



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

To: Departments Concerned
From: Joshua Bednarek
Planning & Development Department Director
Date: March 15, 2024

Subject: P.H.O. APPLICATION NO. PHO-1-24--Z-37-07-2 – Notice of Pending Actions by the Planning Hearing Officer

1. Your attention is called to the fact that the **Planning Hearing Officer** will consider the following case at a public hearing on **April 17, 2024**.
2. Information about this case is available for review at the Zoning Counter in the Planning and Development Department on the 2nd Floor of Phoenix City Hall, telephone 602-262-7131, Option 6.
3. Staff, please indicate your comments and respond electronically to pdd.pho@phoenix.gov or you may provide hard copies at the Zoning Counter in the Planning and Development Department on the second floor of Phoenix City Hall by **March 22, 2024**.

DISTRIBUTION

Mayor's Office (Tony Montola), 11th Floor
City Council (Stephanie Bracken), 11th Floor
Aviation (Jordan D. Feld)
CED (Michelle Pierson), 20th Floor
Fire Prevention (Joel Asirsan), 2nd Floor
Neighborhood Services (Gregory Gonzales, Lisa Huggins), 4th Floor
Parks & Recreation (Todd Shackelford), 16th Floor
Public Transit (Michael Pierce)
Street Transportation Department (Maja Brkovic, Josh Rogers, Alan Hilty, Chris Kowalsky), 5th Floor
Street Transportation - Ped. Safety Coordinator (Kurt Miyamoto), 5th Floor
Street Transportation - Floodplain Management (Tina Jensen, Priscilla Motola, Rudy Rangel), 5th Floor
Water Services (Don Reynolds, Victor Romo), 8th Floor
Planning and Development (Joshua Bednarek, Tricia Gomes), 3rd Floor
Planning and Development/Information Services (Ben Ernyei, Andrew Wickhorst), 4th Floor
Planning and Development/Historic Preservation Office (Kevin Weight), 3rd Floor
Planning Hearing Officer (Byron Easton, Teresa Garcia), 2nd Floor
Village Planner (Adrian Zambrano, Paradise Valley Village)
Village Planning Committee Chair (Alex Popovic, Paradise Valley Village)



City of Phoenix

PLANNING & DEVELOPMENT DEPARTMENT

APPLICATION FOR PLANNING HEARING OFFICER ACTION

APPLICATION NO: PHO-1-24--Z-37-07-2

Council District: 2

Request For: Stipulation Modification

Reason for Request: Request to modify Stipulation 1 regarding general conformance to the site plan date stamped February 9, 2009.;Request to delete Stipulation 4 regarding cross access and parking agreements.;Request to delete Stipulation 5 regarding Scottsdale Road Improvements;Request to modify Stipulation 7 regarding building height.;Request to modify Stipulation 8 regarding rear building setbacks.;Request to delete Stipulation 10 regarding street improvements.;Request to delete Stipulation 11 regarding archaeological assessment.;Request to modify Stipulation 12 regarding a requirement to obtain final site plan approval.;Request to delete Stipulation 13 regarding walls along the rear property line.;Technical corrections to Stipulations 2, 3, 6, 9 and 15.

Contact Information

Name	Relationship Type	Address	Phone	Fax	Email
David E. Richert	Applicant	9219 East Trailside View Scottsdale, AZ 85255			
David E. Richert	Representative	9219 East Trailside View Scottsdale, AZ 85255			
Linda Cohn, Beldar Properties Arizona, LLC	Owner	6840 East Indian School Road Suite 200, Scottsdale, AZ 85251	402-689-0771		
Steven R. Bund	Owner	12814 North Scottsdale Road Scottsdale, AZ 85252			

Property Location: Approximately 480 feet south of the southwest corner of Scottsdale Road and Sweetwater Avenue

Acreage: 1.17

Geographic Information

Zoning Map	APN	Quarter Section
K12	175-70-040	Q31-44
K12	175-70-041	Q31-44
Village:		
Paradise Valley		

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7131 (option 6), email zoning@phoenix.gov or visit our website at <https://www.phoenix.gov/pdd/licensing-time-frames>

A Filing Fee had been paid to the City Treasurer to cover the cost of processing this application. The fee will be retained to cover the cost whether or not the request is granted

I declare that all information submitted is true and correct to the best of my knowledge and belief. I acknowledge that any error in my application may be cause for changing its normal scheduling.

Signature: _____ DATE: _____

Fee Information

Fee	Fee Waived	Fee Date	Purpose
\$1,725.00	\$0.00	02/23/24	PHO (3+ stipulations)

Planning Hearing Officer Meeting
Revised Stipulations for Rezoning Application Z-37-7-2

1. That development shall be in general conformance to the site plan date stamped February 9, 2009, **ACCEPT FOR THE SITE PLANS FOR LOT 4 AND 5 (DATED 02/23/2024)** specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers as approved by the Development Services Department. **RATIONALE: THERE ARE TWO EXCEPTIONS THAT WILL REFERENCE THE EXISTING PARKING BUILDING ON LOT 5. THE EXISTING BUILDING ON LOT 5 WAS LAWFULLY PERMITTED DURING THE REZONING PROCESS AND ACKNOWLEDGED BY MR. STEPHENSON LETTER DATED JULY 15, 2009.**
 2. That a minimum 10-foot wide landscape setback along the entire west property of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3-inch caliper trees 20 feet on center or equivalent groupings as approved Development Services. **NO CHANGE.**
 3. That a minimum 6-foot wide landscape setback shall be provided along the north property line of Lot I. Required landscape materials shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department. **NO CHANGE**
 - ~~4. That cross access and parking agreements for Lots 3 and 4 shall be created and recorded prior preliminary site plan approval for the corresponding phase approved by the Development Services Department. **DELETE. RATIONALE: PARCEL 3 WAS APPROVED IN THE ORIGINAL TIME LIMIT AND ELIMINATED THE NEED FOR THE AGREEMENT WITH A NEW DRIVEWAY TO SCOTTSDALE RD.**~~
 5. ~~That right of way shall be dedicated to the city along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261 as approved by the Public Transit Department. **DELETE. RATIONALE: SCOTTSDALE RD. IS FULLY IMPROVED WITH NO NEED FOR A BUS IN THE AREA.**~~
 6. That the property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance certificate of occupancy for the residential office use on Lot 5. In the event the abandonment is not granted a one-foot (1') vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5 as approved by the Development Services
-

Department. **NO CHANGE: RATIONALE: THE ABANDONMENT WAS FILED FOR AND REJECTED. THE PROPERTY OWNER HAS DEDICATED THE EASEMENT ALONG THE SOUTH PROPERTY LINE AND IS WILLING TO COMPLY WITH STIPULATION 9.**

7. That building height shall be limited to one story and 13 feet with the exception of Lot 5 to be limited to one (1) story and ~~14~~ **15** feet. **LIMIT LOT 5 TO 15'. RATIONALE: ONE STORY IS GENERALLY CONSIDER 15 AND THE STRUCTURE AS PERMITTED IS BETWEEN 14'-15'.**

8. That the rear building (west side) shall be limited to the following existing setbacks: 1 - 77 feet; Lot 2 — 78 feet; Lot 3-97 feet; Lot 4-103, feet, and Lot 5-~~111~~ **10-25** feet as measured from the centerline of the existing 16-foot alley. **CHANGE LOT 5 TO ACTUAL BUILDING FOOTPRINT AS SHOWN ON ATTACHED SITE PLAN DATED 02/23/2024. RATIONALE: SAME AS STIPULATION RATIONAL FOR STIPULATION 1.**

9. That a (1') vehicular non-access easement (VNAE) along the entire west property line shall recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department. **NO CHANGE**

~~10. That the developer construct sidewalk, curb ramps, and other incidentals as per plans approved by time Development Services Department. All improvements shall comply with all ADA accessibility standards. DELETE. RATIONALE: CITY OF PHOENIX AND CITY OF SCOTTSDALE DIDN'T SEE T HE NECESSARY TO PROVIDE THESE IMPROVMENTS WHEN THE STREET WAS FULLY IMPROVED.~~

~~11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 33-foot radius of the discovery, notify city archaeologist and allow time for the archaeology office to properly assess the materials. DELETE. RATIONALE: NO LOT DISTURBENCE IS ANTICIPATED.~~

12. That each individual property owner shall obtain final site plan approval within 24 months of council action. **REFLECT THE FINAL ACTION OF THIS PHO REQUEST BY CITY COUNCIL WITH A NEW DATE. RATIONALE: EXTENDING THE COMPLIANCE DATE IS THE ONLY WAY FOR LOTS 2,4 AND 5 CAN COMPLY. WITH STPULATIONS.**

~~13. That an eight-foot wall shall be constructed along the rear property line with corresponding phase as approved by the Development Services Department. DELETE. RATIONALE: THE EXISTING WALLS ON THE LOTS ARE IN TACK AND RANGE FROM 5'10"TO 6' 8" AND THEY HAVE EXISTED THIS WAY~~

FOR 17 YEARS IN REASONABLY GOOD CONDITION. ALSO, LOTS 1 AND 3 ARE APPROVED WITHOUT THE WALLS BEING RAISED.

14, That the Street Transportation shall study cut-through traffic before and] after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation. not to exceed 12 percent. NO CHANGE

15. That notice shall be provided to all property owners within the 85254 zip code who submitted speaker cards at the City Council hearing changes to the site plan through either the Development Services Department site plan review process or the Planning Hearing Officer hearing process. NO CHANGE

ORDINANCE G-5383

AN ORDINANCE AMENDING THE CODE OF THE CITY OF PHOENIX, ARIZONA, PART II, CHAPTER 41, THE ZONING ORDINANCE OF THE CITY OF PHOENIX, BY AMENDING SECTION 601, THE ZONING MAP OF THE CITY OF PHOENIX, CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL DESCRIBED HEREIN (CASE Z-37-07-2) FROM RE-24 (ONE-FAMILY RESIDENCE) TO R-O (RESIDENTIAL OFFICE).

WHEREAS, on March 28, 2007, the City of Phoenix Planning Department received, in compliance with the requirements of the City of Phoenix Zoning Ordinance, Section 506, a written request for rezoning from Jason Morris of Withey Morris PLC, having authorization to represent the owners AFT, LLC, Judy Bund, Lyle and Linda Gail, Thomas Moebius; James and Deborah Mannari of an approximately 3.68 acre property located at the southwest corner of Scottsdale Road and Sweetwater Avenue in a portion of Section 15, Township 3 North, Range 4 East, as described more specifically in Attachment "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, pursuant to A.R.S. § 9-462.04, the Planning Commission, held a public hearing on April 7, 2009, and at this hearing recommended that the City Council approve this rezoning request with the recommended staff conditions, as modified; and,

WHEREAS, the City Council, at their regularly scheduled meeting held on July 1, 2009, has determined that, in accordance with A.R.S. § 9-462.01.F, this rezoning request, with the appropriate site specific requirements provided in Section 2, is consistent with and conforms to the General Plan, will conserve and promote the public health, safety and general welfare, and should be approved, subject to the conditions herein.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as follows:

SECTION 1: The zoning of an approximately 3.68 acre property located at the southwest corner of Scottsdale Road and Sweetwater Avenue in a portion of Section 15, Township 3 North, Range 4 East, as described more specifically in Attachment "A", is hereby changed from "RE-24" (One-Family Residence) to "R-O" (Residential Office) and that the Planning Director is instructed to modify The Zoning Map of the City of Phoenix to reflect this use district classification change as shown in Attachment "B".

SECTION 2: The specific nature of the subject property and of the rezoning request is more particularly described in case file Z-37-07-2, on file with the Planning Department. Due to the site's specific physical conditions and the use district applied for by the applicant, this rezoning is subject to the following stipulations, violation of which shall be treated in the same manner as a violation of the City of Phoenix Zoning Ordinance:

Mod

1. That development shall be in general conformance to the site plan date stamped February 9, 2009, with specific regard to the existing building footprints, maintenance of the existing west property line walls and the

addition of enclosed/covered trash containers as approved by the Development Services Department.

2. That a minimum 10-foot wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.
3. That a minimum six-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.

Del

4. That cross access and parking agreements for Lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.

Del

5. That right-of-way shall be dedicated to the city along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to city of Phoenix Detail P1261 as approved by the Public Transit Department.
6. That the property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of a certificate of occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a one-foot (1') vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5 as approved by the Development Services Department.

Mod

7. That building height shall be limited to one (1) story and 13 feet with the exception of Lot 5 to be limited to one (1) story and 14 feet.

Mod

8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 – 77 feet; Lot 2 – 78 feet; Lot 3 – 97 feet; Lot 4 – 103 feet, and Lot 5 – 111 feet as measured from the centerline of the existing 16-foot alley.
9. That a one-foot (1') vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.

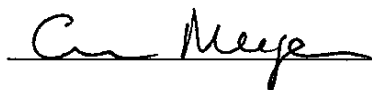
- Del 10. That the developer shall construct sidewalk, curb ramps, and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all ADA accessibility standards.
- Del 11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 33-foot radius of the discovery, notify the city archaeologist, and allow time for the archaeology office to properly assess the materials.
- Mod 12. That each individual property owner shall obtain final site plan approval within 24 months of council action.
- Del 13. That an eight-foot wall shall be constructed along the rear property line with the corresponding phase as approved by the Development Services Department.
14. That the Street Transportation Department shall study cut-through traffic before and after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation, not to exceed 12 percent.
15. That notice shall be provided to all property owners within the 85254 zip code who submitted speaker cards at the City Council hearing of changes to the site plan through either the Development Services Department site plan review process or the Planning Hearing Officer hearing process.

SECTION 3: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED by the Council of the City of Phoenix this 1st day of July, 2009.


MAYOR

ATTEST:



ACTING
City Clerk



APPROVED AS TO FORM:

William Beck Acting City Attorney MLW

REVIEWED BY:
Frank Rouben City Manager

MLW:tml:811262v1: (CM89)(Item 1) 7/1/09

Attachments:

- A - Legal Description (1 Page)
- B - Ordinance Location Map (1 Page)

ATTACHMENT A

LEGAL DESCRIPTION FOR Z-37-07-2

Being a portion of the Southeast quarter of Section 15, Township 3 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County Arizona, being more particularly described as follows:

Lots One (1) through Five (5), inclusive, of FOOTHILLS RANCHOS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 133 of Maps, page 27, also described as:

Beginning at the Northwest corner of said Lot 1;

THENCE South 89 degrees 37 minutes 38 seconds East, along the North line of said Lot 1 a distance of 140.00 feet to a point marking the beginning of a tangent curve to the right having a radius of 19.96 feet;

THENCE along the arc of said curve through a central angle of 90 degrees 07 minutes 00 seconds an arc distance of 31.39 feet to the East line of Lot 1;

THENCE South 00 degrees 29 minutes 22 seconds West, along the East line of said Lots 1 through 5 a distance of 710.33 feet to the Southeast corner of said Lot 5;

THENCE North 89 degrees 28 minutes 56 seconds West, along said South line 195.00 feet;

THENCE North 41 degrees 04 minutes 37 seconds West 19.92 feet to the Westerly line of said Lot 5;

THENCE North 07 degrees 19 minutes 42 seconds East, along the Westerly line of said Lots 5, 4 and 3 a distance of 404.89 feet to the Southwest corner of said Lot 2;

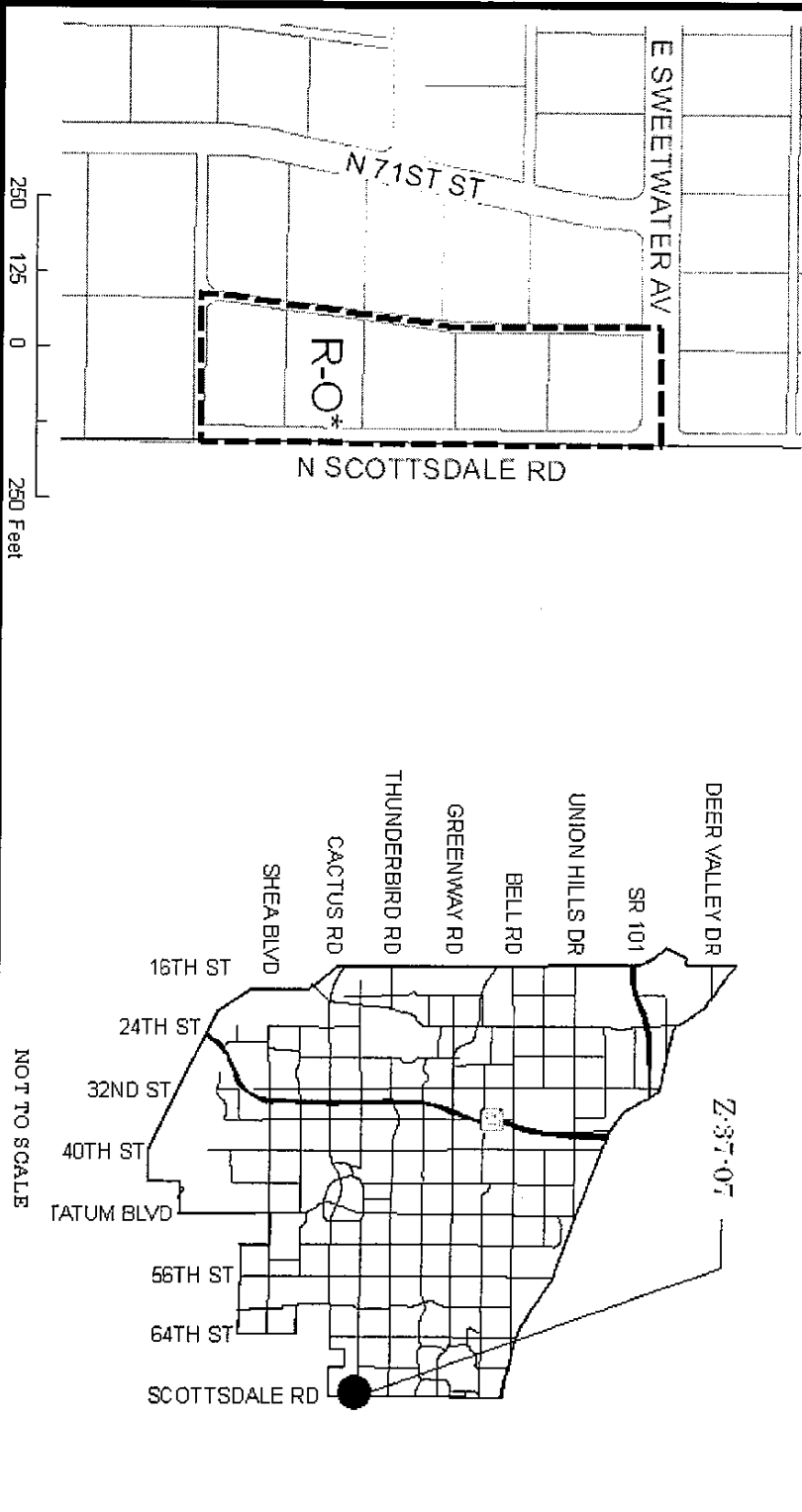
THENCE North 00 degrees 29 minutes 22 seconds East, along the West line of said Lots 2 and 1 a distance of 312.99 feet to the Point of Beginning.

