or water from rain or gutters. There is a leak someplace in the water system. It has gotten into the end of the French drain, which turned to a solid drain and (audio unclear) daylight, and they have dug a couple of big holes 10 ft. down and haven't found it yet. They have to find it; this has nothing to do with the future development; it has to do with six owners in that building. It is a water leak internally in that building that has found its way to that drainage pipe. They are doing the best they can.

Chairman Losoff asked the other Commissioners if anybody thinks like he does or if the Commission should just let it go for the Engineering Department's final recommendation. Commissioner Brandt stated that it shouldn't hold up the works, and Commissioner Currivan added that since it pertains to the existing units and not the proposed units, and since we have decided that we are treating this as a new project, maybe it is not even relevant to the new project. Commissioner Messer concurred; however, Commissioner Jablow stated that he tends to go with the Chairman, but . . . Chairman Losoff interjected that is three to two, so we won't bother with it today, but we would like to underline it for the Engineering Department.

Kevin Snyder indicated that Mr. Woods said that he may have an updated report for the Commission on Tuesday. The Chairman then asked if staff is okay with the rest and Kevin indicated that since there were some formatting errors pointed out, he will correct those and introduce those specific pages into the record on Tuesday, not the whole report. There were some errors in citations, number citations, and "shall" versus "should", so he will correct those and introduce those into the record on Tuesday.

Chairman Losoff noted that for Tuesday they are also going to let the Commission know if there is any news from ADOT regarding the access. Don indicated that he has made the application and he was told that it looks good, just send the stuff, so that is in the process, but he won't have a definitive answer by Tuesday. Chairman Losoff stated that it would be nice if someone talked to the other owner to see if they could help out; we did that with the Natural Food Store, and if we did that more often, we could save some time and problems, although it is easier said than done. Kevin Snyder indicated that he will attempt to reach out to that party and let them know that if there is a need for a secondary access that the City and applicant may want to talk with them, but he doesn't know if he will get a response by Tuesday.

The Chairman asked Mr. Woods what they would do if ADOT said no and Don Woods indicated that they could come through the main gate; there is nothing to prevent them from doing that, but he would hate to. He doesn't think ADOT is going to say no; he is pretty optimistic about that, and it doesn't help the neighbors to come in through the commercial property; they are still dragging stuff in front of their door.

Commissioner Jablow referenced Attachment J from the Sedona Fire District that is a one-page unsigned document and asked if there are additional pages to it. Kevin Snyder explained that it is usually signed by Gary Johnson, but he returned it that way and indicated that he tried that and didn't like it, so he is back to signing them.

Commissioner Currivan asked about the Commission's position on the public art issue and the Chairman explained that the Commission is asking for staff to talk with the applicant and come up with some answer to the question by Tuesday, as to what can be done upfront with a timeframe. It doesn't have to be done by tomorrow or the date after the Commission approves it, but he would like to see a specific timeframe and the amount of \$25,000 is in there as a minimum, but he would like to see at least a specific plan of action, as to when it will be put in. What it will look like, what it is, etc., is for another day, but at least if it is three months, six months, one year from the date of approval -- not occupancy, but from the date of the Commission's approval.

Kevin Snyder indicated that he will confirm it with Mr. Woods and the applicant and come up with that plan. Commissioner Currivan asked if there is any thought as to what is being contemplated, such as a statue, pieces of art on walls, etc. Don Woods indicated that there has been some discussion with Susan Klewer about a bronze; he thinks that is the direction they are trying to go. It would be an artwork of that type. The Commissioner then asked if it would be something they would purchase as opposed to commissioning a sculptor to do a piece of work. Don Woods stated that they would almost have to purchase it or they won't get it up there in time, but he doesn't know what the timeframe would be on that either. Chairman Losoff stated that he would like to see it done within a reasonable time, maybe not to exceed a year from the time of approval or something.