ORDINANCE LOCATION MAP

ATTACHMENT B

ZONING SUBJECT TO STIPULATIONS: *
 SUBJECT AREA: ■■■■■■■■

Zoning Case Number: Z-37-07-2
 Zoning Overlay: N/A
 Planning Village: PARADISE VALLEY

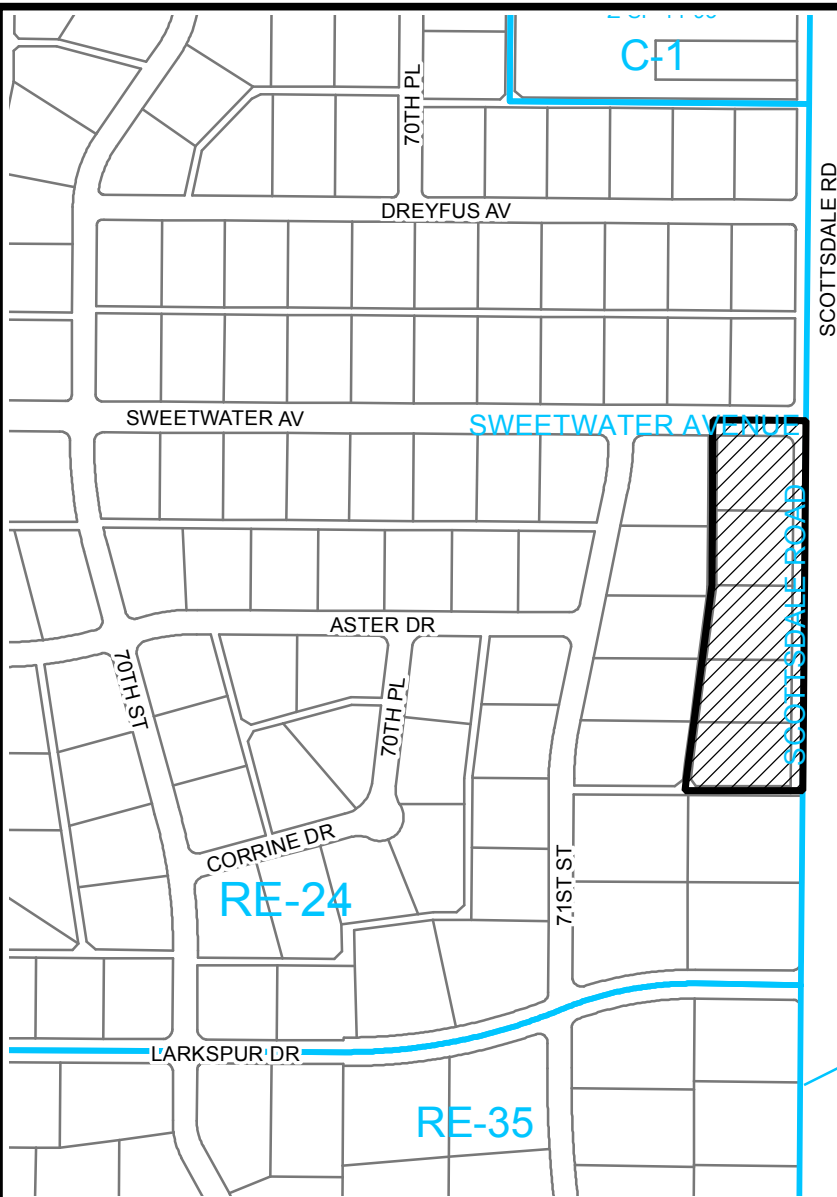


City of Phoenix
 PLANNING DEPARTMENT

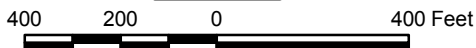


Drawn Date: 04/06/09

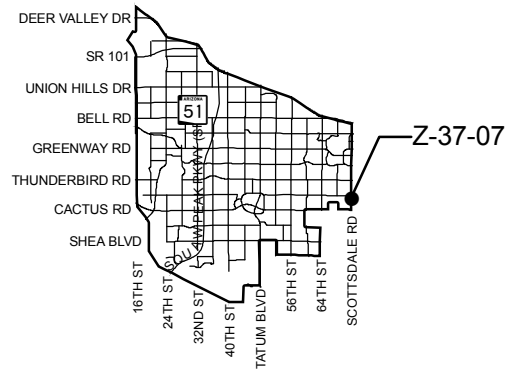
Map Document: N:\PDF_Maps\Ordinance_Maps\2009



Phoenix City Limits

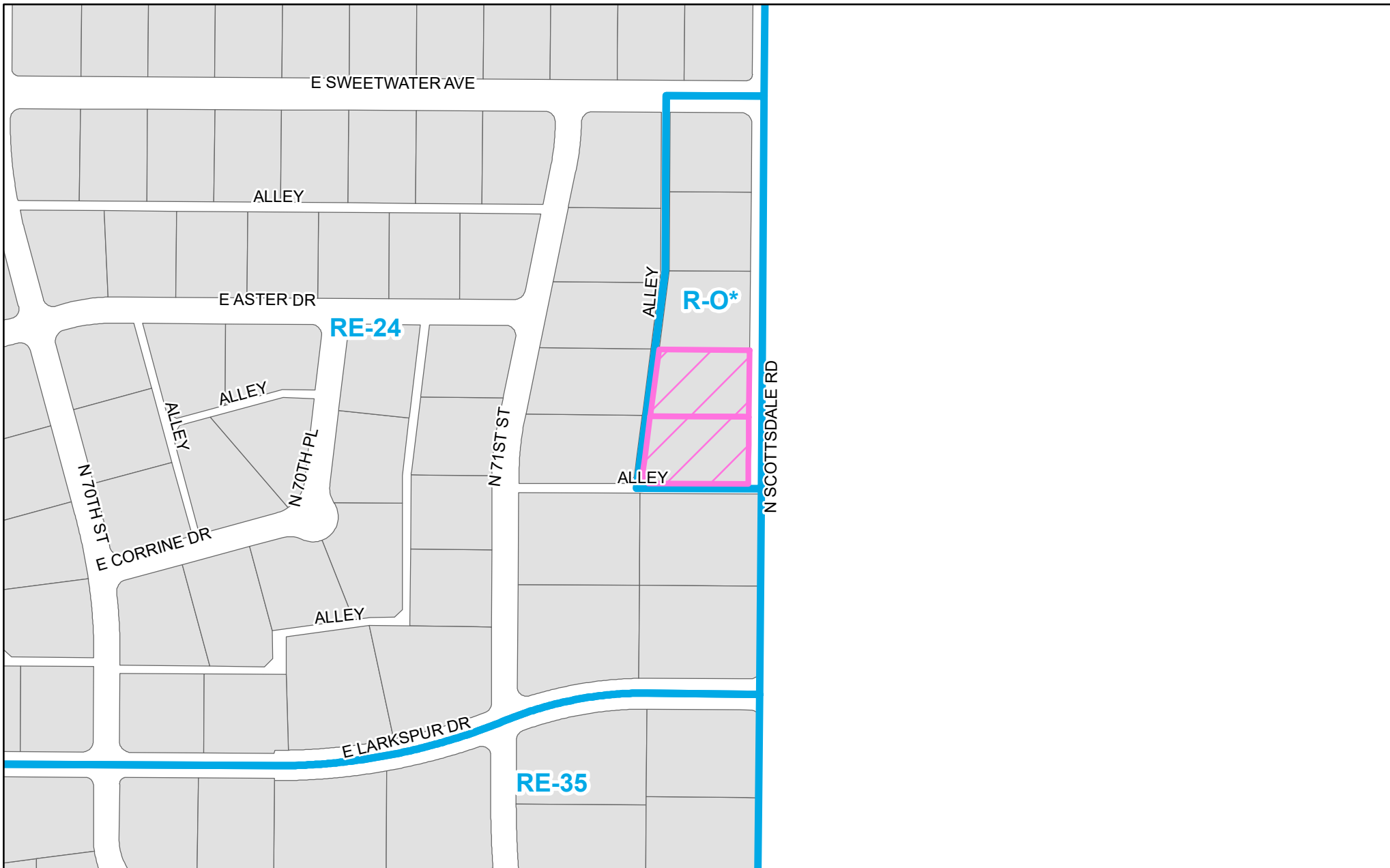


CITY OF PHOENIX PLANNING DEPARTMENT
PARADISE VALLEY VILLAGE
 CITY COUNCIL DISTRICT: 2



APPLICANT'S NAME: KEVIN KIRKWOOD		REQUESTED CHANGE: FROM: RE-24, (3.68 ac) TO: R-O, (3.68 ac)										
APPLICATION NO. Z-37-07	DATE: 04-03-2007 <small>REVISION DATES:</small>											
<small>GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX.</small> 3.68 Acres	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><small>AERIAL PHOTO & QUARTER SEC. NO.</small> Q31-44</td> <td style="padding: 2px;"><small>ZONING MAP</small> K12</td> </tr> </table>			<small>AERIAL PHOTO & QUARTER SEC. NO.</small> Q31-44	<small>ZONING MAP</small> K12							
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MULTIPLES PERMITTED												
RE-24												
R-O												
CONVENTIONAL OPTION												
5												
N/A												
* UNITS P.R.D. OPTION												
N/A												
N/A												

* Maximum Units Allowed with P.R.D. Bonus



PHO-1-24--Z-37-07-2

Property Location: Approximately 480 feet south of the southwest corner of Scottsdale Road and Sweetwater Avenue



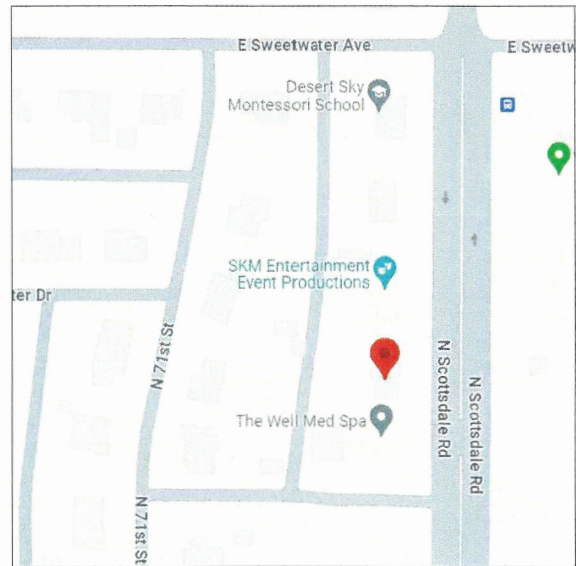


mapservices@phoenix.gov

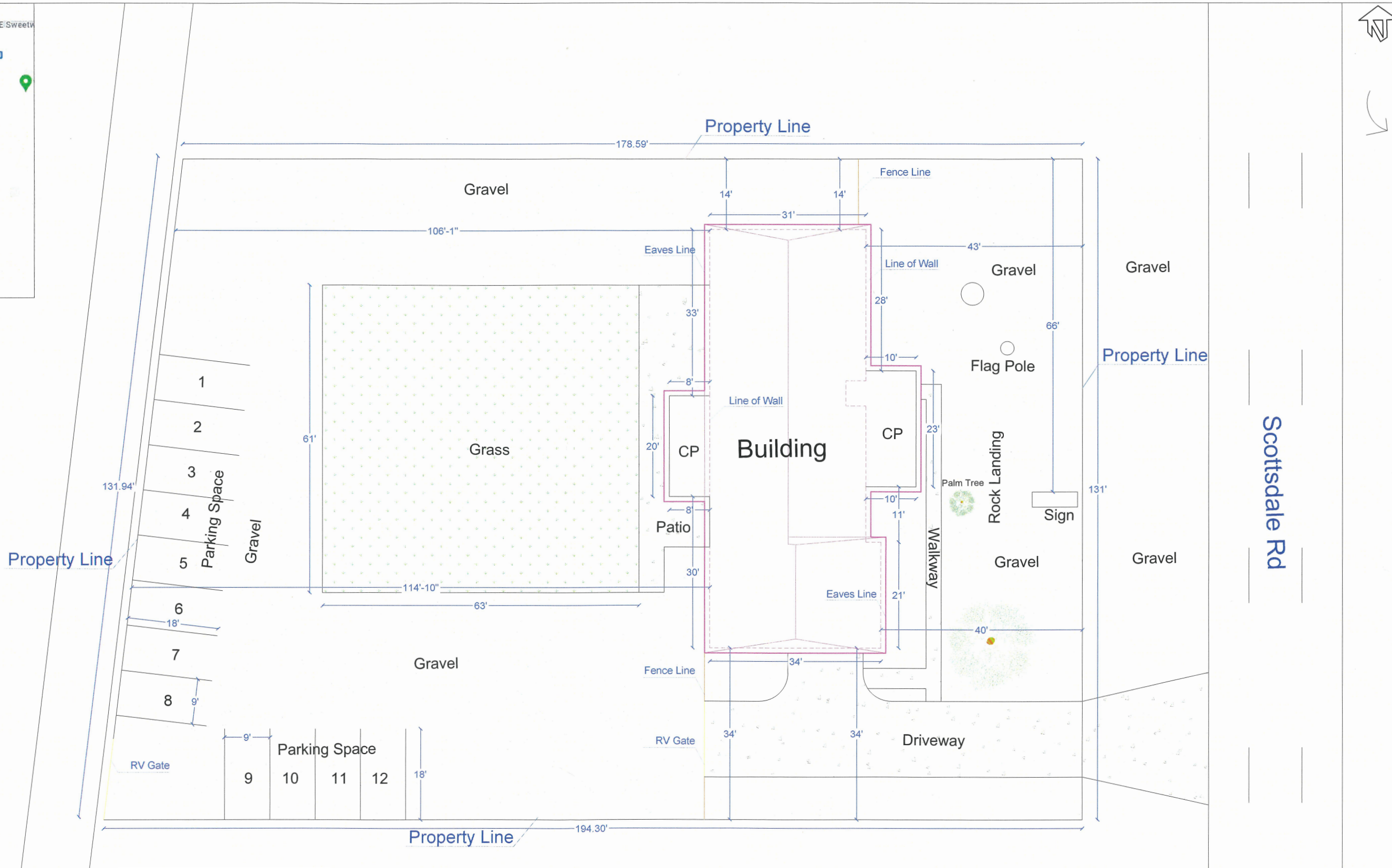
PHO-1-24--Z-37-07-2

Property Location: Approximately 480 feet south of the southwest corner of Scottsdale Road and Sweetwater Avenue





Vicinity Map



CITY OF PHOENIX

FEB 23 2024

**Planning & Development
Department**

ADDRESS: 12814 N Scottsdale Rd, Scottsdale, AZ 85254, USA

Scale: 1"=20'



Gravel is 3/8 inch Mojave Gold Landscape Rock

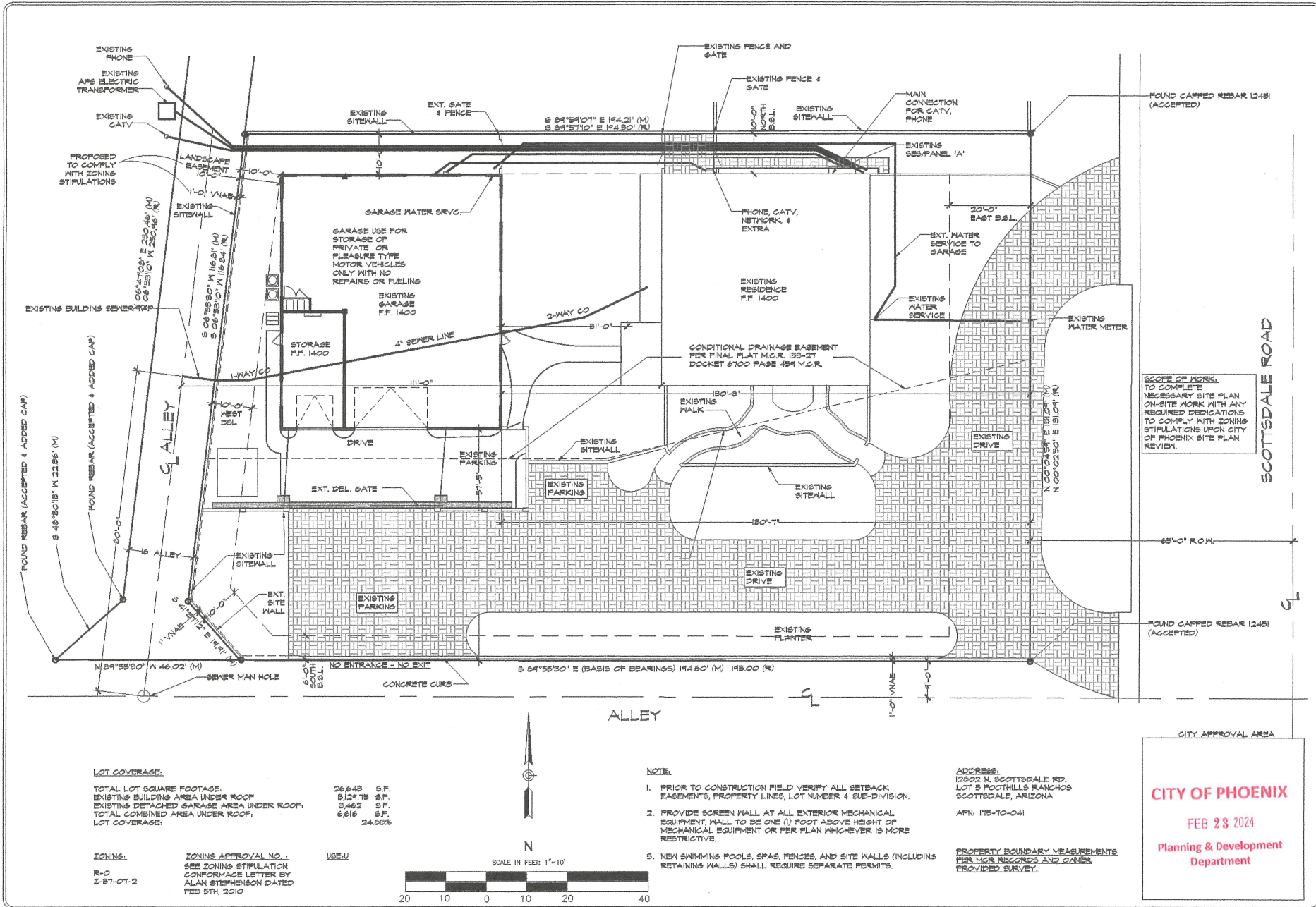
PIN:175-70-040

Owner:BUND STEVEN R

Land: 0.56 AC

Building: 2196 SF

THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE
This work product represents only generalized locations of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, object or boundary.

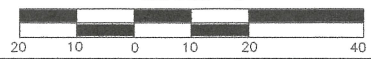


LOT COVERAGE:
 TOTAL LOT SQUARE FOOTAGE: 26,648 S.F.
 EXISTING BUILDING AREA UNDER ROOF: 8,247.75 S.F.
 EXISTING DETACHED GARAGE AREA UNDER ROOF: 3,462 S.F.
 TOTAL COMBINED AREA UNDER ROOF: 6,916 S.F.
 LOT COVERAGE: 24.85%

ZONING: R-O
 Z-81-07-2

ZONING APPROVAL NO.:
 SEE ZONING STIPULATION CONFORMANCE LETTER BY ALAN STEPHENSON DATED FEB 5TH, 2010

USE/



- NOTE:**
1. PRIOR TO CONSTRUCTION FIELD VERIFY ALL SETBACK EASEMENTS, PROPERTY LINES, LOT NUMBER & SUB-DIVISION.
 2. PROVIDE SCREEN WALL AT ALL EXTERIOR MECHANICAL EQUIPMENT WALL TO BE ONE (1) FOOT ABOVE HEIGHT OF MECHANICAL EQUIPMENT OR PER PLAN WHICHEVER IS MORE RESTRICTIVE.
 3. NEW SWIMMING POOLS, SPAS, FENCES, AND SITE WALLS (INCLUDING RETAINING WALLS) SHALL REQUIRE SEPARATE PERMITS.

ADDRESS:
 12802 N. SCOTTSDALE RD.
 LOT 5 FOOTHILLS RANCHOS
 SCOTTSDALE, ARIZONA

APN: 175-10-041

PROPERTY BOUNDARY MEASUREMENTS PER MGR RECORDS AND OWNER PROVIDED SURVEY.

CITY OF PHOENIX
 FEB 23 2024
 Planning & Development
 Department

SCOPE OF WORK:
 TO COMPLETE NECESSARY SITE PLAN ON-SITE WORK WITH ANY REQUIRED DEDICATIONS TO COMPLY WITH ZONING STIPULATIONS UPON CITY OF PHOENIX SITE PLAN REVIEW.

OWNER
 BELDAR PROPERTIES ARIZONA, LLC
 C/O STEVE OR LINDA COHN
 6840 EAST WILSON RD.
 SUITE 200
 SCOTTSDALE, AZ 85215

REVISIONS

1	-
2	-
3	-
4	-

KEI
 PLANNING & DESIGN
 MATCH ENTERPRISES, INC.
 P.O. BOX 00839
 GLENDALE, AZ 85306
 (602) 864-7093
 www.keiplanning.com

SITE PLAN

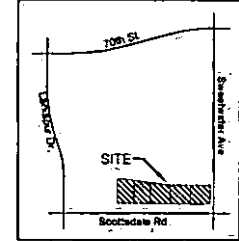
PROJECT ADDRESS
 FOOTHILLS RANCHOS
 LOT 5
 12802 N. SCOTTSDALE
 RD.
 SCOTTSDALE, AZ 85215

SHEET No.
A1.0

Scottsdale Road & Sweetwater Avenue

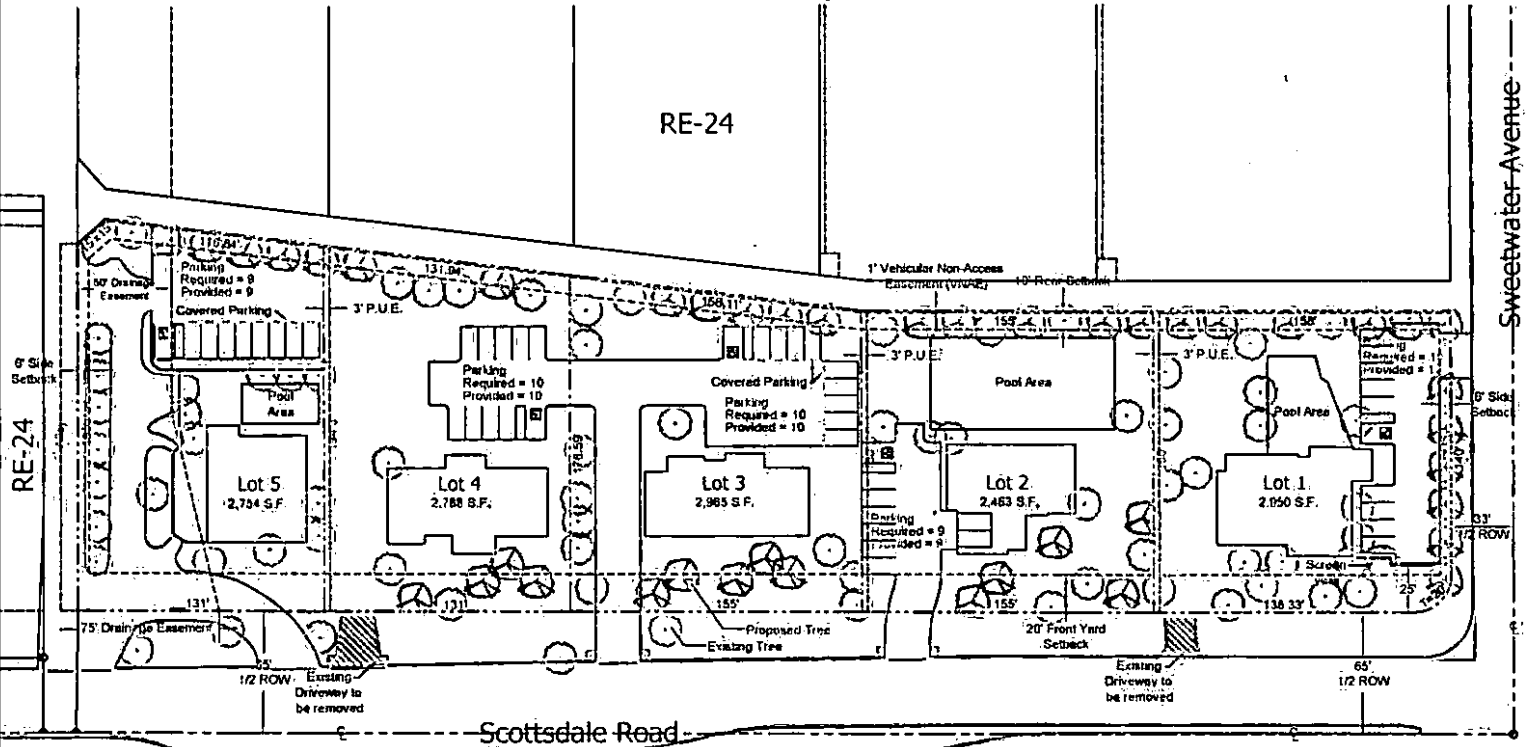
Preliminary Site Plan Lots 1-5 of Foothills Ranchos Subdivision

Vicinity Map



SCALE: 1"=30'
NORTH

PHOENIX, ARIZONA
LVA
125 South 44th Avenue, Suite 10201 Phoenix, AZ 85018



PROJECT DATA:
 Project Site Area: 7,887 sq. ft.
 Zoning District: RE-24
 Projected Density: R-10
 Regulatory Code: Residential Code

LOT DATA:

Lot 1 - Parcel # 175-70-021
 Zoning District: RE-24, 13 R, 1 Story
 Parcel Area: 2,190 sq. ft.
 Parcel Permitted: 180 R + 152 R = 25,038 sq. ft.
 Pool Area: 2,190 sq. ft.
 P.A.R.: 2,190 / 25,038 = 0.09
 Maximum Permitted: 12,300 sq. ft. = 10 spaces
 Maximum Permitted: 10 spaces
 ADA Parking: 1 space required/provided

Lot 2 - Parcel # 175-70-020
 Zoning District: RE-24, 13 R, 1 Story
 Parcel Area: 2,463 sq. ft.
 Parcel Permitted: 160 R + 133 R = 28,672 sq. ft.
 Pool Area: 2,463 sq. ft.
 P.A.R.: 2,463 / 28,672 = 0.09
 Maximum Permitted: 11,300 sq. ft. = 8 spaces
 Maximum Permitted: 8 spaces
 ADA Parking: 1 space required/provided

Lot 3 - Parcel # 175-70-028
 Zoning District: RE-24, 13 R, 1 Story
 Parcel Area: 2,963 sq. ft.
 Parcel Permitted: 165 R + 133 R = 28,161 sq. ft.
 Pool Area: 2,963 sq. ft.
 P.A.R.: 2,963 / 28,161 = 0.11
 Maximum Permitted: 11,300 sq. ft. = 10 spaces
 Maximum Permitted: 10 spaces
 ADA Parking: 1 space required/provided

Lot 4 - Parcel # 175-70-040
 Zoning District: RE-24, 13 R, 1 Story
 Parcel Area: 2,768 sq. ft.
 Parcel Permitted: 160 R + 131 R = 28,230 sq. ft.
 Pool Area: 2,768 sq. ft.
 P.A.R.: 2,768 / 28,230 = 0.10
 Maximum Permitted: 11,300 sq. ft. = 10 spaces
 Maximum Permitted: 10 spaces
 ADA Parking: 1 space required/provided

Lot 5 - Parcel # 175-70-041
 Zoning District: RE-24, 13 R, 1 Story
 Parcel Area: 2,754 sq. ft.
 Parcel Permitted: 160 R + 131 R = 28,043 sq. ft.
 Pool Area: 2,754 sq. ft.
 P.A.R.: 2,754 / 28,043 = 0.10
 Maximum Permitted: 11,300 sq. ft. = 10 spaces
 Maximum Permitted: 8 spaces
 ADA Parking: 1 space required/provided

Scottsdale Road & Sweetwater Avenue
 Preliminary Site Plan
 Phoenix, Arizona

CITY OF PHOENIX

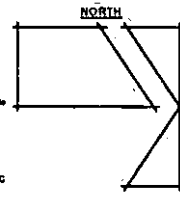
FEB 09 2009

Planning Department

PROJECT DATA SUMMARY:
 Project Site Area: 7,887 sq. ft.
 Project Site Area: 7,887 sq. ft.
 P.A.R.: 13,920 / 121,040 = 0.11
 Parking Provided: 48 spaces
 Parking Permitted: 48 spaces
 ADA Parking Required: 8 spaces
 ADA Parking Provided: 8 spaces

PROJECT TEAM:
 Owner Representative:
 Lee Oak
 17825 N. Scottsdale Rd.
 Scottsdale, AZ 85254
 Phone: (480) 948-0200
 Fax: (480) 948-1571
 Applicant:
 Jason Wilby
 Wilby Mays P.L.C.
 2525 E. Avenue of the Stars Circle
 Suite 4212
 Phoenix, AZ 85018
 Phone: (602) 230-0800
 Fax: (602) 219-1781
 Land Planner:
 Mary Weston
 LVA Urban Design Studio, LLC
 120 South 44th Avenue
 Tempe, AZ 85281
 Phone: (480) 948-0200
 Fax: (480) 948-2332

LANDSCAPE LEGEND:



DATE: 02/09/09
 LVA # 07-1580 Zoning Case: F-331-213

June 3, 2009

The Phoenix City Council convened in recessed session on Wednesday, June 3, 2009, at 5:00 p.m. in the Council Chambers.

Due to Mayor Gordon's absence, Vice Mayor Simplot assumed the Chair.

ROLL CALL

Present: Council Members Maria Baier, Sal DiCiccio, Peggy Neely, Michael Nowakowski, Thelda Williams, and Vice Mayor Tom Simplot
Absent: Council Members Michael Johnson and Claude Mattox, and Mayor Phil Gordon
Also Present: City Manager Frank Fairbanks, Acting City Attorney Margaret Wilson, Acting City Clerk Gary Minton, and Planning Director Debra Stark

The minutes of this meeting were submitted to Mr. DiCiccio for review.

With the guidance of Planning Director Debra Stark regarding the appropriate actions, the Council heard agenda items in the following order: 7, 9, 1, 2, 3, 4, 5, 6, and 8.

ITEM 7 **DISTRICT 2** **ORDINANCE G-5383 -
Z-37-07-2 -
SCOTTSDALE ROAD AND
SWEETWATER AVENUE -
3/4 VOTE REQUIRED**

The Council heard request to hold a public hearing and approve the rezoning for the following item by adopting the Planning Commission's recommendation and the related ordinance.

Application: Z-37-07-2 – (Appealed by Opposition)
From: RE-24
To: R-O
Acreage: 3.68
Location: Southwest corner of Scottsdale Road and Sweetwater Avenue

June 3, 2009

Proposal: Residential office
3/4 Vote Required: Yes
Applicant: Jason Morris – Withey Morris, PLC
Owner: Judy Bund; AFT, LLC; Lyle and Linda Gail; Thomas Moebius; and James and Deborah Mannari
Representative: Jason Morris – Withey Morris, PLC
Staff: Approved, subject to stipulations per Addendum B, with modifications to Stipulation 10.
VPC Action: Paradise Valley – March 2, 2009 – Approved, subject to stipulations per Addendum B, with modifications to Stipulation 10. Vote 10-2.
PC Action: April 7, 2009 – Approved, subject to stipulations per Addendum B, with modifications to stipulation 10. Vote 6-0

The following stipulations were subject to discussion at the meeting and the City Council could add, delete, or amend stipulations.

Stipulations

1. That development shall be in general conformance to the site plan date stamped February 9, 2009, with specific regard to the existing building footprints, maintenance of the existing west property line walls, and the addition of enclosed/covered trash containers, as approved by the Development Services Department.
2. That a minimum 10-foot-wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
3. That a minimum 6-foot-wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
4. That cross access and parking agreements for Lots 3 AND 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.

June 3, 2009

5. That right-of-way shall be dedicated to the City along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261, as approved by the Public Transit Department.
6. That the property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of a Certificate of Occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a 1-foot vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5, as approved by the Development Services Department.
7. That building height shall be limited to 1 story and 13 feet, with the exception of Lot 5 to be limited to 1 story and 14 feet.
8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 – 77 feet; Lot 2 – 78 feet; Lot 3 – 97 feet; Lot 4 – 103 feet; and Lot 5 – 111 feet, as measured from the centerline of the existing 16-foot alley.
9. That a 1-foot vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
10. That the developer shall construct ~~improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping~~ and other incidentals, as per plans approved by the Development Services Department. All improvements shall comply with all Americans with Disabilities Act accessibility standards.
11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the archaeology office to properly assess the materials.

Planning Director Debra Stark advised it was requested this item be continued to the recessed meeting on July 1, 2009. In reply to Ms. Neely, she also confirmed this case required a 3/4 vote, and because there were only six Council members present, this matter could not be heard at this meeting.

June 3, 2009

MOTION was made by Ms. Neely, **SECONDED** by Ms. Baier, that Item 7 be continued to the recessed meeting on July 1, 2009, noting the special start time of 4:00 p.m.

Acting Mayor Simplot noted speaker comment cards were submitted for Item 7. Ms. Neely requested those individuals' names be entered into the record so they would not have to return on July 1. It was also noted the individuals, as listed below, waived their opportunity to speak regarding the continuance:

Opposed, did not wish to speak

- Charles Cimaglia
- Tricia Feagles
- John and Maureen Foley
- Amy and Bruce Foster

Representing the Neighborhood Coalition of Greater Phoenix, Mr. Paul Barnes stated he had been working closely with the neighbors on this project, and he supported the continuance. The neighborhood had worked very hard with the applicant, and there were issues they wanted the applicant to review further. The applicant graciously agreed to do so. In addition, the neighborhood had submitted quite a bit of material and perhaps the continuance would provide the Council members additional time to review and reflect on that material.

MOTION CARRIED UNANIMOUSLY.

July 1, 2009

Item 1 held its place on the agenda and was heard next.

ITEM 1

DISTRICT 2

ORDINANCE G-5383 -

Z-37-07-2 -

**SCOTTSDALE ROAD AND
SWEETWATER AVENUE -**

3/4 VOTE REQUIRED

Continued from June 3, 2009 – The Council heard request to hold a public hearing and approve the rezoning for the following item by adopting the Planning Commission's recommendation and the related ordinance.

July 1, 2009

Application: Z-37-07-2 – (Appealed by Opposition)
From: RE-24
To: R-O
Acreage: 3.68
Location: Southwest corner of Scottsdale Road and Sweetwater Avenue
Proposal: Residential Office
3/4 Vote Yes
Required:
Applicant: Jason Morris - Withey Morris, PLC
Owner: Judy Bund; AFT, LLC; Lyle and Linda Gail; Thomas Moebius; and James and Deborah Mannari
Representative: Jason Morris - Withey Morris, PLC
Staff: Approved, subject to stipulations per Addendum B, with modifications to Stipulation 10.
VPC Action: Paradise Valley - March 2, 2009 - Approved, subject to stipulations per Addendum B, with modifications to Stipulation 10. Vote: 10-2.
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The following stipulations were subject to discussion at the meeting and the City Council may add, delete, or amend stipulations:

Stipulations

1. That development shall be in general conformance to the site plan date stamped February 9, 2009, with specific regard to the existing building footprints, maintenance of the existing west property line walls, and the addition of enclosed/covered trash containers, as approved by the Development Services Department.
2. That a minimum 10-foot-wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.

July 1, 2009

3. That a minimum 6-foot-wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
4. That cross access and parking agreements for Lots 3 AND 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the City along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261, as approved by the Public Transit Department.
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July 1, 2009

11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the archaeology office to properly assess the materials.

Ms. Stark advised Item 1 was a request to rezone 3.6 acres of land located at the southwest corner of Sweetwater Avenue and Scottsdale Road from RE-24 to RO. The applicant wished to develop the properties with offices. The Paradise Valley Village Planning Committee recommended approval, subject to stipulations by a 10-2 vote and the Planning Commission unanimously recommended approval with stipulations. She noted a 3/4 vote was required on this case.

Mayor Gordon said he had Speaker Comment Cards in opposition and in favor. For the record, he noted the following submitted cards in opposition:

In opposition – To speak only if necessary

Bud Karakey, Scottsdale, Arizona 85254
Andrew R. Mueller, Scottsdale, Arizona 85251
Joseph F. Lizotte, Waddle, Arizona 85355

In opposition – Not to speak

Craig M. Anderson, Scottsdale, Arizona 85254
Paul Barnes, Phoenix, Arizona 85018
Anita Burton, Phoenix, Arizona 85023
Apolina Burton, Phoenix, Arizona 85023
Brian C. Burton, Phoenix, Arizona 85023
Charles B. Burton, Phoenix, Arizona 85023
Maureen S. Foley, Scottsdale, Arizona 85254
John O. Foley, Scottsdale, Arizona 85254
Amy Foster, Scottsdale, Arizona 85254
Anthony Foster, Phoenix, Arizona 85029
Brian Foster, Phoenix, Arizona 85029
Bruce Foster, Scottsdale, Arizona 85254
Daniel G. Foster, Phoenix, Arizona 85029
Gary Shaun Foster, Mesa, Arizona 85202
Joshua Foster, Scottsdale, Arizona 85254
Nicholas Foster, Phoenix, Arizona 85029
Terry L. Foster, Phoenix, Arizona 85029
Travis Foster, Scottsdale, Arizona 85254
Raegan Gall, Scottsdale, Arizona 85254
Diane Huffmaster, Scottsdale, Arizona 85254
Pat Humphrey, Scottsdale, Arizona 85254

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In opposition – Not to speak

Dottie Martin, Scottsdale, Arizona 85254
Lisa Nissenbaum, Scottsdale, Arizona 852554
Laurie Smith, Scottsdale, Arizona 85254
Susan Snedoen, Scottsdale, Arizona 85254
Jean Taylor, Scottsdale, Arizona 85257
Margaret Schmidt, Scottsdale, Arizona 85257
Alberto Vasquez, Phoenix, Arizona 85051
Amber L. Wheeler, Scottsdale, Arizona 85254

Mr. Jason Morris, Withey Morris, PLC, represented the applicant. He explained this case had previously been before the Council. It was sent back to the Village for further consideration and since that time had seen a revision in its posture. The case was now recommended for approval by staff, the Village Planning Committee, and the Planning Commission.