Chairman Losoff then summarized that this item will be discussed on Tuesday for approval, and the Commission will get some of the feedback that has been requested today.

3. **Introduction/discussion regarding the agenda items for the regularly scheduled meeting of Tuesday, June 4, 2013: (30 minutes; 4:05 – 4:35)**
  - a. **Discussion regarding a request for Conceptual Review of a Plat Amendment, Amendment to a Planned Development, and Development Review to construct a new sales office for the Wyndham Time Shares in an area previously approved for 12 apartment units at 1700 Kestrel Circle. The project was originally approved in 1999 under the name Fairfield Sedona. It is zoned Planned Development (PD). A general description of the area affected includes but is not necessarily limited to The entire PD is approximately 21.95 acres. The development has been divided into separate tracts and the subject tract is approximately 3.78 acres and is further identified as Assessor's Parcel Number is 408-28-362A. Applicant: Ernie Farhat Case Number: PZ13-00006 (SUB, ZC, DEV) Staff: Cari Meyer**

The Chairman noted that the Commission had a site visit to this location and this is an introductory work session and still conceptual.

**Presentation, Cari Meyer, Associate Planner:** Indicated that this is a Conceptual Review and a preliminary work session, so it is scheduled for a conceptual hearing in June. The application is an amendment to the final plat, an amendment to the Planned Development district and a Development Review, so there are three components to the project. Cari then explained that the hatched section was originally approved as a Planned Development with a commercial building on S.R. 89A for the Wyndham sales office, and going from there to timeshares.

Cari identified the area of the timeshares, 64 apartment units and 16 single-family, single-story residences in building envelopes on a Vicinity Map. She then pointed out the properties that have had two separate owners, although the original approval was for one Planned Development. Cari explained that since the original approval, Fairfield, the original applicant, sold to Wyndham and Wyndham divided off portions of the site and sold the apartment and single-family home portion to different entities. Mr. Farhat is the purchaser of the apartment portion of the project and he is the applicant proposing to replace one of the apartment buildings originally approved with a new sales office for Wyndham.

Cari stated that staff has met with the applicant and some of the issues were parking, the future use of the building, the loss of apartment units and changes in traffic, plus the future uses of not only this site, but also of the site where Wyndham would be moving their sales office. Cari then noted that Luke Sefton and Mr. Farhat are both present to answer questions and discuss their project.

**Commission's Questions of Staff and/or Applicant:**

Commissioner Currivan referenced the Community Development Department's comment, in paragraph 6 on page 3 of the report, about the loss of 12 apartment units and introduction of a commercial use, and the suggestion that the applicant may want to explore ways to offset that loss. The Commissioner then asked why that is a requirement if the units aren't currently in existence and if there is a requirement that if the number of apartment units is reduced, they have to make up for that.

Cari indicated that there wouldn't necessarily be a requirement for that, but when this project originally went through in 1996-997, one of the main comments was about this property being originally zoned RMH-10, which would allow for approximately 80 units if fully developed, and one of the concerns was the loss of residential zoning, so it was approved for the same number of units, and staff asked the applicant if there was any way to preserve those units, so we wouldn't lose as many as shown.

Commissioner Currivan then stated that if he understands that answer, there is no legal requirement for the applicant to make up for the loss of residential units by converting one of them to commercial units. Audree Juhlin explained that there is not a legal requirement for that purpose, but when the project came forward in 1996, the need for apartments was identified and that was one of the bigger points looked at, with the community need being fulfilled through those apartment units. Now, given the fact that our apartment stock is less than 4% of the housing stock, the need for apartments is still as great as it was in 1996 and from staff's perspective, that is a big consideration in whether or not we want to continue to lose apartments; however, it is not required that they construct them. Commissioner Currivan then stated it is more of a policy issue, not a legal issue and Audree indicated that is correct.