This site was unique with five homes requesting transition to an RO Zoning District along Scottsdale Road. The homes were across from the Lavine Jewish Community Center, a multiuse facility. In addition, Mr. Morris noted, they were separated by three lots from existing commercial property.

Mr. Morris explained the five homes were outlying parcels of a 40-year old subdivision west of Scottsdale Road. The homes had not fared well as single family residences. This was a request to rezone those properties from RE-24 to RO. These were the only front facing single-family residences with access to Scottsdale Road for 25 miles which was the basis for the request.

The vast majority of homes backed up to Scottsdale Road. Occasionally a residence was side facing or had a frontage road separating them from Scottsdale Road. Mr. Morris pointed out the properties requested for rezoning did not have a buffer to separate them from Scottsdale Road. Since those houses had been built, Scottsdale Road developed a different character and growth had increased traffic. There were approximately 60,000 cars per day using this road which was unsuitable for a front yard.

Changes in the site plan contributed to this application going back to the Village Planning Committee. Changes had included the elimination of parking adjacent to the back alley and the elimination of a loop road. RO Zoning was the most restrictive, commercial district zoning and he pointed out that stipulations prohibited any additional development to the primary structures. The homes would remain the same height and additions to the primary structures in the back of the lots would not be allowed. The alley would have a non-vehicle access easement which would prohibit traffic impact to the neighborhood. He explained RO District zoning was appropriate for the conversion of residential structures

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and would provide a buffer for existing residential neighborhoods. There were similar homes along 32nd Street which had been found to be appropriate for RO use.

Mayor Gordon asked the speakers representing those in favor to come forward.

Ms. Condie Rogers, Scottsdale, Arizona, spoke in favor. Her property was located on the northeast corner of Sweetwater and Scottsdale Road and closest to the requested rezoning. She and her husband resided in the area for approximately ten years and felt the applicants had shown due diligence to their property. The concerns expressed by the neighborhood had been met or exceeded. In addition, the applicant had tried to meet the opposition's demands and tried to ensure the look and feel of the neighborhood remained the same. She felt some of those opposed would not be affected by the rezoning as they were not from the neighborhood. She had attended the neighborhood meetings, studied the issues, and enthusiastically supported the applicant.

Ms. Denise Finell, Scottsdale, Arizona, spoke in favor. She lived in the neighborhood for approximately 30 years. Previously, she expressed concern regarding the possible uses for these properties. She did not feel these homes would be become part of a neighborhood and supported the proposed use.

Mr. John Crookham, Scottsdale, Arizona, spoke in opposition. He lived in this neighborhood for 22 years and was actively involved. He stated there was unanimous opposition to this proposal and he did not know of anyone in favor. He felt the speaker comment cards submitted in favor were not from their neighborhood and those who had submitted them had no stake in the outcome.

Ms. Neely expressed her confusion and thought two applicants from the neighborhood had just spoken in support.

Mayor Gordon asked everyone to be respectful and noted after everyone spoke, Ms. Neely would have the floor and Council would make the final decision.

Mr. Crookham explained the first speaker, Ms. Rogers did live on the northeast corner, but she resided in Scottsdale not Phoenix. He was unsure of where the second individual lived.

Mr. Crookham believed the staff report had deficiencies and did not address the issue of accessibility or the funneling of traffic into the neighborhood. He noted the only way to get into the properties was to head southbound on Scottsdale Road. Northbound traffic would be funneled directly through the

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neighborhood. A left hand turn or u-turn could be attempted on Scottsdale Road however, he thought that a dangerous action. The same situation applied to exiting the property. He thought a doctor's office at that location would see 50 to 100 patients a day. Previously, a traffic study had been suggested with regards to the impact five businesses would have on the neighborhood, however, an independent study was not done.

The staff report also mentioned the neighborhood was in need of commercial businesses. Mr. Crookham thought the area already had sufficient commercial office space and had been reported by an outside service to have more office space than any other area of the Valley. In addition, Paradise Valley Mall was nearby and commercial office space in the area was struggling to survive. He described the area as upscale; the homes had large, one-acre lots; and many were in the process of being redeveloped. He felt the area should not be zoned RO and pointed out there were no homes presently on north Scottsdale Road zoned RO. He compared the area to Camelback East which did not have homes zoned RO. A study of the Camelback East area addressed the issue.

Mr. Crookham pointed out there were many busy roads in Phoenix which had residences with families. He felt this was spot zoning in the middle of a neighborhood.

Camelback Road between 32nd and 40th Streets was similar to this area and was heavier trafficked. Mr. Crookham explained there were nine homes which had driveways directly facing onto Camelback Road. An application to rezone those to RO was denied by the City Council; citing protection of the neighborhood. Traffic mitigation devices such as buffer walls and landscaping were used to protect their neighborhood from the impacts of traffic.

Mr. Crookham noted the applicants would gain monetarily due to a commercial business address on Scottsdale Road, but he thought approving the RO zoning would eventually mean less revenue for the City. Property values in the neighborhood would fall, renovations would be reconsidered, and the City would lose building permit fees. A bid for an addition to his house cost approximately \$125,000 in purchased materials however, he would not invest in the property if the zoning was approved.

Mr. Crookham stated the traffic issues should be addressed with respect to accessibility and the funneling of traffic into the neighborhoods. The Zoning Ordinance described RO zoning as a form of transition. He felt this was not a transition; it was a new commercial development in the middle of a residential area which was spot zoning. The General Plan called for this to be residential. Existing commercial and industrial zoning was available all along Scottsdale

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Road and the Paradise Valley Mall area, and there were people residing in homes all along Scottsdale Road.

In conclusion, Mr. Crookham thought the increase in tax revenue was the only pro for this rezoning. The cons were greater and he felt the neighborhood should be protected. Rezoning these properties to RO would set a precedent and he expressed concern the neighborhood would continue to battle additional requests for RO zoning.

The Camelback, Arcadia area study prompted the City Council at one time to say an entire neighborhood would best be preserved by maintaining existing single-family character and density along Camelback Road with mitigation features to reduce the impacts from the road. Mr. Crookham noted that each of the properties along Scottsdale Road would remain impacted due to their location which was adjacent to a major street. He felt the properties could be mitigated to maintain their desirability for residential use. In addition, the applicants knew these were residential properties when they purchased them. He pointed out a precedent had been set previously for properties on major signature streets and he urged Council to deny the RO zoning in his neighborhood.

Mayor Gordon clarified for Mr. Crookham the City only received two percent of sales tax on all items purchased in Phoenix. He hoped everyone present would become involved in the proposed State budget, noting the new budget shifted the burden of property tax from commercial to residential, and the assessed value of commercial property would be less than residential property.

Mr. Morris pointed out some inaccuracies in the previous comments. He stated these homes had half acre-lots designated RE-24, not one-acre lots. The traffic had direct access to Scottsdale Road and he explained there was no reason to drive through the neighborhood. He felt the five homes facing Scottsdale Road had always been an afterthought. Southbound traffic would have direct access and northbound traffic on Scottsdale Road could make a U-turn at the traffic signal at Sweetwater Road.

Mr. Morris clarified that a traffic impact study had been completed which showed the traffic impact would be minimal. The study showed there would be approximately five additional U-turns at Scottsdale and Sweetwater Road during peak traffic hours. This pointed to a minute change in traffic and the study's conclusion was that there was no impact. With regards to the study conducted for Camelback Road, he noted there were differences between the Camelback Road study and the five properties. The five properties were adjacent to non-residential uses across the street and were proximate to major commercial in the area. The properties in the Camelback Road study were 68 percent larger,

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with 100 foot set-backs making them a different scenario with a different solution. The Planning Department staff determined this was not spot zoning and RO zoning was the buffer to strong residential neighborhoods. He explained RO zoning was the transitional space between residential and heavily traveled arterials. This would not lead to additional RO zonings which had been shown by previous RO zonings. He questioned what those in opposition would do with the five homes and whether someone could live next to 60,000 cars per day in their front yard with almost no buffer. He stated the Planning Department, Village Planning Committee, and the Planning Commission had voted in favor and believed this was the best use for the property.

Ms. Neely stated she and her staff had met with the neighborhood and the applicant. Staff had also been asked to meet again with the neighborhood and the applicant to work towards a solution. She requested a recap of what had occurred and explained that staff had also completed a cost analysis.

Principal Planner Michelle Dodds stated she and other members of staff met with the neighbors and the applicant. The neighbors offered some solutions to the applicant for their consideration: 1) build a wall to buffer the noise from Scottsdale Road; and 2) create a street frontage road along the lots adjacent to Scottsdale Road. She explained those two solutions were offered to keep the five lots viable as residential.

Ms. Neely thought she remembered the neighborhood offered to pay for those solutions. Ms. Dodds agreed that was correct.

Ms. Neely stated staff had completed the cost analysis of the neighborhoods' suggestion. Regarding the comments pertaining to a traffic study, she had also requested Ms. Chaun Hill go out to the neighborhood. She questioned what Ms. Hill had found and the costs involved.

Traffic Engineering Supervisor Chaun Hill explained she had spent some time in the field and had attended several meetings as well. She was uncertain whether the neighborhood had offered to fund the frontage road and noted it was an expensive option to stipulate. Low round figures were approximately \$750,000. In realistic figures it was even greater. She went to all of the locations and explained it was valid to say left turns could not be made from any of the homes. She found however, it did not matter whether she went north or south, she did not feel compelled to travel through the neighborhood due to the availability of the traffic signal at Sweetwater Road. It was also possible to travel south and then turn around and go north due to a wide median. She also went back into the neighborhood through the alley. She felt the impact of traffic on the neighborhood could be determined once the businesses were in place.

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Ms. Neely explained there was a Jewish community center across the road from these properties and a great deal of traffic going down Sweetwater Road. One of the first traffic circles in Phoenix was placed there. Ms. Hill confirmed for Ms. Neely there was a traffic device at Sweetwater.

Ms. Neely heard the comments regarding a negative affect on home values. She differed with that opinion and noted she was a realtor. She pointed out there was an alley between the neighborhood and the five homes on Scottsdale Road. In addition, this was residential office, not a commercial property and she thought that made a difference. She had addressed the neighborhood concerns and noted the number of those in opposition almost equaled those in favor.

Ms. Neely wanted to find a way for this to work for everyone. She knew some of the residents expressed concerns they would be fighting this for next six years or longer, and she asked staff to help her draft three new stipulations to protect the neighborhood and the community. She noted for the record there was a vacant lot immediately to the south of the properties and understood the property owners were waiting to list at an RO price. She would not support that and stipulated the following: 1) That each property owner shall obtain a final site plan approval within 24-months of Council's action. Failure to do so on an individual basis would cause the property to revert back to the original residential standing. Ms. Neely clarified each property owner would be responsible for their property or action would be taken to have the property revert to residential; 2) That an eight-foot wall shall be constructed by each one of the properties along the rear of the property corresponding phases as approved by the Development Services Department; and 3) That the Street Transportation Department shall study cut-through before and after all five businesses have been established to determine if the traffic mitigation is warranted.

Ms. Neely questioned if it was possible to have the developer assume responsibility for a percentage of the costs. Ms. Hill confirmed it could be made part of the stipulation.

Ms. Neely recognized the expense of a frontage street in front of the homes. She questioned what percentage could be legally used as they were looking at 3/4 of a million dollars in costs. She thought possibly 12 percent of the costs of improvements could be borne by the property owners and requested legal clarification.

MOTION was made by Ms. Neely, **SECONDED** by Mr. Simplot that Item 1 be granted and the ordinance adopted per the memo from Debra Stark dated June 29, 2009, as modified with additional Stipulations 12, 13, and 14 as follows:

July 1, 2009

Stipulations:

1. That development shall be in general conformance to the site plan date stamped February 9, 2009, with specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers, as approved by the Development Services Department.
2. That a minimum 10-foot wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2- and 3- inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
3. That a minimum 6-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2- and 3- inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
4. That cross access and parking agreements for Lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the City along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261, as approved by the Public Transit Department.
6. That the property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of a Certificate of Occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a one (1) foot vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5, as approved by the Development Services Department.
7. That building height shall be limited to one (1) story and 13 feet with the exception of Lot 5 to be limited to one (1) story and 14 feet.

July 1, 2009

8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 – 77 feet; Lot 2 – 78 feet; Lot 3 – 97 feet; Lot 4 – 103 feet; and Lot 5 – 111 feet, as measured from the centerline of the existing 16-foot alley.
9. That a one (1) foot vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
10. That the developer shall improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all Americans with Disabilities Act (ADA) accessibility standards.
11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 3-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.
12. That each individual property owner shall obtain final site plan approval within 24 months of Council action.
13. That an eight-foot wall shall be constructed along the rear property line with the corresponding phase, as approved by the Development Services Department.
14. That the Street Transportation Department shall study cut-through traffic before and after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation, not to exceed 12 percent.

Mayor Gordon requested clarification with respect to the stipulation on the percentage for the underlying property owners. Ms. Stark noted the percentage was required to be consistent with the rulings passed by the Supreme Court concerning Nolan and Dolan.

Ms. Neely stated her answer then would be that the percentage be a proportionate share. Ms. Stark thought the term should be roughly proportionate.

Ms. Wilson stated the contribution should be roughly proportional to the additional burden caused by the businesses.

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Ms. Neely agreed and also clarified for Mayor Gordon the percentage would not exceed 12 percent.

Ms. Stark stated the City would have to meet the test of Nolan and Dolan in rough proportionality as it related to the land use issue.

Mayor Gordon questioned if future cases would be consistent to this proposal. Ms. Stark stated those cases would also have to directly relate to the land use and to any improvement dealing with the land use.

Ms. Neely addressed the issue of the Special Planning District in Arcadia and thought this went back to some of the new legislation. She explained that because these lots were half acre lots sold as commercial acres in the 1970s there was a lot of character such as no sidewalks. She asked if staff could study the character of the area.

Mayor Gordon questioned the costs involved considering the budget and wondered if Ms. Neely's intent was to wait until the budget would allow the City to conduct a study.

Ms. Neely noted her intent was to wait for a time when staff would be available and the budget would allow for those costs.

Mr. DiCiccio noted his involvement in writing the Specific Plan for the Arcadia area. He thought there were significant differences not only with traffic but also with setbacks. The entire community had been involved in the process which took two and a half years to negotiate. Only two individuals remained in opposition and a satisfactory agreement was eventually reached. He thought this community could do something similar however, he cautioned they would devote a lot of time to it. He explained that in the beginning they had worked every other day and then finally once a month until after two and a half years, an agreement was reached. He highly recommend this neighborhood start the process and pointed out they did not need the government to do this for them.

Ms. Neely questioned whether the percentage language would be based upon the stipulation dealing with the traffic. Ms. Hill stated that had been her understanding.

Ms. Neely thanked everyone for their patience and explained she struggled with this rezoning. She did not favor RO but she believed these houses were impacted. She noted the property owners had 24-months to meet the terms of the stipulations or their properties would revert back to residential.

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Mr. Mattox questioned if there was a left turn arrow at Sweetwater and North Scottsdale Road. In response to Mr. Mattox, Ms. Hill advised she was not certain.

Mr. Mattox thought it was something that needed to be taken into consideration. He also requested clarification of the comment regarding reversion. He questioned if one property was not in compliance, would the reversion target only the one property.

Ms. Neely confirmed that her intent was for individual property owners to apply and the reversion would only concern their property.

Mayor Gordon questioned if the intent was also for a waiver of Proposition 207 regarding the reversion issue. Ms. Wilson understood a Proposition 207 waiver had been provided and it would be included.

Mayor Gordon assumed this would be completed before he signed the ordinance. Ms. Neely agreed each property would be included.

Mayor Gordon understood Scottsdale Road was owned by the City of Scottsdale. He stated most boarder arterials were divided between cities down the centerline. He questioned where the right-of-way would fall considering the City did not control this street.

Ms. Hill agreed the maintenance and operation of Scottsdale Road was controlled by the City of Scottsdale but advised the City controlled portions of the right-of-way.

Mayor Gordon questioned the ownership of the street in front of the five lots.

Ms. Hill stated the City owned sections of the right-of-way in front of the lots but the maintenance and operation was controlled by the City of Scottsdale. The City had access management terms with the City of Scottsdale, due to ownership of the right-of-way on the west side; however the right-of-way was not uniform which could translate into an arduous process.

Mayor Gordon asked staff to research and verify if this was the case. He also requested clarification of the types of uses allowed with RO zoning such as existed along Missouri Avenue. He thought the uses to be something such as a CPA both living and conducting business on the property.

Ms. Wilson agreed the zoning usually meant a low key type of office use which would not generate a lot of traffic.

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In response to Mayor Gordon, Ms. Stark explained the RO zoning took on a residential character which meant it was not as intensive as commercial office. RO zoning included professional, medical, dental, and administrative offices. This zoning would not allow banks, building and loan associations usually found in commercial office (CO). Churches and schools were also allowed, but the character remained that of a residential area.

Mayor Gordon questioned if the RO zoning was conditioned on the structure remaining.

Ms. Stark explained the zoning was not conditioned on the structure staying, however most RO converted the houses into offices.

In a worst case scenario where all five homes had to be torn down, Mayor Gordon questioned what would happen to the two and a half acres under the Zoning Code. He wondered if a five-story structure could be built there.

Ms. Stark stated this case was unique due to the stipulation which addressed general conformance to the site plan and she pointed out it specifically referred to the existing building foot prints and maintenance. This meant the Council would make any determination and a public hearing would be held for any changes.

Mayor Gordon asked if the stipulations included rebuilding of only one property with a two-story or two-and-a-half story building. Ms. Stark stated an additional stipulation addressed height, setbacks, and protection of the neighborhood. Mayor Gordon noted Ms. Neely had been on top of this and Ms. Stark agreed she had been very thorough. Ms. Stark also noted for Mayor Gordon the square footage would also have to be maintained.

Ms. Neely confirmed her intent was to ensure there would not be expansion.

Ms. Stark verified for Mayor Gordon, the structures could not be changed without going through a rezoning.

Mayor Gordon questioned whether there was a limitation on the number of employees allowed under the Zoning Code. In response, Ms. Stark advised there was no limitation on the number of employees, however it was specific to the uses and less intense uses usually had fewer employees.

July 1, 2009

Mayor Gordon questioned the amount of parking allowed under the Zoning Code for single-story houses which were approximately 1,500 to 2,000 square feet on 2 1/2 acres of land. He thought the most parking spaces allowed these properties if zoned RO would be five spaces. Ms. Stark agreed on one-half acre lots there would be five spaces.

Mayor Gordon knew commercial zoning was different concerning the parking but thought for there were parking restrictions for the RO zoning.

Ms. Stark stated this had been stipulated to the site plan however, if the lot was large enough there could be additional parking. Parking was usually confined to lot size and how much parking could be placed on a parcel. She noted for Mayor Gordon this had been stipulated to the site plan which already had the number of parking spaces allowed. The building size meant there would not be an abundance of parking.

Mayor Gordon questioned the maximum amount of parking allowed by the site plan.