Chairman Losoff indicated that staff has a lot of questions that he would like answered as the Commission goes forward. One concern for him was the height and massing, which was indicated to be in non-compliance at this point. Cari explained that the height and massing have been discussed with the applicant; however, since this is a Conceptual Review, staff didn't require full building plans and elevations, etc., but that was included as something staff will be looking at when they come back for final review, although it is not something the applicant needs to provide at this point.

The Chairman then mentioned the issue with the people living there already and asked if there has been any feedback or comments. Cari explained that the applicant had their community meeting last week.

Mr. Farhat, the applicant, indicated that the meeting was amazing. There were about 17 people who showed up and they got some very good community feedback. Two people were there representing Wyndham to answer questions, and they have zero written comments to this point and no objections, so he believes they have 100% support from all of them. They asked a lot of really good questions. The applicant then pointed out two houses and a building that is in the original plan, and explained that they were asked to rotate it a little to soften their view and they have done that. It was presented to staff this morning, so they might amend their application to rotate that a little. Their other questions were, for example, to ask that Wyndham not drive their golf carts along the proposed route, and the National Sales Manager and Resort Manager were there, and they immediately changed the flow of the carts the next morning, so they were very responsive. Additionally, Luke (Sefton) talked to a few people and they understand what they are doing. What is being proposed is a single-story, so it is 15 ft. lower

than the normal apartment building that would have been there, so there is no real impact on their view.

Luke Sefton explained that they liked that the building is a one-story and they could get some of their view back. They also now understand the other apartment buildings going in there, so it was a good neighborhood meeting, because they are all new residents that have moved in, so they got to meet each other, the Resort Manager, and Mr. Farhat and his wife, so they all talked about their common issues and being a community, and that if that one building could be moved, they might get some of their view back. Other than that, the residents got really involved to find out what was going on, so it was good.

Mr. Farhat added that a few probably will give them letters of support and come to the public hearing, so it was good. This is his first rodeo and he has done more public hearings, but he thought the people were terrific. Chairman Losoff indicated that the Commission will keep its fingers crossed as the people see more details.

Commissioner Messer asked what the plans are for the building that is now the office on S.R. 89A and Mr. Farhat explained that is Wyndham's and it is about 12,000 sq. ft. Wyndham uses about 4,200 sq. ft. in there. Wyndham has a lease on the property; however, the owner is deceased and his estate wants to sell the property. Consequently, they would move that operation to the proposed building, and 95% of the people who go to their sales office are residents in their timeshare buildings. They talked with the onsite manager who provided computer records, and they are now having them put together a letter for staff to assure everyone that the information given to the applicant was accurate. Typically a tour is a husband and wife, and they may have 10 tours in a day that are segregated by an hour apart or so, so they may have four or five people in there at one time. The people are now transported to the welcome center in golf carts, where they are given the orientation, and then they are brought back down. If they were to move to the proposed location, it would eliminate the golf cart traffic through there. With the property being for sale, they have extended their lease, so they have 1½ years left. They just extended it for another year; the owner's son came to a public meeting and supports what we are doing, because with this being part of the PD and an area that is not allowed to be parked on, it creates some difficulty for that property in the future. Wyndham rents the whole property and only uses a small portion of it, so they are trying to see if they can move.

Commissioner Messer then stated that there are no plans other than to sell it then and Cari explained that it is for sale and would remain as part of the Planned Development, subject to those restrictions. The Commissioner then explained that his concern goes back to the policy issue and the need for more affordable apartment housing in Sedona versus more commercial space, which we have exceeded any need for in our town. We have empty commercial space all around, and the original thing was for a need versus something that we don't need.