Ms. Stark explained there were five lots, however, Lot 3 had the largest amount of parking allowed. She agreed with the audience, the entire back yard of Lot 3 could be used for parking.

Mayor Gordon inquired if the intent of the motion had been to include a stipulation to notify residents when any changes occurred. Ms. Neely agreed any adjacent residents should be notified.

Mayor Gordon asked Mr. Crookham if he was agreeable to adjacent property owners being notified of changes. He explained a stipulation that the community be notified of any change by staff would be added by Ms. Neely.

Mr. Crookham questioned what was meant by nearby neighbors. Ms. Neely clarified this would include those who resided immediately behind the property.

Mayor Gordon questioned how staff addressed this issue. Ms. Stark explained the names and addresses on the speaker comment cards submitted would be used to contact the individuals

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Ms. Neely clarified those who submitted speaker comment cards with a Zip Code of 85254 would be contacted.

AMENDED MOTION was made by Ms. Neely, **SECONDED** by Mr. Simplot that Item 1 be granted and the ordinance adopted per the memo from Debra Stark dated June 29, 2009, with the additional Stipulations 12, 13, 14 as modified, and 15:

Stipulations:

1. That development shall be in general conformance to the site plan date stamped February 9, 2009 with specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers, as approved by the Development Services Department.
2. That a minimum 10-foot wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2- and 3- inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
3. That a minimum 6-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2- and 3- inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
4. That cross access and parking agreements for lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the City along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261, as approved by the Public Transit Department.

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6. That the property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of a Certificate of Occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a one (1) foot vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5, as approved by the Development Services Department.
7. That building height shall be limited to one (1) story and 13 feet with the exception of Lot 5 to be limited to one (1) story and 14 feet.
8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 – 77 feet; Lot 2 – 78 feet; Lot 3 – 97 feet; Lot 4 – 103 feet; and Lot 5 – 111 feet, as measured from the centerline of the existing 16-foot alley.
9. That a one (1) foot vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase, as approved by the Development Services Department.
10. That the developer shall improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all Americans with Disabilities Act (ADA) accessibility standards.
11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 3-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.
12. That each individual property owner shall obtain final site plan approval within 24 months of Council action.
13. That an eight-foot wall shall be constructed along the rear property line with the corresponding phase, as approved by the Development Services Department.
14. That the Street Transportation Department shall study cut-through traffic before and after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation, not to exceed 12 percent.

July 1, 2009

15. That notice shall be provided to all property owners within the 85254 Zip Code who submitted speaker cards at the City Council hearing of changes to the site plan through either the Development Services Department site plan review process or the Planning Hearing Officer hearing process.

Roll Call:	Ayes:	DiCiccio, Gates, Johnson, Mattox, Neely, Nowakowski, Vice Mayor Simplot, and Mayor Gordon
	Nays:	None
	Absent:	Williams

MOTION CARRIED. Ordinance adopted.

May 7, 2008

27 24. That the applicant shall complete and submit the Developer Project Information Form for the Maricopa Association of Governments Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the Environmental Protection Agency to meet clean air quality requirements.

Other

28 22. That all multifamily residential units within 200 feet of the I-10 right-of-way shall be certified and constructed so that interior noise levels shall not exceed 45 decibels, as approved by the Development Services Department.

29 23. That the developer shall conduct archaeological monitoring and/or testing within all areas of the development that lie within the area identified by the City Archaeologist (602-495-0901), prior to clearing and grubbing, landscape salvage, and/or grading. Further archeological monitoring and/or testing (trenching) may be necessary based on the findings.

Noting there were no speaker comment cards submitted, **MOTION** was made by Mr. Johnson, **SECONDED** by Mrs. Williams, that Item 2 be granted as recommended by the Planning Commission and the related ordinance be adopted.

Roll Call:	Ayes:	Baier, Johnson, Nowakowski, Simplot, Williams, Vice Mayor Neely, and Mayor Gordon
	Nays:	None
	Absent:	Mattox and Stanton

MOTION CARRIED.

ITEM 3

DISTRICT 2

**ORDINANCE G-5154 -
Z-37-07-2 -
SCOTTSDALE ROAD AND
SWEETWATER AVENUE -
3/4 VOTE REQUIRED**

Application:	Z-37-07-2 – (Appealed by Applicant and Opposition)
From:	RE-24
To:	R-O
Acreage:	3.68

May 7, 2008

Location: Southwest corner of Scottsdale Road and Sweetwater Avenue
Proposal: Residential office
3/4 Vote Required: Yes
Applicant: Kevin Kirkwood
Owner: Judy A. Bund
Representative: Rod Jarvis – Henderson Law Firm
Staff: Approved, subject to stipulations.
VPC Action: Paradise Valley – November 5, 2007 – Denied. Vote 14-2-1
ZHO Action: November 19, 2007 – Forwarded to the February 13, 2008, Planning Commission hearing without recommendation.
PC Action: April 9, 2008 – Denied. Vote 4-3

In the event of an approval action, the following stipulations were considered:

1. That development shall be in substantial conformance to the site plan date stamped April 7, 2008, with specific regard to the existing building footprints and maintenance of the existing west property line walls and the addition of enclosed/covered trash containers, as approved by the Development Services Department.
2. That a minimum 10-foot-wide landscape setback along the entire west property line of all lots shall be provided. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
3. That a minimum 6-foot-wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2- and 3-inch caliper trees placed 20 feet on center or equivalent groupings, as approved by the Development Services Department.
4. That cross access and parking agreements for Lots 2, 3, 4, and 5 shall be created and recorded prior to preliminary site plan approval, as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the City and a bus bay constructed along Scottsdale Road south of Sweetwater Avenue according to City of Phoenix Detail P1256-1 and a transit pad shall be installed according to City of Phoenix Detail P1261, as approved by the Transit Department.

May 7, 2008

6. That the applicant shall file for and pursue abandonment of the alley south of Lot 5.
7. That building height shall be limited to one story and 13 feet, with the exception of Lot 5 to be limited to one story and 14 feet.
8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 - 77 feet; Lot 2 - 78 feet; Lot 3 - 97 feet; Lot 4 - 103 feet; and Lot 5 - 111 feet, as measured from the centerline of the existing 16-foot alley.
9. That a one-foot vehicular non-access easement along the entire west property line shall be recorded prior to preliminary site plan approval, as approved by the Development Services Department.

Planning Director Debra Stark advised Council the applicant requested a continuance of this case.

Representing the applicant, Mr. Rod Jarvis confirmed a continuance was desired. They had come up with a way to address the traffic issues, but it involved the City of Scottsdale Traffic Department, as well as the City of Phoenix. Also, new amendments to the Phoenix Zoning Ordinance could have an effect on this issue. Therefore, time was needed to explore the options, which ultimately could give the City of Phoenix more enforcement rights than currently existed.

MOTION was made by Mr. Johnson, **SECONDED** by Mr. Simplot, that Item 3 be continued.

Based on the new information anticipated in relation to the City of Scottsdale and any other opportunities or options the applicant wished to pursue in an attempt to address the neighborhood concerns, Ms. Stark suggested this case be remanded back to the Village Planning Committee (Village) rather than continued. She noted a majority of the Village and Planning Commission opposed this case.

Mr. Johnson favored this case being continued and wanted staff to review all the new information and take another look at the overall facts, and then have the case heard again by the Village and Planning Commission, so the community could have input during the process and be aware of the most current information.

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Mayor Gordon explained that in light of the applicant's request to continue this rezoning case and the motion on the floor, the Council would hear comments on the issue of the continuance only. If the motion failed, the Council would proceed with hearing the rezoning case. If the motion passed, the matter would not be heard by the Council until a date yet to be selected.

Ms. Stark noted a continuance date was not necessary if the case was remanded back to the Village because the process would start over and it would be re-advertised. She added the process could take months, in part due to upcoming summer vacations. However, in the meantime, everything would be in limbo and nobody could alter the subject properties (develop differently, expand, pave, etc.).

As the second to Mr. Johnson's motion for continuance, and based on staff's comments, Mr. Simplot suggested a friendly amendment to the motion that this case be remanded back to the Village in anticipation of the new information. Mr. Johnson concurred.

AMENDED MOTION was made by Mr. Johnson, **SECONDED** by Mr. Simplot, that Item 3 be remanded back to the Village Planning Committee.

Mayor Gordon noted speaker comment cards were submitted for Item 3 as follows:

In favor, only to speak if necessary

- Linda and Lyle Gall
- Kevin Kirkwood
- Deborah and James Mannari
- W. Douglas Thorpe

Opposed, wished to speak, but did not

- Camille R. Z. Cimaglia
- Ryan Fox

Opposed, did not wish to speak

- | | |
|----------------------------------|-------------------|
| • Robert Carter | • Evelyn McCarthy |
| • Charles Cimaglia | • Darrel McCoy |
| • Judy Danner | • Lisa Nissenbaum |
| • Amy, Joshua, and Travis Foster | • Debby Poje |
| • Luke Hopper | • Kristen Slater |
| • Patricia M. Humphrey | • Jeff Snedden |
| • Joni Judkins | • Mike Witten |
| • Loretta Lindsey | • Varisa Zeleny |

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Opposed, only to speak if necessary

- Thomas Boyd
- Pollie Carter
- Genie Eide
- Jens Plouquann
- Liz Slater

Mayor Gordon requested the above individuals be notified of all hearings throughout the process if this item was not decided tonight.

Mr. Jon Altmann advised he was a member of the Paradise Valley Village Planning Committee that heard this case. Also present with him were Village members Loretta Lindsey and Judy Danner. He reported the Village's vote on this case was very definitive (14-2) based on the fact the use was not appropriate for the area, even with any anticipated zoning ordinance changes. A lot of thought was put into their decision, and with the Village membership not changing any time soon, he predicted the outcome would remain unchanged if remanded back to the Village. Therefore, he and his two associates did not support the motion.

Representing Bruce and Amy Foster, Mr. Britton Worthen from the law firm of Beus Gilbert said his comments would echo concerns of the neighborhood in opposition to this R-O rezoning request. He was prepared to argue the merits of the case rather than discuss a delay. The neighborhood overwhelmingly opposed this case from the beginning and they had sacrificed their time and money to protect their neighborhood. Many of the concerned neighbors were present in hopes the Council would support them and deny this rezoning.

Mr. Worthen stated it was mind boggling that the neighbors were now being asked to start over again, all the way back with the Village Planning Committee, and would have to spend more money and more of their time to protect their property interests in favor of somebody who was using the subject residences illegally. Those individuals purchased the properties knowing they were going to use the residences as offices, yet the City was acquiescing to them and giving them every benefit. This case was denied by the Village (14-2) and the Planning Commission (4-3). Based on all the facts, the requested delay did not make sense and the neighbors were not happy as this was a huge burden on them.

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Mr. Worthen contended Mr. Jarvis would not present anything different. The neighbors' concerns were constant; they did not want office/commercial uses backing up to the residences. They built and bought their homes with the expectation that they would be in a residential community. The General Plan and zoning designated the area as residential. Furthermore, the subdivision's Codes, Covenants, and Regulations (CC&Rs) required that it be residential; no office uses permitted.

Mayor Gordon commented that Mr. Worthen's law firm recently requested a continuance on an item that had gone all the way through the process. Therefore, while Mr. Worthen's concern was appreciated, requests of this nature were common and his law firm had argued the other side on many occasions.

In response, Mr. Worthen emphasized that every case was different.

Mr. Steve Poje stated his home backed up to the applicants' properties and he strongly opposed the continuance. This process had taken over a year out of the neighbors' lives, and it had been clearly stated at every meeting that everyone was opposed. This matter should not be delayed because there could be more information coming or laws changing in Scottsdale or Phoenix. He urged the Council to proceed so this case could be finished, even if that meant the applicant reapplying in the future.

Mr. Bruce Foster noted his home backed up to one of the applicants' homes. He referred to a map of the Rancho Foothills subdivision which depicted the overwhelming majority of the homeowners who were opposed to this rezoning request. Understanding this was a democratic process, the concerned neighbors followed this matter all the way through and were expecting a decision tonight. Having already invested quite a bit of money and time, he wanted it over with so he could spend more time with his kids.

Mr. John Crookham, a neighborhood resident, objected to this 11th hour request to address a traffic issue. He stressed the traffic issues had been a huge subject of concern since the beginning of this proposal. This was nothing new and the tactic was unfair. Nothing had changed with respect to the traffic concerns, and the applicants had more than enough time to address the issues.

Mr. Jarvis expressed interest in resolving this matter. However, denying the continuance or even denying the case would not resolve the concerns with Scottsdale Road. The impacts existed and needed to be addressed and put to rest once and for all. That was what his clients were determined to achieve. A new idea had been identified, at a great cost to his clients, and they needed time to work it through with the City of Scottsdale and the City of Phoenix. He was confident it would address, permanently, the traffic issues the neighbors raised.

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Mayor Gordon recalled mention of CC&Rs on the property, presumably to benefit the neighborhood residents. He also knew of previous cases where the Council approved something and the residents took the matter to court to enforce the CC&Rs. He inquired about Mr. Jarvis' position in this regard.

Mr. Jarvis confirmed they were aware of the CC&Rs. It was their belief that if there was an attempt to enforce the CC&Rs as the neighbors claimed, that his clients would be victorious. Furthermore, he believed those CC&Rs were not enforceable as to the subject five lots for a variety of reasons he did not wish to discuss.

Mayor Gordon questioned the need for going through the process until the CC&R issue was decided by the courts. Mr. Jarvis replied these properties had been used for office for 10 years, and there had been no attempts to enforce the CC&Rs. Also, there were a number of business ongoing in the neighborhood, and no attempt to enforce against them. In addition, there were many illegal structures throughout the neighborhood, and no attempt to enforce. In their view, the CC&Rs were not enforceable.

Mr. Worthen strongly disagreed with Mr. Jarvis' opinion on whether the CC&Rs were enforceable. Obviously, most CC&R provisions had anti-waiver clauses to the extent there were inconsistent uses, which he contend there were not. Nevertheless, that did not invalidate the CC&Rs.

Ms. Neely stated she was familiar with this neighborhood and there had been ongoing traffic issues in the area. She recalled one of the first traffic circles in her district, was installed just off of Sweetwater Avenue. To date, she had not been supportive of the application as presented because of the traffic issues, but more information was received. Additionally, she asked everyone to remember that these houses started with fairly wide front lots, but as Scottsdale Road was widened, the front area was narrowed down.

Although not supportive of the case as it existed, Ms. Neely was interested in finding a solution that would permanently decrease the traffic within the neighborhood. She further directed staff to study the home businesses operating in the neighborhood so the Council would be fully aware of what was really happening.

Ms. Neely spoke about the Council's practice of granting continuances on a regular basis. Understandably, the neighbors believed they had gone through this process for over a year, but the reality was the applicants could reapply and everybody would be in the same spot as if the continuance were granted.

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Ms. Stark explained there was a provision in Phoenix' zoning ordinance that addressed re-filing an application. Essentially, one year from when a request was applied for, the applicant could resubmit upon action by the Planning Commission. Therefore, because the Planning Commission acted on this case and it was now before the Council, the applicants could reapply for a new R-O or a different type of zoning, based on the their original filing of the application, which was March 7, 2007. Technically, the applicants could reapply immediately and the matter would be back before the Council after going through the process.

Responding to a lady in the audience, Mayor Gordon clarified if the Council denied the case tonight, the applicants could reapply tomorrow, the case would be posted and heard by the Village and Planning Commission, then return to Council.

From a professional standpoint, Ms. Stark added there was effectively no difference between remanding the case back to the Village now or denying the case and the applicants reapplying.

Ms. Neely asked for cooperation among all parties in working together to review this matter as it went back through the process. She stressed the importance of the Village members reviewing a case without pre-determining the outcome.

Mr. Simplot reiterated the motion was for more than a continuance. It was to remand the case back to the Village so all new information could be heard and to allow for public debate at the Village level. That was the reason he seconded the motion and would be supporting it.

Mr. Johnson added it was important for this case to be given another review not only for zoning issues, but also to address safety issues along Scottsdale Road in relation to existing traffic and accident reports for the immediate area. He hoped that by sending the matter back through the process, it would provide an opportunity to develop a solution satisfactory to the neighbors and that would provide a safety net as well.

Responding to Mayor Gordon, Mr. Worthen disagreed with staff's analysis of whether there was a difference between remanding back or denying the case. Admittedly, there was not much difference from a timing standpoint. However, there was a huge psychological difference because the applicants would have gone through the process and lost, and the onus was on them to re-file. Also, they would have to take a second look at their proposal as opposed to just sending the current plan back to the Village.

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Mayor Gordon indicated there was a slight disadvantage to the applicants because they could not proceed with the plans they originally submitted. Furthermore, any type of proceeding, if they re-filed, would stay any enforcement if there were unlawful uses.

Also, Mayor Gordon noted, Ms. Neely did not support this case as presented. Therefore, her lack of support was a psychological hurdle to the applicants, especially on a case requiring a 3/4 vote from the Council. This sent a clear message to the applicants that they better work real hard to obtain a significant difference in their proposal and do the impossible. On the other hand, there was no disadvantage to the neighborhood with a 3/4 case and Ms. Neely's opposition.

Mayor Gordon added that while the case appeared slightly in limbo, the hope was to find either a compromise or a change in plans the neighborhood agreed with. Primarily, the cards were in the neighborhood's favor at this point.

Mayor Gordon called the question to the motion on the floor to remand Item 3 back to the Village Planning Committee.

MOTION CARRIED UNANIMOUSLY.

MOTION was made by Mrs. Williams, **SECONDED** by Mr. Simplot, that the ordinance related to Item 3 be withdrawn. **MOTION CARRIED UNANIMOUSLY.**

Mayor Gordon assured all concerned parties they would receive notice as the case proceeded. In addition, during this time, there could be no changes to the site plan that would increase the intensity, density, driveways, walls, etc.

Members of the audience requested clarification regarding the Council's vote withdrawing the ordinance. Ms. Stark explained an ordinance was attached to each rezoning case should it be approved, which was then recorded. The ordinance also recorded any stipulations associated with the case. Because this case was remanded back to the Village, the ordinance was not necessary. However, because the ordinance was advertised, withdrawing it was appropriate.

Planning Commission Minutes for February 13, 2008
Continuances and Withdrawals
Application # Z-37-07-2

Application #: Z-37-07-2
From: RE-24
To: R-O
Acreage: 3.68
Location: Southwest corner of Scottsdale Road and Sweetwater Avenue
Proposal: Residential office
Applicant: Kevin Kirkwood
Owner: Judy A. Bund
Representative: Rod Jarvis/Henderson Law Firm

Mr. Alan Stephenson presented Z-37-07-2. Staff requests this item be continued to April 9, 2008 without fee. Staff would like additional time to work with the neighbors and the applicant on the proposal.

Commissioner Gallegos made a MOTION to continue Z-37-07-2 to April 9, 2008 without fee.

Commissioner Katsenes SECONDED.

There being no further discussion, Chairman Keuth called for a vote and the MOTION PASSED 7-0 (Awai, Ellis absent).

* * * *

REZONING CASES

Item #: 6
Application #: Z-37-07-2
From: RE-24
To: R-O
Acreage: 3.68
Location: Southwest corner of Scottsdale Road and Sweetwater Avenue
Proposal: Residential office
Applicant: Jason Morris - Withey Morris P.L.C.
Owner: Judy A. Bund
Representative: Jason Morris - Withey Morris P.L.C.

Mr. Alan Stephenson presented Z-37-07-2, a rezoning request from RE-24 to R-O for an approximately 3.68 acre parcel located on the southwest corner of Scottsdale Road and Sweetwater Avenue. Staff recommends approval subject to the stipulations in Addendum B of the staff report. The Paradise Valley Village Planning Committee voted to approve the request 10-2 subject to staff stipulations with a modification to stipulation 10 which would read as follows:

10. That the developer shall construct sidewalk, curb ramps, and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all ADA accessibility standards.

This case was referred back to the Paradise Valley Village Planning Committee by City Council.

Mr. Jason Morris, 2525 E. Arizona Biltmore Circle, presented five homes on Scottsdale Road and Sweetwater Avenue. It is directly across the street from the Jewish Community Center which is a 40 acre facility with schools and community amenities. Just south of this center is a shopping plaza with some residential homes in between. Also in that area is the Scottsdale Airport with other commercial ventures. The underlined zoning of the Jewish Community Center is RE-35. Just looking at the size of the parking lot for this facility gives a sense of the types of programming that occurs. Some of the uses are a Kindergarten through 8th grade school, a high school, and summer programs. There is a senior facility where holiday and teen programs take place, a full fitness center, two pools, and a tennis court. An aerial slide of the area from 1979 was shown where the site was plotted 10 years prior and originally developed in 1969 through 1970. This made sense as a model complex 40 years ago because whatever traffic existed was not a detriment.

The next aerial slide shows a completely different context for Scottsdale Road, not only for adjacent property uses, but Scottsdale Road itself has changed in character, traffic and in overall capacity. The 2007 aerial shows not only additional lanes of traffic within Scottsdale Road, but a completely different median system and a signalized intersection at Sweetwater Avenue which then becomes an east-west collector at that location.

As the sizes of the lots are examined, it can be seen that they do not have the same depth as some of the homes immediately adjacent and within that community. This case was before the Planning Commission approximately 1 year ago with a different site plan involved. One of the things done was to reallocate the parking access points on the site plan. Also looked at where the buffers between these properties and anything to the west within the neighborhood. As a result, the site plan is updated and shows several changes. There is an increased set back along the west property line. There is also an agreement in the stipulation to create a 1 foot non-vehicular access easement meaning, there will be no connection from these properties to the alley way to the west; so there is no contiguous traffic. There is no loop road that would bring traffic along the back portion of these properties. They have also agreed to the same type of non-vehicular access easement for the south side. The building height has been limited to 13 feet on 4 homes and 14 feet on the fifth home which reflects the existing condition.

A traffic study has been conducted which was not available the last time this case was before the Planning Commission. This is a transitional area, the text and the ordinance itself calls for precisely the situation these 5 homes present. It explains why as time goes by, forty years in this instance, a need for a buffer is evident and the residential office category provides that buffer. It refers to the edges of residential areas and location on an aerial street, all of which are occurring. It talks about keeping development at a residential scale or as in this case, conversion of residential structures for professional offices. It also permits continuation of residential uses, should that be desired. What is specifically prohibited is just as important; neighbors are concerned about the creep of this use into the neighborhood. The specifics of the ordinance prohibit R-O use on anything but a collector or arterial street, which means it cannot migrate into the neighborhood nor would staff approve it. It would also have to go before this Planning Commission and the City Council. Also presented were examples of how R-O zoning looks when it is done successfully, both on Missouri Avenue and 44th Street and also on 32nd Street. These are homes that have been converted to another use because of their undesirable nature as a single family residence and the propensities for these to turn into rental properties that are not maintained. By investing into these buildings in both landscaping and exterior, there are successful buffers. It has had no deleterious impact on the homes immediately adjacent to them or to the interior of the neighborhood. No additional R-O zoning has been requested for that neighborhood.

Mr. Morris also presented areas when R-O zoning is not granted or requested. A home on Cactus Road, another near the Biltmore Fashion Square, Chaparral Road and Scottsdale Road that have not seen any reinvestment. There is no desire to address Scottsdale Road because of it's intensity at that location.

Since the opening of the Loop 101 a dramatic drop in traffic occurred along Scottsdale Road between 2002 and 2005; from 59,000 to 38,000 vehicles on the road. Although the numbers are now creeping back up, both Scottsdale Road and Sweetwater Avenue have less traffic today than it had in 2002. The access to this site is right in, right out, which means it is purely southbound access. The number of driveways that currently exist will be limited. There is no benefit to drive through the neighborhood to access these homes, in fact, it is impossible.

The traffic study also shows that only 5 additional U-turns will occur at the intersection on Scottsdale Road and Sweetwater Avenue during the a.m. peak and that again, equates to no additional traffic, it will have no adverse effect. These are the only five homes with direct access driveways to Scottsdale Road; from the Tempe boundary all the way to Carefree Highway. Other residential uses adjacent to Scottsdale Road are those with side on frontage road, and rear lot conditions. There will also be a Development Services Department requirement that will provide ADA access along Scottsdale Road which will lead to the bus stop that is on the south side of the intersection at Sweetwater Avenue adjacent to the side on residential conditions.

Commissioner Amery asked if any of the homes are currently in violation with neighborhood services.

Mr. Morris responded yes, at least one of the homes is under violation.

Commissioner Amery also asked if there is anyone currently operating incorrectly in the uses of the properties.

Mr. Morris stated that this was also asked at the Paradise Valley Village Planning Committee meeting and continues to be an issue. There are several businesses that are registered at the Corporate Commission that have their LLC or their partnerships in these neighborhoods and in this subdivision in particular. That in itself is not a violation but is indicative of the number of businesses that are home based in this area.

The following submitted cards in favor but did not wish to speak.

Penny Warring, 4626 E. Janice Way, Phoenix
Jim Mannar, 12850 N. Scottsdale Road
Deborah Mannar, 12850 N. Scottsdale Road
Kathy Migdal, 13410 W. 82nd Street, Scottsdale
Harvey Migdal, 13410 N. 82nd Street, Scottsdale

Talor Migday, 13410 N. 82nd Street, Scottsdale
Kristin Dixon, 10847 W. Olive #2070, Peoria
M.F. Kay, 4635 E. Michelle Drive
Geri Huffman, 1720 N. 74th Place, Scottsdale
Harry Huffman, 1720 N. 74th Place, Scottsdale
Linda Huffman, 4527 E. Sandra Terrace, Phoenix
Tom Moebius, 12838 N. Scottsdale Road
Rylee Gallun, 11748 E. De La O Rd, Scottsdale
Holli Gallun, 11748 E. De La O Rd, Scottsdale
Ashley Gallun, 4150 E. Cactus Road, Phoenix
Raegan Gall, 6725 E. Cholla Street
Linda Gall, 6725 E. Cholla Street
Lyle Gall, 12826 N. Scottsdale Road
Mike Ferrara, 4150 E. Cactus Road, Phoenix
Tyler Breitag, 6725 E. Cholla, Scottsdale
Travis Gall, 4075 E. Sleepy Ranch Road
Raye Gall, 4075 E. Sleepy Ranch Road
Margie and John Mahlum, 5328 E Greenway Land
Matt Kelly, 12615 N. 67th Street
Brad Gallun, 11748 E. De La O Rd, Scottsdale Road
Deidra Harling, Phoenix
Falan Alpert, 8389 58th Place
Hillary Alpert, 8389 58th Place
Robert Alpert, 12802 N. Scottsdale Road
Daniel Alpert, 325 E Broadway Rd, Tempe
Graenie Warring, 4626 E. Janice Way, Phoenix
Hunter Warring, 4626 E. Janice Way, Phoenix
Riley Warring, 4626 E. Janice Way, Phoenix
Jeff Feher, 329 E Broadway Rd, Tempe
Toni Biggins 3507 N., Scottsdale

Denise Finell, 6951 E. Bloomfield Rd, stated she is two blocks west of Scottsdale Road. She was concerned with what was going to happen to these properties because of their inappropriateness for residential use. This seems to be an ideal buffer for a residential site. She has seen businesses grow in this area and did not want to see a strip mall. She feels this will lend some stability in the area; it is logical, safe and well maintained. She understands that the welfare of the whole neighborhood is being looked at, but also as the zoning becomes more realistic for the use of this property, the tax revenues will go up. Basically she cannot see a disadvantage; the driveways open out to Scottsdale Road, not the neighborhood.

Conde Rogers, 7220 E. Sweetwater Avenue, stated her property is on the northeast corner of Scottsdale Road and Sweetwater Avenue, the closest to the five homes. She and her husband attended the last meeting where they were in support, but did understand some of the concerns of the neighbors. They are

now enthusiastic supporters because of the future plans for the properties. Those involved have gone to great lengths to accommodate each of the concerns that have been raised by the opposition. She feels this is a great use for these properties and she is the most affected of anyone else here this evening. Those living in the properties have been outstanding neighbors.

The following submitted cards in opposition but did not wish to speak.

Jeff Snedden, 6841 E. Presidio Road, Scottsdale
Sue Snedden, 6841 E Presidio Road, Scottsdale
Paul Barnes, 5518 East Mariposa
Diane Huffmaster, 12835 N. 71st Street
Craig Anderson, 12835 N. 71st Street, Scottsdale
Mark and Paula Gert, 10821 E. Presidio Road
Lisa Nissenbaum, 6827 E. Corrine Drive, Scottsdale
Pollie Colter, 7015 E. Sweetwater Avenue
Imogene Eide, 7015 E. Sweetwater Avenue
Jon Altmann, 5305 E. Sweetwater Avenue
Liz Slater, 7074 E. Aster Drive
Diana Baumann, 12229 N. 71st Street, Scottsdale
Leo Baumann, 12229 N. 71st Street, Scottsdale
Bruce Foster, 12828 N. 71st Street
Amy Foster, 12828 N. 71st Street

John Crookham, 7043 E. Carol Way, Scottsdale, stated that the residents of the neighborhoods are nearly unanimously opposed to this rezoning. At the last Planning Commission hearing the applicant was instructed to make very specific changes by the Mayor because the plans were not adequate; there has not been any significant change. The parking places have been switched around, a couple of plants have been moved, and the access points onto Scottsdale Road have actually increased as opposed to being decreased. Mr. Crookham presented an aerial view of the neighborhood and of the homes to show the impact that the changes would make in this area. The 4 homes, south along Scottsdale Road, are completely surrounded by residential as also to the west and north. The Jewish Community Center is similar to living next to a YMCA or a grade school and it is also surrounded by residential area. The applicant is trying to spot zone in the area of the 5 properties.

What were not shown by the applicant were the 5 homes that the rezoning is being requested for. These are very nice, well maintained homes on very large $\frac{3}{4}$ acre lots. Currently there are businesses operating illegally in some of these homes. At least two of the lots have illegally erected commercial type parking structures in the back yard. They have 60 foot set backs with very large front and back yards; there are no sidewalks. This is an up and coming neighborhood that is very unique in this city.

The City Council stated it would be impossible to drive through the neighborhoods; the properties can only be accessed driving southbound on Scottsdale Road. If there are businesses there, any customers or employees heading northbound on Scottsdale Road will have to go to Sweetwater Avenue and try to make a very dangerous U-Turn; there is no left turn arrow there. They would then take a left, drive into the neighborhood and find a driveway to turn around on. If not, they will go to Sweetwater Avenue, go to Larkspur Drive and funnel right into the neighborhood through 71st Street to Sweetwater Avenue and back so they can make a right turn to get into these properties, or access the properties by taking a left turn on Cactus Road through 71st Street and make the right hand turn to get to these properties. The increase in traffic coming through the neighborhood is going to be substantial.

The properties are going to be vacant at night; this is a potential safety risk with crime unnecessarily being drawn to the area. One of the homes shown by the applicant, at the corner of Scottsdale Road and Cactus Road, is owned by a speculator that the neighborhood has been dealing with for the past 2 years. There is a lack of care with absentee owners. The homes owned by actual homeowners are very nice

Mr. Crookham presented photos of other R-O zoned businesses in Phoenix. For example; a palm reader business, an insurance agency with the building painted lime green, a vacant boarded up R-O office, a rental car facility, a dental office, and massage parlor. Some of the businesses shown had signage painted on the windows. If R-O zoning were controllable, lime green insurance agencies would not exist. The staff report stated that they are in need of small scale office space. The Grubb and Ellis report stated that there are over 7.2 million square feet of office space in the north Scottsdale and airpark areas. That is more than any other area of this city. They are overwhelmed with commercial office space around them, and there is no need to insert that into this neighborhood,

Traffic statistics for southbound Scottsdale Road has about 15,500 vehicles on the road each day and westbound Cactus Road has 15,000 vehicles. There are 13 homes with driveways facing Cactus Road that are subjected to the same traffic stressors as the five properties. That is what happens when a home is on an arterial street. There are homes that are buffered and have mitigated the uses with landscaping and walls. The applicant has never done that, they choose not to. There have been other rezoning requests for R-O in their area and staff has consistently rejected them because the properties have been viable for residential use. There is adequate commercial zoning in the area, R-O zoning is incompatible with the residential area, as it is in their neighborhood, and it would set precedence for similar requests.

Keirland Commons is one to two minutes away with shopping and nightlife, which is the image that has been established for this area of town, it brings in tourist, high end businesses, and sporting events. This is what they sell Scottsdale

Road for; R-O will do nothing but tarnish that image. Currently there is not a single R-O on Scottsdale Road. Mr. Crookham read a portion of the Missouri Avenue Land Use Study and the Arcadia Camelback Study where they both favored residential over R-O. The staff reports states that these are compatible with the General Plan. People relied and invested their life savings on the General Plan that said this is a residential area. The staff report does not address any of the impacts for this neighborhood.

Commissioner Amery asked about the traffic impact in regards to the school on Scottsdale Road and Sweetwater Avenue.

Mr. Crookham stated that the traffic from the school is a problem on Sweetwater Avenue, it backs up to some extent; any more traffic would compound the problem.

Pat Humphrey, 12401 N. 65th Place, stated she has an objection to this hearing; it was originally remanded back to the Paradise Valley Village Planning Committee to deal with the traffic issues. The applicants were supposed to work with the City of Scottsdale, which was not done; instead they went back to the Village Planning Committee with a new site plan. One of the biggest issues along Larkspur Drive was the traffic. As neighbors, they requested a traffic study. The Engineering Department divided Larkspur Drive into two sections. The sections closest to the applicants' property were eligible for the \$100 traffic humps. In her area of the neighborhood that would not be practical for slowing down the traffic because they do not have sidewalks. They felt that vehicles would drive on their front yards or around other traffic calming devices. Street lighting is very limited and students must walk on the street while going to and from the bus stops for school. She also corresponded with the Paradise Valley School District. The school buses make 3 runs in the morning and 3 in the afternoon for each of the three schools in the area.

Mr. Alan Stephenson read the minutes of the motion that was made by the City Council in regards to this application. Councilman Johnson made the motion to remand this case back to the Village Planning Committee. He requested for staff to review all of the new information and take another look at the overall facts. He also stated that the case be heard again by the Village Planning Committee and the Planning Commission so the community could have input during the process. Councilman Simplot seconded the motion and concurred with Councilman Johnson. The remand is valid to go through the full process of the Village Planning Committee and Planning Commission. Staff has taken a look at the additional facts and supports the case per the stipulations.

Mr. Morris stated that the homeowners are not going to allow their homes to become run down for the sake of an R-O application. The fact that the homes have been well kept should not be held against the applicant. They are not, however, adequate places to raise a family. Many of the homes shown in the

neighborhood and those on Scottsdale Road have a frontage road. The five properties do not; and they are not 60 feet from the property line. The planning staff has been diligent in going by the guidelines as to what makes an appropriate R-O project, just because there is a desire or speculation that there is more value in a home as an office than as a residential does not lead professional planning staff to recommend approval as they have with this case. The applicant did speak with the City of Scottsdale and there are no absentee owners or speculators. The main issue with the neighborhood is the traffic, inside and outside of the neighborhood.

Commissioner Amery asked if in the stipulations the height of the homes will remain the same.

Mr. Morris responded because there can be no other uses for these five homes; they have agreed not to change the concept, scale, or overall design. Which means, what is seen today, other than the improvements that will be made by the Development Services Department and the landscape situation, is what will be seen in the long term. This zoning district does not include massage parlors, but a residential office that cannot be higher in height nor larger in scale than currently exists.

Commissioner Amery stated that normally these applications are presented as individual sites; with this application multiply sites will be bundled. He can stand behind this request.

Mr. Morris stated from the outset, the neighbors have feared three things, traffic, the creep of other R-O zoning, and the change of quality of life. They do not want additional R-O cases occurring along Scottsdale Road that they would subsequently have to fight. As a result of that and the five property owners working together, this is a complete package, rather than for instance, two of the homes becoming rezoned one year and three coming later, or one by one. The owners of these properties recognize that they are all ultimately in the same position. Instead they have worked with the city to create a traffic pattern so that there will not be the same number of driveways at the end of this conversion as there is today. For instant, some homes have more than one driveway onto Scottsdale Road, there are six or seven with these homes that can be condensed down to a cross access easement parking and pedestrian situation so that the homes are self contained and there is no justification for making it more intense or coming back to ask for additional uses. Instead they can operate as professional offices without relying on other properties.

Chairman Keuth asked if there were any concerns with the stipulations.

Mr. Morris stated the original case was overwhelmingly denied by the Paradise Valley Village Planning Committee. This illustrates the work that the applicant has done since it was remanded by the City Council. The site plan was entirely

changed, given that they could not change the five homes, they did change the site plan surrounding the homes. And as a result, they gained the support of the village by a vote of 10-2 in favor. They are in agreement with the stipulations suggested by staff.

Chairman Keuth commented for clarification that the Planning Commission is made up of seven full time appointees, of the other two, one represents as chair or vice-chair of one of the Villages and the other as a neighborhood representative. It is not uncommon for those on the board to hear some cases twice. The Planning Commission is an advisory body for the City Council. Over the years there had been some concerns about potential conflict, this has been cleared through the City of Phoenix Law Department. The board members are fully capability of participating in this debate as well as the debate they participated in at the Village Planning Committee.

Commissioner Awai expressed that he understands the concerns of the opposition. He believes that the homes are not viable for residential use and this is exactly what this zoning issue was designed to address.

Commissioner Awai made a MOTION to approve Z-37-07-2 per the Paradise Valley Village Planning Committee recommendation and stipulations.

Commissioner Ellis SECONDED.

Commissioner Amery stated he usually is not in favor with R-O requests, however, the bundling of these lots as one application makes for a more palatable R-O arrangement.

Chairman Keuth stated that the last time this case was heard he voted in opposition. He is now satisfied with the changes of the site plan.

There being no further discussion, Chairman Keuth called for a vote and the MOTION PASSED 6-0 (Davis, Katsenes, Gullett, absent).

* * * *

Stipulation:

1. That development shall be in general conformance to the site plan date stamped February 9, 2009 with specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers as approved by the Development Services Department.