Mr. Farhat indicated that they have tried to address that; they have a suggestion they presented to staff this morning. Sometimes serendipitous things happen that are positive. After the people got them to rotate that building, they will be able to put five additional parking spaces there, and the proposed buildings were 10-unit buildings. They have just renovated one building and started leasing it and they have an executive one-bedroom, which is the most affordable unit in the project, and they believe that they can create six more units, so instead of building 54, which would be with the elimination of 10-units, they may be able to go to 60 and only lose four units. Their architect has spent about 20 hours redesigning it and they may be able to build 12 units, 12 units, 12 units and 12 units, and they definitely will do that and have told staff they will do that. Commissioner Messer asked about the square footage of the executive one-bedrooms and Mr. Farhat indicated they are about 900 sq. ft.

Chairman Losoff asked if staff sees any particular issues that the Commission should be more concerned about and Cari indicated that this is conceptual, so there are some issues that need

to be worked out pertaining to the existing Development Agreement on the site, and staff met with the Legal Department this morning, and talked with the applicant about providing a better Parking Plan showing specifically where the parking is provided. Cari identified where required parking was originally provided and indicated that the applicant is going to provide a better Parking Plan showing where all required parking will be provided and on which lot, so there are still some things being worked out.

Mr. Farhat indicated that between this morning's session and now, they have provided some additional documentation, but staff hasn't seen it. Chairman Losoff acknowledged that that this is conceptual and it sounds like we don't have any significant issues today, but we will just have to see what comes back for the formal work session before the conceptual hearing.

Kevin Snyder explained that Donna Puckett will be distributing a handout. From the Park Place site visit, there were going to be poles put up at the Park Place development for height visualization and those poles will be up tomorrow, so Mr. Woods has left a map with the pole locations, and after tomorrow, there will be an ability to go out and look. The Commission previously decided to go out and look on an individual basis rather than having another site visit, and staff has the code information if needed to get access to the property, but Donna will provide those maps to you.

Commissioner Currivan asked how long the poles will be up and Kevin indicated his understanding is that they will be up through the public hearing, so through at least next Tuesday.

**4. Discussion regarding the process for the Commission to recommend changes to the Land Development Code. (10 minutes; 4:35-4:45)**

Chairman Losoff explained we all know there are some things on the books that have been inherited and may have passed their time, and there are things not on the books that maybe should be there, so he was brainstorming about how the Commission could look at all of these items to bring everything up-to-speed in anticipation of the new long-range plan. Some changes will be necessitated by the long-range plan, but before then there may be some things the Commission can do to make some recommendations now, so he thought he would open it up for a group discussion, to see what process could be set up to accomplish this.

Commissioner Brandt indicated that it seems that the Commission would want to wait until the update to the Plan is done, before we start updating the Land Development Code. Chairman Losoff stated that is one approach, but the other issue is that there are several things that could be cleaned up before getting to that point. Commissioner Brandt asked for suggestions of what the Chairman is thinking and the Chairman explained that he was thinking of a little blue ribbon committee with several people like a past Chairperson, etc. and some staff. He recalled that at one time Mike Raber and John O'Brien indicated that they kept a list of things that should be changed, as well as some members of the current staff. Jim Eaton also has commented that for 25 years, he has seen things that need to be modified, so maybe that is one approach or the Commission could wait for the plan amendment.

Kevin Snyder suggested that it might be beneficial to spend some time with the Commission prioritizing, because that is something that doesn't have to wait for the Community Plan, in terms of priorities for updates. Staff will not be able to take the Land Development Code in full; we will have to break it down and establish priorities in terms of areas that the Commission wants and that staff feels is appropriate to work on, so that might be a good exercise. Staff would recommend that be done at the Planning & Zoning Commission level working with staff to prioritize updates. The other thing is there may be some sections of the codes that we could start working on, that don't necessitate waiting on the Community Plan. Two examples that he and Audree have discussed are the Sign Code and Temporary Use Permits, which are high activity areas for staff and have lots of challenges at the implementation level, and those are two areas that early work could be started on,

even before the Community Plan is done, since he doesn't think either of those will be dramatically impacted by the Community Plan.

Chairman Losoff referenced the CUPs and TUPs and indicated that there are a lot of those things going on almost weekly, and we could also look at the Noise Ordinance, Sign Code, etc., so perhaps that is one way to go.

Commissioner Jablow referenced the past Council meetings and asked if between staff time and Commissions there is time to take on this task. Kevin Snyder stated that there is time within the construct of what we have today. The Planning & Zoning Commission is not one of the bodies considered for possible change, but he would be concerned from the resource management side about forming a potential blue ribbon committee, if it was going to be extra time and meetings, because with the Community Plan, staff is pretty maxed out right now, and not that other folks couldn't join in the conversations, but he would encourage that it be done within the construct we already have with the Planning & Zoning Commission, since we are resourced to meet that. Commissioner Jablow stated that if you are looking for a group, he would volunteer to work on that, whether it is a panel or what have you.

Commissioner Messer indicated that he thinks he is the longest serving Commissioner at this point, but in his five years of serving, he sees the three same issues come up over and over, which are height, massing and exterior facades. Everyone meets our criteria, and then we micromanage projects, because we don't like the way they look, which is really not in our realm; it is in a way, but it really isn't. If they meet our codes, we are obligated to pass them, and he sees the Commission wasting a lot of time asking about stone, etc., so why don't we focus on the things that we want to see and incorporate them into the Land Development Code, so they aren't an issue and we aren't wasting the clients' and architects' time. Like the ones we just did; everything was minimum, and we knew it was minimum. He could see the hollow core doors and the locksets from a mile away. We knew that and we knew we were going to see that on the exterior as well, and the best use of our time would be to address the things that bother us the most and put them in the code, so they are non-issues, with X amount of stone, X amount of raw wood, etc.; the things we want to see and create those, instead of getting to the final hour and asking if we can get this and that. Basically, we are at their mercy if they meet the requirements, and it has been the same thing over and over for the whole time he has been here.

Chairman Losoff indicated that if the process is set up, Commissioner Messer can provide the list of things he just mentioned and we could see how we could incorporate any changes. Unfortunately as a Planning & Zoning Commissioner, we are governed by the Land Development Code and the books and if an applicant meets those, so be it, but we can challenge them sometimes, not necessarily to change the code, but even though they are meeting the code, we can ask about this and that and that doesn't hurt. Commissioner Messer stated that it doesn't hurt, but why don't we just change the laws we don't like instead of nickel and diming the applicants.

Commissioner Jablow asked why the Commission can't raise the bar now, so the applicants know going in what the rules are. Chairman Losoff indicated that is what this process can do. Commissioner Jablow then indicated that if it is done at the Commission level, there would be more time as far as noticing public meetings and Open Meeting Law requirements, etc., but if you do it with staff or one or two Commissioners, you no longer have those constraints. Kevin Snyder agreed, but explained that his concern is that can become an animal unto itself, and it is just the resourcing side of things. He is concerned with the current workload and not knowing when and if the other Commissions' structures will change, but right now taking on another committee -- there are two full-time planners solely dedicated to the Community Plan right now, and that leaves three others, and he and Audree still have to figure out how to manage the department occasionally. He is not saying no, but he is voicing a concern.

Chairman Losoff indicated that he wouldn't set up a formal committee with public meetings and minutes, etc.; he would keep it at a minimum. Commissioner Jablow stated that we discussed the

Temporary Use Permits the other day and some things are more critical than others, so why can't we bullet point two, and then staff can address the time constraints, and when you have time two or three weeks in advance. We could sit down and work together and probably knock it out or whatever process staff deems fits with the schedules.