2. That a minimum 10-foot wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.
3. That a minimum 6-foot wide landscape setback shall be provided along the north property line of lot 1. Required landscape materials shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.
4. That cross access and parking agreements for lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the city along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail p1261 as approved by the Public Transit Department.
6. That the property owner of lot 5 shall file for and pursue abandonment of the alley, south of lot 5 prior to the issuance of a certificate of occupancy for the residential office use on lot 5. In the event the abandonment is not granted, a one (1) foot vehicular non-access easement (VNAE) shall be recorded along the southern property line of lot 5 as approved by the Development Services Department.
7. That building height shall be limited to one (1) story and 13 feet with the exception of lot 5 to be limited to one (1) story and 14 feet.
8. That the rear building setbacks (west side) shall be limited to the following existing setbacks: lot 1 – 77 feet; lot 2 – 78 feet; lot 3 – 97 feet; lot 4 – 103 feet and lot 5 – 111 feet as measured from the centerline of the existing 16-foot alley.
9. That a one (1) foot vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.
10. That the developer shall construct ~~improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping~~ and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all ADA accessibility standards.

11. That in the event archaeological materials are encountered during construction, the developer shall immediately cease all ground disturbing activities within a 33-foot radius of the discovery, notify the city archaeologist, and allow time for the archaeology office to properly assess the materials.

Paradise Valley Village Planning Committee

Minutes.

Monday, November 5, 2007
Paradise Valley Community Center
Multipurpose Room
17402 North 40th Street
Phoenix, Arizona

PRESENT

Jon Altmann
James Ashley
Doug Banfelder
Judy Danner
Jon Griffin
Craig James
Loretta Lindsey
Jim Mapstead
Dennis Matrunola
Shelly McTee
Fiona Mesko
Barbara Rogne
Alan Sparks
Wade Turner
David Walters
Gary Sultanian
Joseph Zemaitis

EXCUSED

Jake Jacobson
Sherry Roueche

ABSENT

Mike Young

STAFF

Michelle Dodds
Aubrey Anaya
Sarah Kerr

1. Call to order

Meeting was called to order at 6:18 p.m. by Jim Mapstead. A quorum of 16 was present.

2. Public comments concerning items not on the agenda. (Not for committee discussion)

No comments from the public.

3. Review and approval October 1, 2007 minutes.

Jon Altmann made a motion to approve the minutes. Shelly McTee seconded the motion. **Approved, Unanimous, Vote: 16-0**

4. Presentation, discussion and possible recommendation case Z-37-07-2 a request to rezone 3.68 acres of land located at the southwest corner of Scottsdale Road and Sweetwater Avenue from RE-24 (Real Estate) to R-O (Residential Office) to allow conversion of a residence to residential office. Presentation by Bill Allison; Gallagher & Kennedy. The Zoning Hearing Officer will consider this request on November 19, 2007.

Shelly McTee declared conflict of interest.

Bill Allison, Gallagher and Kennedy, 2575 E. Camelback Road presented an overview of the application and the allowed uses in R-O (Residential Office). This designation is

designed for low impact and to manage development on the edge of a neighborhood. It can also provide a buffer to the residential. In addition to rezoning approval, private CC&R's will need to be amended. Mr. Allison reviewed a power point presentation showing examples of residential office.

Two neighborhood meetings were held and the clients canvassed door to door.

Joe Zemaitis now in attendance.

Aubrey Anayā, City of Phoenix Planning Department presented the staff report. The proposed rezoning would provide an opportunity for limited office while maintaining the residential character of not only the subject properties, but also protect the surrounding residential neighborhood. The conversion of these five lots to office will provide the surrounding neighborhoods basic services which will maintain the residential character and compatibility of the area. Conversion of the properties to residential office will not negatively impact the adjacent residential neighborhood. The subject properties will be required to maintain the residential character of the area, and provide landscaping to buffer the use from public view.

This area is in need of small scale office uses which will blend in with surrounding residential uses. Full scale commercial development in this area would negatively impact surrounding residential properties. Small scale office located within existing residential structures would provide office type services without creating additional negative impacts associated with large scale commercial development.

Traffic along Scottsdale Road impacts the residential properties fronting on Scottsdale Road. The reduction in driveways and access points may help mitigate traffic concerns.

Existing driveways onto Scottsdale Road will be required to be abandoned and replaced with landscaping when the new access points are constructed.

A bus bay will need to be constructed and the necessary right-of-way dedicated to the City of Phoenix.

The applicant will file for and pursue abandonment of the alley, south of Lot 5.

This request will provide basic office services to the area without negatively impacting the neighborhood.

Staff recommends approval subject to stipulations with modification to stipulation 2. Staff recommended deletion of the words "to 10" after the number 6 be deleted to provide the applicant and the Development Services Department with a specific width for the landscaped setback along the western property line.

2. That a minimum 6 to 10 foot wide landscape setback along the entire west property line of all lots shall be provided. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3 inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.

Jon Altmann inquired about an R-O case from two years ago that the village planning committee reviewed for an application at 64th Street and Cactus Road requesting to convert to residential office. Staff recommended denial. What is the difference between the two cases?

Michelle Dodds said that she did not recall the specific details of the previous case but she could research it and provide follow up information.

Jim Mapstead asked if the alley is going to be paved and would the bus pull out be closed. Bill Allison said he did not know if the alley would be paved. The bus pullout will have to be discussed with Development Services.

Kelly Howell, 12801 N. 71st Street, Scottsdale, AZ, 85257 stated that her property is located west of the subject properties and abuts the alley that is to be abandoned to the south. When accidents occur on Scottsdale Road cars cut through the alley. The easement and wash have been raised and water collects in the alley causing mosquitoes. The alley is a dangerous situation.

Liz Slater, 9074 E. Aster Drive, Scottsdale, AZ, 85254, homeowner and broker for Real Estate agent spoke in opposition. There are 58 homes, there are CC&R's governing zoning changes. All 58 homes would have to give full approval for the zoning change. If not approved the homeowners will be in violation and have to change. Five lots would go up in value and others will decrease. This is not an equal benefit to all the homeowners.

Don Rogers, 7220 E. Sweetwater Avenue, Scottsdale, AZ, 85260, spoke in favor. His property faces the five homes backing up to this site. He approves of the application.

Marvin Cender, 12640 N. 70th Place, Scottsdale, AZ 85254, spoke in opposition. There are too many unknowns, need to know now not later on. Criminal element will increase.

Bruce Foster, 12825 N. 71st Street, Scottsdale, AZ, 85254, spoke in opposition. His property backs up to three of the lots. He has a petition with 40 signatures opposing this rezoning application. This is not a run down neighborhood. Residents do walk in the area but there are no sidewalks. This will increase the traffic in the neighborhood and on Scottsdale Road. The closed offices at night will increase crime at night. A couple of the lots are already in violation.

Steve Pose, 7101 E. Sweetwater Avenue, Scottsdale, AZ 85254, spoke in opposition. He has strong ties to the neighborhood and does not want residential office; does not want this change.

John Crookham, 704 E. Carol Way, Scottsdale, AZ, 85254, spoke in opposition. He lives to the south of this subdivision. They have been hit by real estate developers before and fought all of them. The residential needs to be protected; provides no way for cars to exit to the north.

Deborah Mannari, 12850 N. Scottsdale Road, Scottsdale, AZ, 85258, spoke in favor. She owns the Montessori school and is in favor of this application.

Brenda Sine, 7062 E. Aster Drive, Scottsdale, AZ, 85254, spoke in opposition. She is a volunteer EMT and has seen the accidents and safety problems with this kind of rezoning.

Pat Humphrey, 12401 N. 65th Place, Scottsdale, AZ, 85254, spoke in opposition. He is a 27 year resident of this area. The definition of R-O is transition from office to residential. Very good CC&R's and they have prevailed in previous litigation. Liability will go to the city. It is not an alley but a drainage outlet.

The following people were in favor but did not wish to speak:

Holli and Brad Gallun, 11748 E. Deheo Road, Scottsdale, AZ 85255
Casey Gregory, 1448 Sequoia Drive, Phoenix, AZ 85024
Kevin Kirkland, 12802 N. Scottsdale Road, Scottsdale, AZ 85254
Lyle Hall, 12826 N. Scottsdale Road, Scottsdale, AZ 85254

The following people are opposed but did not wish to speak:

Amy Foster, 12825 N. 71st Street, Scottsdale, AZ 85254
John Foley, 7040 E. Larkspur Drive, Scottsdale, AZ 85254
Bud Karakey, 12407 N. 71st Street, Scottsdale AZ 85254

Bill Allison clarified the proposed access between lots 2 and 3 from Scottsdale Road and explained that retention and water pressure issues would be resolved by the Development Services Department as part of the development process. Clients recognize the quality of the neighborhood to the west but they are across the alley. There are only five lots with problems. The other opposition does not want more commercial to come in. If not appropriate, the homes could still be used as residential. The current owner has not had any crime problem.

Gary Saultanian asked who owns the alley and drainage.

Aubrey Anaya explained that there was an existing drainage easement on lot six to the south of the subject site. A stipulation was recommended requiring the applicant to pursue abandonment of the alley south of lot 5. Abandonment of the alley would require a public hearing and the Abandonment Hearing Officer would have the ability to add stipulations related to the abandonment. Neighborhood Services Department enforces uses with improper zoning.

Jon Altmann made a motion to deny. Doug Banfelder seconded the motion.

Discussion:

Jon Altmann stated that had reviewed the previous case and was aware of traffic impacts. The city has posted signs for heeding the traffic speed. He is opposed to this application.

Doug Banfelder stated that he is opposed to this application.

Motion to deny, approved. Vote: 14-2-1 (conflict of interest)

5. Presentation, discussion and possible recommendation on case Z-112-07-3 a request to rezone 2.80 acres of land located at the southeast corner of 32nd Street and Cheryl Drive from C-O/G-O (Commercial Office, General Office option) to C-O/G-O HGT/WVR (Commercial Office, General Office option, Height Waiver) to allow a three story commercial office. Presentation by Mike Withey, Withey Morris, PLC. The Planning Commission will consider this request on November 14, 2007.

Jason Morris, Withey Morris, PLC presented an overview of the case. This site is already zoned for office; the request is for increased height on an isolated remnant parcel purchased from the City of Phoenix located on the west side of SR51 Piestewa Freeway. Office use is a predominant use along the freeway. No redevelopment has occurred in this area and the proposed project will bring in more development. It is not located next to anything that will create a privacy issue. Height waivers are allowed in C-O district. Mr. Morris presented renderings of the proposed building and mentioned that as a result of neighborhood feedback, the building had been redesigned and the rooftop mounted mechanical equipment had been moved to ground level.

Aubrey Anaya, City of Phoenix presented the staff report. Commercial development is often an appropriate highway mitigating use that serves as an effective buffer between existing residential uses and freeways. Height located along a freeway corridor mitigates the impacts of noise generated by the high volume of traffic and noise to surrounding developments.

The applicant is requesting a height waiver to allow the development of a three story, and 42 feet, tall office building. Height waivers may be granted by the City Council upon finding that the additional height is not detrimental to adjacent property or the public welfare in general. North of the site is a vacant parcel, a park and ride facility and commercial uses. The SR51 Piestewa Freeway and 32nd Street (arterial street) are located adjacent to the site. Land uses along 32nd Street include a church, offices, retail, restaurants and other commercial uses. Development of this site for a commercial office development with additional height will not have a significant impact on the adjacent developments given the proposed building location and an open rooftop deck to aid in the preservation of view corridors.

The proposed development is consistent with several goals of the General Plan and is consistent with the Squaw Peak Freeway Specific Plan.

Staff recommends approval, subject to stipulations.

Loretta Lindsey asked why the increase in height and how it would benefit the community. Jason Morris stated that the proposed plan has significant buffer from residential, it is an isolated parcel and has adjacent commercial neighbors. A two story building would be a larger building.

Doug Banfelder commented that three stories is a smaller building. Have you considered sinking the building and/or going green? Jason Morris said the cost of building below grade is higher. Most occupants don't want to be below ground.

Shelly McTee commented she wasn't sure what other uses could go in. This is a good use for this parcel. Will the building be owner occupied? Jason Morris said yes.

Joseph Kneen, 3221 E. Hatcher Road, Phoenix, AZ 85028, spoke in opposition. He applauded the building and that it would add to the area but is opposed to the height.

Bill Kurtz, 3426 E. Turquoise Avenue, Phoenix, AZ 85028, spoke in opposition. He has lived in the area for 12 years and would like to see the site developed but is opposed to the height. Applicant is asking for 38% more height than what is allowed. Views will be impacted for the surrounding buildings.

Mary Hale, 2317 E. Saguaro Drive, Phoenix, AZ 85020, spoke in opposition. She lives two blocks west of the site and is opposed to the height. The consensus of most of the residents is no increase in height.

Alex Wilkinson, 2309 E. Cinnabar Ave., Phoenix, AZ 85028, spoke in favor. He has been a resident of this area for 17 years. The intersection of 32nd Street and Shea Boulevard is not good. He likes the design of the building. Views have already been impacted by other structures. We need the new development in the area. The applicant has already changed the design once and there may not be any chances of new development for a long time.

Deborah Shriver, 3337 E. Onyx Avenue, Phoenix, AZ 85028, spoke in opposition. She has a petition with over 1,000 signatures in opposition. She is opposed to the building height and it will impact the area.

Ron Thomas, 3102 E. Northern Avenue, Phoenix, AZ 85028, spoke in opposition. He has been a resident of this area for 40 years. He is opposed to the building height. He asked if the height is limited to three stories and can the design plan change after approval. Aubrey Anaya said yes, the height will be limited and the site plan can change.

Carlos Arboleta, 3348 E. Las Rocas Drive, Phoenix, AZ 85028, spoke in favor. He lives directly south of the site and is excited about the new building.

Mary Wagner, 3235 E. Mountain View Road, Phoenix, AZ 85028, spoke in opposition. She has lived in the area for 50 years and the proposed height will impact views from her property. She likes the neighborhood as it is and is opposed to the height. Where are the clients going to park?

Robert Wilkinson, 2309 E. Cinnabar Avenue, Phoenix, AZ 85028, spoke in favor. He is a 20 year resident of the area and is concerned about the blight at 32nd Street and Shea Boulevard. If it is not redeveloped it will cause more problems. If homes are not refurbished they will go down hill. He is in favor of corner redevelopment, not necessarily in favor of height; likes the appearance of the site plan.

Alice Bucher, 3006 E. Cochise Road, Phoenix, AZ 85028, spoke in opposition. The proposed height will impact views from her home. How can this building block that much noise from the freeway?

Edward Sawyer, 3333 E. Onyx Avenue, Phoenix, AZ 85028, spoke in opposition. He served on the Planning commission for an adjoining city. The scale of this building is not in context with the area; he would like to see renderings more in context. The site is designed more as a commercial building. SR51 is a view corridor. Building will impact the freeway. Don't grant a waiver because they want it but because they need it.

Marsha Soldomini, 10235 N. 31st Street #130, Phoenix, AZ 85028, spoke in opposition. She lives within a few hundred feet of this site and does not support the height.

Erik Koss, 3015 E. Topaz Circle, Phoenix, AZ 85028, spoke in opposition. He is not opposed to development but is opposed to the height and the impact on traffic.

Geoffrey Waldrom, 10050 N. 25th Street, Phoenix, AZ 85028, spoke in favor. He supports the proposed building; need to spark the redevelopment.

Smeta Bruno Mens, 10235 N. 31st Street, Phoenix, AZ 85028, spoke in opposition. He is in favor of development but not the height of the building. It could open the door for increased height for more buildings.

Glenn Liptack, 3333 E. Turquoise Avenue, Phoenix, AZ 85028, spoke in opposition. The staff report fails to address the impact. Development should be mitigated with the surrounding area. Waiver request offers nothing that can't be achieved with a two story building.

Gary Soutanian said that he supports the proposed project. Why was the site plan changed? Jason Morris said the two story building was in response to the Request for Proposal (RFP). Once they were able to sit down with an architect it was determined that the smaller footprint on the property would allow for three stories.

Gary Soutanian asked if they would be willing to go back to two stories. Jason Morris said that two stories would not include community input.

David Molinar, 3934 E. Willow Avenue, Phoenix, AZ 85032, spoke in opposition. He is a registered architect and felt that the building could be built to 25 feet. He is opposed to the height variance.

Chris Ackel, 11629 N. 22nd Street, Phoenix, AZ 85028, spoke in favor. He felt that this is a statement project and will add value to the buildings and residential area.

Gina Digiacomo, 3127 E. Onyx Avenue, Phoenix, AZ 85028, spoke in opposition. She lives to the southwest of this parcel. It will impact the views from her home.

Wayne Haggstrom, 3013 E. Golden Vista Lane, Phoenix, AZ 85028, spoke in opposition. He has lived in an area where the height waivers were given and the views were lost.

Ponciano Montoya, 9847 N. 35th Street, Phoenix, AZ 85028, spoke in opposition. This is a treasured neighborhood and we want to preserve it; do not want a white elephant in the neighborhood.

The following people are in favor but did not wish to speak:

Brian and Ellen Judd, 14236 N. 28th Street, Phoenix, AZ 85032
Lisa Higgins, 9411 N. 33rd Way, Phoenix, AZ 85028
Jackie Sparer, P.O. Box 31912, Phoenix, AZ 85046
Bill Brandt, 3143 E. Malapai Drive, Phoenix, AZ 85028
Jennifer Chesebrough, 3517 E. Turquoise Avenue, Phoenix, AZ 85028

The following people are opposed but did not wish to speak:

Howard Norman, 3501 E. Beryl Lane, Phoenix, AZ 85028
Rebecca Liptack, 3333 E. Turquoise Avenue, Phoenix, AZ 85028
Jean and Donald Duck, 10039 N. 31st Place, Phoenix, AZ 85028
Wilhelm Brueckman, 3109 E. Las Rocas Drive, Phoenix, AZ 85028
David and Marilyn Spilka, 2537 E. Cortez Street, Phoenix, AZ 85028
William Steiner, 9025 N. Arroya Vista Drive, Phoenix, AZ 85028
David Homce, 9637 N. 32nd Place, Phoenix, AZ 85028
Raymond Faussane, 3312 E. Hatcher Road, Phoenix, AZ 85028
Beverly Sawyer, 3333 E. Onyx Avenue, Phoenix, AZ 85028
A. Poppen, 9802 N. 30th Street, Phoenix, AZ 85028
William Soldavin, 10235 N. 31st Street, Phoenix, AZ 85028
Judy, James and Julie Wilson 9442 N. 35th Place, Phoenix, AZ 85028
Wayne Haggstrom, 3013 E. Golden Vista Lane, Phoenix, AZ 85028
Mary Ann Wilkinson, 3013 E. Golden Vista Lane, Phoenix, AZ 85028
Denis and Judy Walker, 9830 N. 30th Street, Phoenix, AZ 85028
Michelle and Lauren Thomas, 3235 E. Mountain View Road, Phoenix, AZ 85028
Howard and Amy Silverman, 9042 N. Arroya Vista Drive, Phoenix, AZ 85028
Mary Ann and Robert Beebe, 3326 E. Turquoise Avenue, Phoenix, AZ 85028
Mary Blades, 2866 E. Beryl Avenue, Phoenix, AZ 85028
Vicky Attel, 2811 E. Calaveros Drive, Phoenix, AZ 85028
Nancy and Keith Hughes, 2734 E. Cheryl Drive, Phoenix, AZ 85028
Kathryn Thomas, 3102 E. Northern Avenue, Phoenix, AZ 85028
D. Trettner, 3028 E. Northern Avenue, Phoenix, AZ 85028
Revell and Mike Thompson, 3110 E. Northern Avenue, Phoenix, AZ 85028
Jim Enright, 10211 N. 32nd Street, Phoenix, AZ 85028
Nancy Fisk, 3143 E. Golden Vista Drive, Phoenix, AZ 85028
Mary Beth Baron, 2401 E. Northern Avenue, Phoenix, AZ 85028
Corey Tsonis, 9409 N. Arroya Vista Drive, Phoenix, AZ 85028
Charlotte Siffermann, 3144 E. Golden Vista Lane, Phoenix, AZ 85028
Stephanie Fryer, 3309 E. Turquoise Avenue, Phoenix, AZ 85028
Gaye L. Gould, 9055 N. Arroya Grande Drive, Phoenix, AZ 85028
Rosemary Irving, 3150 E. Ocotilla Lane, Phoenix, AZ 85028
Joseph Ramie-Shanahan, 3317 E. Turquoise Avenue, Phoenix, AZ 85028
Margaret Kische, 2724 E. Turquoise Avenue, Phoenix, AZ 85028
A. Land Harris, M.D., 3202 E. Hatcher Road, Phoenix, AZ 85028
Michele Sawko, 2810 E. Cinnabar Avenue, Phoenix, AZ 85028

Jon Griffin stated that this is officially not a high rise until the height is 75 feet. We do have a Dark Sky Ordinance to address potential impacts of on-site lighting.