The Chairman asked if it is a good idea to look at these things now. Commissioner Jablow stated that some of them are important to look at now. The Chairman then suggested that each Commissioner come up with a list, and then we can look at them to see where the Commission is coming from. Commissioner Currivan indicated that first, we need to come to some agreement or consensus on the scope of the project, because this is like amending a very large statute, and it is potentially a huge project, especially if you decide it needs a complete overhaul. On the other hand, if you decide that it is basically sound, but needs some tweaking, then that can drastically reduce the size of the project and make it much more manageable. That is kind of a threshold question as to what should be the scope, and if we decide that it is just tweaking a few things, then he has noticed a few things that he thinks are ambiguous or should be clarified, and each of us could probably come up with a list of areas that need to be addressed without doing a complete overhaul. Chairman Losoff indicated that his initial thought was more of a tweak versus a major overhaul.

Kevin Snyder indicated that in his previous life, they completed an overhaul of their Land Development Code and it took three years. They prioritized as he suggested, and they focused on format, which was the presentation style of the code and this current code has a lot of the same issues they identified, which was it was not user friendly. Then, they worked on content and that got into some of the points that were just made, and finally, they focused on intent, which was what is the code intending to do and how far did they want to take their code in terms of management of land use and development. It might be helpful to talk about it in those three arenas, because the Commission may decide the format needs significant attention in how it is presented and that the content is generally good, but there are some areas to clean up, and then you may decide that the intent needs more work. It ended up being a pretty good exercise.

Commissioner Brandt stated that to play devil's advocate about making buildings more robust and rich in appearance, some of the projects are intended to be more low-income or moderate-income housing, so in the case of the ones that have the cheap locksets, if you require that, then you are working against seeing more apartments. If you make them more expensive, there will be less of them . . . Commissioner Messer explained that he was speaking of the locksets -- the inside wasn't our issue. The issues that come up again and again are massing, height and external appearances with the lack of stone and beam kinds of things -- those seem to be the predominant things in projects, and then the Commission is trying to do something about the massing and height to bring it down, break it up more, etc. Instead of going through the same discussions, have the code set up to where we like them to begin with.

Commissioner Brandt then asked how you work it in the other direction where it becomes too much of a burden, so people don't create lower caliber projects to fit the need. Commissioner Messer stated that no one does lower caliber projects. Chairman Losoff then noted that the discussion will have to be saved, since it is a little off of the agenda, but in terms of issues both Commissioners are raising good issues to look at. The Commission did it about four years ago to a small extent by looking at landscaping and came up with some new criteria, we also looked at height and massing and the Design Review Manual format and made some modifications.

The Chairman summarized that if staff feels it can handle some tweaking without taking up too much staff time . . . Kevin Snyder explained that before the Community Plan update, staff would want to be judicious in terms of the work done with the Commission, but after the update, assuming it is successful with a March public vote, staff will have more availability to work on a greater workload. The Chairman asked if Kevin would rather the Commission wait and Kevin explained that it would be a good opportunity to come back and do more brainstorming to get a list of issues

and concerns, and perhaps go down that prioritization route, and then there may be some areas where we could start working earlier rather than later.

Chairman Losoff then suggested that each Commissioner create a list of what you would like to see changed or modified, which he will call tweaking, and then he and staff will review the lists to try to coordinate and consolidate to see where we are. If we find that it is going to be bigger than we think, we may want to postpone it, but if we find that there are things we can do now -- he is thinking of the C-Market project, when we got involved with the Design Review Manual, and there were questions about whether or not the manual is accurate and up-to-date, etc., so it took a lot of time and energy. The Chairman then repeated his request for each Commissioner to email a list of things to staff.

Kevin Snyder introduced Keith Chamberlain who is a temporary contract planner and an NAU graduate, and explained that Keith has been doing internships in various communities mostly in the Phoenix area, and we have brought him in to work with us for a couple of months and may have him around a little bit longer, so the Commission will see him around and he will probably be coming to the meetings.

**5. Adjournment. (4:45)**

Chairman Losoff called for adjournment at 5:04 p.m., without objection.

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

\_\_\_\_\_  
Donna A. S. Puckett, *Recording Secretary*

\_\_\_\_\_  
Date