Jon Altmann stated that most of the people in attendance would agree with two stories. Is there any compromise?

Joe Zemaitis stated that a two story building would impact the parking area.

Jason Morris commented that requests for height waivers are typical of what we are seeing around the valley. The parking is above the city requirements. This is an appropriate use of height adjacent to a freeway. The city has determined height waivers may be appropriate where there is little impact. He also noted that there was an approximate 500 foot separation from residential development to the east due to the freeway width.

Jim Mapstead commented that he wants the project but is concerned about the height; stark in contrast. He supports the project.

Shelly McTee made a motion to approve subject to staff stipulations. Gary Soutanian seconded the motion. **Approved, Vote: 10-7**

6. Presentation, discussion and possible recommendation on case Z-71-07-2, a request to rezone 3.75 acres of land located at the southwest corner of 38th Street and Tierra Buena Lane from R1-14 (One-Family Residence) to R1-8 (Single-Family Residence) to allow a single-family residential development. Presentation by Jacques Henry Munro; PV Real Estate Investments, LLC. The Zoning Hearing Officer will consider this request on November 19, 2007.

Michelle Dodds explained that she had recently been notified that the Paradise Valley Community Center was closing at 9:00 pm but she was able to keep the meeting room until 9:15 pm:

The following submitted cards in opposition of this item:

Tim Harris, 15856 N. 38th Street, Phoenix, AZ 85032
Thomas Leinenveber, 3744 E. Tierra Buena Lane, Phoenix, AZ 85032
Zehra Sen, 3727 E. Tierra Buena Lane, Phoenix, AZ 85032
Gemail Sen, 3727 E. Tierra Buena Lane, Phoenix, AZ 85032
Albert Diaz, 15703 N. 37th Street, Phoenix, AZ 85032
Drew Edmonds, 3724 E. Tierra Buena Lane, Phoenix, AZ 85032
Lois Leinenveber, 3744 E. Tierra Buena Lane, Phoenix, AZ 85032
Robert Edmonds, 3724 E. Tierra Buena Lane, Phoenix, AZ 85032
Mike Sanchez, 15831 N. 37th Street, Phoenix, AZ 85032

Jon Altmann made a motion to continue this zoning request to December 3, 2007 village planning committee meeting. Gary Soutanian seconded the motion. **Approved, Vote: 17-0**

7. Presentation, discussion and possible recommendation on text amendment case Z-TA-8-07 to Amend Chapter 6 Section 619.B.6 (R-4A Multiple Family Residence-General) of the Zoning Ordinance to simplify the building height standards. Presentation by Aubrey Anaya. The Planning Commission will consider this request on November 14, 2007.

Jon Altmann made a motion to continue this zoning request to December 3, 2007 village planning committee meeting. Gary Soutanian seconded the motion. **Approved, Vote: 17-0**

8. Information Items: Overview of the Continuous Learning Institute Series held October 6, 2007.

This information item will be presented at the December 3, 2007 village planning committee meeting.

9. Subcommittee Reports:

a. Bell Road Corridor – No report

10. Future Meetings

December 3, 2007

- a. Election of 2008 chair and vice chair.
b. Meeting dates for 2008.
c. Goals and objectives for 2008

11. Announcements (not for committee discussion).

None

12. Adjournment

Jon Altmann made a motion to adjourn. Doug Banfelder seconded the motion. Approved, Unanimous, Vote: 17-0

Meeting adjourned at 9:10 p.m.

Village Planning Committee Meeting Summary
Z-37-07-2

Date of VPC Meeting	November 5, 2007
Request From	RE-24 (3.68 acres)
Request To	R-O (3.68 acres)
Proposed Use	To allow conversion of a residence to residential office
Location	Southwest corner of Scottsdale Road and Sweetwater Avenue
VPC Recommendation	Denial
VPC Vote	14-2-1

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Mr. Bill Allison presented an overview of the case explaining the R-O standards and intent as outlined in the Zoning Ordinance. Mr. Allison noted in addition to rezoning approval, private CC&Rs would need to be amended.

Ms. Aubrey Anaya, with the Planning Department, presented the details of the case noting the findings as outlined in the staff report. Staff made a recommendation for approval, subject to stipulations with modification to stipulation 2. Staff recommended deletion of the words "to 10" after the number 6 be deleted to provide the applicant and the Development Services Department with a specific width for the landscaped setback along the western property line.

2. That a minimum 6 to 10 foot wide landscape setback along the entire west property line of all lots shall be provided. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3 inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.

Mr. Jon Altmann inquired about an R-O case located at the northeast corner of 64th Street and Cactus Road for which the village planning committee recommended denial. Mr. Altmann asked staff how this case was different from the previous case. Ms. Michelle Dodds, with the Planning Department, said she was not familiar with the specifics of the previous case but would research the case.

Neighbors submitted a petition in opposition and were concerned with alley access, paving and fencing of the alley. Increased crime, traffic and loss of viable residential lots were also of concern. Neighbors in support of the case were unsure how the entire proposal would ultimately develop and would like to see the landscaping done correctly to provide an adequate buffer. Neighbors asked staff about the city's enforcement of private CC&Rs.

Ms. Anaya clarified that the city cannot enforce private CC&Rs as it is a civil matter.

Committee members inquired about access points, retention, water pressure, an existing drainage easement and alley abandonment. Also of concern was the continued use of businesses on improper zoning.

Mr. Allison clarified the proposed access between lots 2 and 3 from Scottsdale Road and explained that retention and water pressure issues would be resolved by the Development Services Department as part of the development process. Ms. Anaya explained that there was an existing drainage easement on lot six to the south of the subject site. A stipulation was recommended requiring the applicant to pursue abandonment of the alley south of lot 5. Abandonment of the alley would require a public hearing and the Abandonment Hearing Officer would have the ability to add stipulations related to the abandonment. Staff explained that the Neighborhood Services Department enforced uses with improper zoning.

Motion: Mr. Altmann moved to deny the case. Mr. Ashley seconded the motion. This zoning request was denied by a vote of 14-2-1 (Chairman Maptstead, Mr. James, Ms. McTee).

Ms. McTee declared a conflict of interest and recused herself from this case.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

Paradise Valley Village Planning Committee:

Minutes

Monday, October 1, 2007
Paradise Valley Community Center
Multipurpose Room
17402 North 40th Street
Phoenix, Arizona

PRESENT

Jon Altmann
James Ashley
Judy Danner
Jon Griffin
Craig James
Loretta Lindsey
Jim Mapstead
Dennis Matrunola
Shelly McTee
Fiona Mesko
Alan Sparks
Wade Turner
David Walters
Gary Soutanian
Joseph Zemaitis

EXCUSED

Doug Banfelder
Mike Young
Sherry Roueche

ABSENT

Jake Jacobson
Barbara Rogne

STAFF

Michelle Dodds
Aubrey Anaya
Sarah Kerr

1. Call to order – Introductions of new members and committee announcements.

Meeting was called to order at 6:00 p.m. by Jim Mapstead. A quorum of 13 was present.

2. Introduction of new Village Planning Committee member Jon Griffin, representing District 3.

Jim Mapstead introduced new village planning committee member Jon Griffin.

3. Public comments concerning items not on the agenda. (Not for committee discussion)

No comments from the public.

Jon Altmann recognized and thanked Jim Mapstead for this professionalism in the recent election for Phoenix City Council. Jim Mapstead likewise recognized Jon Altmann for his professionalism in the recent election.

Jim Mapstead announced that Shelly McTee had been recently nominated and chosen to serve on the 2007 Infrastructure Financing Plan (Impact Fee) Ad Hoc Subcommittee.

4. Review and approval September 10, 2007 minutes.

Shelly McTee made a motion to approve the minutes. Jon Altmann seconded the motion. **Approved, Unanimous, Vote: 13-0**

Approved per the addendum to the staff report dated October 1, 2007, Vote: 14-1

5. Presentation, discussion and possible recommendation on case Z-37-07-2.a request to rezone 3.68 acres of land located at the southwest corner of Scottsdale Road and Sweetwater Avenue from RE-24 (Real Estate) to R-O (Residential Office) to allow conversion of a residence to residential office. Presentation by Bill Allison, Gallagher & Kennedy. The Zoning Hearing Officer will consider this request on October 15, 2007.
Request to continue to November 5, 2007 village planning committee meeting.

Jon Altmann made a motion to continue this item to the November 5, 2007 village planning committee meeting. James Ashley seconded the motion. **Continued, Unanimous, Vote: 15-0**

7. Subcommittee Reports:

- a. Bell Road Corridor – No report. Staff noted meetings regarding the impacts and possible solutions of Proposition 207 were scheduled for the near future.

8. Future Meetings: Next meeting date is November 5, 2007

- Next meeting is scheduled for November 5, 2007.

9. Announcements (not for committee discussion).

Aubrey Anaya updated the committee, as previously requested, on the status of the northeast corner of 19th Avenue and Bell Road since recent demolition of a structure occurred. The subject site, zoned C-3 was going through review with the Development Services Department and included a proposed building to be used for retail uses.

It was also announced that the next Continuous Learning Institute will be on October 6, 2007.

10. Adjournment

Loretta Lindsay made a motion to adjourn. Craig James seconded the motion.
Approved, Unanimous, Vote: 15-0

Meeting adjourned at 6:51 p.m.

RESULTS
NOTICE OF PUBLIC MEETING
PARADISE VALLEY VILLAGE PLANNING COMMITTEE

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **PARADISE VALLEY VILLAGE PLANNING COMMITTEE** and to the general public, that the **PARADISE VALLEY VILLAGE PLANNING COMMITTEE** will hold a meeting open to the public on **Monday, September 10, 2007, at 6:00 p.m.**, located in the **Multi-purpose Room**, at the **Paradise Valley Community Center, 17402 N. 40th Street**.

The agenda for the meeting is as follows:

1. Call to Order – Introduction of new Village Planner Aubrey Anaya and committee announcements.

The meeting was called to order by Chairman Mapstead at 6:05 pm with a quorum of 14 member in attendance. (Mr. James joined the committee at 6:09 pm bringing the total to 15 members.)

Chairman Mapstead presented Aubrey Anaya as the new Paradise Valley Village Planner and briefly described her experience with the Planning Department and the Development Services Department.

Ms. Fiona Mesko presented herself as a new member and briefly described her background and interest in being involved with the community.

2. Public comments concerning items not on the agenda. (Not for committee discussion).

No comments.

3. Review and approval of the July 9, 2007 meeting minutes.

Mr. Altmann moved to approve the minutes. Vice-Chair Soutanian seconded the motion.

The minutes were approved by a unanimous vote of 14-0.

RECOMMENDATION ITEMS:

4. Presentation, discussion and possible recommendation on case **Z-37-07-2** a request to rezone 3.68 acres of land located at the southwest corner of Scottsdale Road and Sweetwater Avenue from RE-24 (Real Estate) to R-O (Residential Office) to allow conversion of a residence to residential office. Presentation by applicant.

The Zoning Hearing Officer will consider this request on September 17, 2007.

This zoning request was continued until the October 1, 2007 village planning committee meeting.

Paradise Valley Village Planning Committee
Minutes
Monday, March 2, 2009
Paradise Valley Community Center
Multipurpose Room
17402 North 40th Street
Phoenix, Arizona

PRESENT

Gary Saultanian
Craig James
Roger Baele
Doug Banfelder
Jon Griffin
Ray Jacobs
Bryan Jeffries
Loretta Lindsey
Jim Mapstead
Dennis Matrunola
Fiona Mesko
Richard Pennock

EXCUSED

James Ashley
David Barnes
Judy Danner
Jill Hoogendyk
Jennie Richardson
Alan Sparks

ABSENT

Jake Jacobsen

STAFF

Aubrey Anaya
Michelle Dodds
Tricia Gomes

1. Call to order

The meeting was called to order at 6:06 p.m. by Chairman Saultanian with a quorum of 10 members in attendance. Mr. Banfelder and Mr. Pennock arrived later bringing the total to 12 members.

2. Review and approval of the January 5, 2009 meeting minutes.

Mr. Mapstead, with a second from Ms. Lindsey moved to approve the minutes.
Approved, Unanimous, Vote: 10-0.

3. Public comments concerning items not on the agenda (not for committee discussion or action).

Mr. Banfelder now in attendance.

No comments from the public.

4. Presentation, discussion and possible recommendation on case Z-37-07-2 a request to rezone 3.68 acres of land located at the southwest corner of Scottsdale Road and Sweetwater Avenue from RE-24 (One-Family Residence) to R:O (Residential Office) to allow residential office. Presentation by Jason Morris; Withey Morris, PLC. The Planning Commission will consider this request on April 7, 2009.

Staff

Ms. Anaya noted the case had gone before the Village Planning Committee on November 5, 2007, Planning Commission on April 9, 2008 and City Council on May 7, 2008. City Council remanded the case back to the Village Planning Committee so any new information could be heard by the recommending bodies. There have been amendments to the site plan and additional staff recommended stipulations since the case went before the Village Planning Committee for recommendation:

One of the issues associated with this case pertains to CC&Rs on the subject properties and the subdivision it pertains to. CC&Rs are a private civil matter that require civil action that the city of Phoenix does not enforce. In the event private CC&Rs are more restrictive than City zoning, codes or ordinances, the private CC&Rs prevail but are subject to enforcement through the court of law.

An overview of the staff report and addendums was provided along with staff's recommendation for approval, subject to stipulations per Addendum B with modification to stipulation 10. The city of Phoenix Street Transportation Department has modified their request for a stipulation pertaining to right-of-way improvements.

10. That the developer shall CONSTRUCT improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all ADA accessibility standards.

Applicant

Mr. Morris, representing the five property owners, presented the details of the proposal noting these were the only five homes/lots with direct access and frontage onto Scottsdale Road without a frontage road.

Richard Pennock now in attendance.

Mr. Morris provided the history of the site and development trends along Scottsdale Road including the Jewish Community Center located at the southeast corner of Scottsdale Road and Sweetwater Avenue. He discussed the site plan changes that had been made since 2007. R-O zoning was intended for proposals such as this. The site will stay residential in character since stipulations limit additional building height or expansions. Neighborhood cut-through traffic as a result of this proposal is unlikely to occur given the ability to make u-turn movements along Scottsdale Road and the proximity to signalized intersections. A traffic study concluded there would be five additional u-turn movements at Sweetwater Avenue and four additional peak hour trips.

Committee members inquired about refuse collection, use of alleys, other businesses in the neighborhood, gates along the western property lines, volume of activity at the Jewish Community Center, property management, existing utilities in alleys, lighting and a future frontage road along Scottsdale Road at this location.

Mr. Morris explained that refuse collection would be internal to the site and would likely be privately contracted. An application to abandon alleys could be filed and if the alley south of Lot 5 were approved for abandonment, it would likely include landscaping. There are a number of existing home occupations throughout the neighborhood that may be permitted subject to Zoning Ordinance standards. Existing gates located along

the western property line may remain but would not be utilized for vehicular access. There are a number of various activities that occur at the Jewish Community Center including camps and educational components. Properties could be individually or collectively managed but stipulations would ensure each property was in conformance with the overall plan. If alley abandonment was approved, any existing utilities would either need to be relocated or an easement would need to be provided. Lighting, particularly at the rear of the properties would be low-level downward oriented lighting. Years ago, a frontage road had been planned but the city of Phoenix reserved the area for future right-of-way expansion.

Opposition

The following submitted cards in opposition but did not wish to speak.

Tim Sullivan 12626 North 68th Place, Scottsdale, AZ 85254;
Craig Anderson 12835 North 71st Street, Scottsdale, AZ 85254;
Angela Saris 12651 North 70th Street, Scottsdale, AZ 85254;
Pollie Carter 7015 East Sweetwater Avenue, Scottsdale, AZ 85254;
Charles & Camille Cimaglia 12402 North 71st Street, Scottsdale, AZ 85254;
Varisa Zeleny 7025 East Sweetwater Avenue, Scottsdale, AZ 85254;
Debby Poje 7101 East Sweetwater Avenue, Scottsdale, AZ 85254;
Lisa Nissenbaum 6827 East Corrine Drive, Scottsdale, AZ 85254;
Paula Gebott 6821 East Presidio Road, Scottsdale, AZ 85254;
Sue Snedden 6841 East Presidio Road, Scottsdale, AZ 85254;
Bob & Mari Messinger 6848 East Aster Drive, Scottsdale, AZ 85254;
Dottie Martin 6701 East Camino de los Ranchos, Scottsdale, AZ 85254;
Amy Foster 12825 North 71st Street, Scottsdale, AZ 85254;
Leo Baumann 12229 North 71st Street, Scottsdale, AZ 85254;
Bud Karakey 12401 North 71st Street, Scottsdale, AZ 85254;
Steven Perlmutter 14227 North 69th Place, Scottsdale, AZ 85254.

The following submitted cards in opposition wishing to speak.

Paul Barnes 5518 East Mariposa Street, Phoenix, AZ 85018;
John Crookham 7043 East Carol Way, Scottsdale, AZ 85254;
Ryan Fox 7014 East Aster Drive, Scottsdale, AZ 85254;
Pat Humphrey 12401 North 65th Place, Scottsdale, AZ 85254;
Bruce Foster 12825 North 71st Street, Scottsdale, AZ 85254;
Steve Poje 7101 East Sweetwater Avenue, Scottsdale, AZ 85254;
Cheryle Sullivan 12626 North 68th Place, Scottsdale, AZ 85254.

Residents that spoke before the committee believed that this was not an area of transition and different than existing R-O properties along Missouri Avenue and 44th Street. Camelback Road was an arterial street with RE-24 zoning and did not include R-O zoning. This is a case of spot zoning that will lead to similar rezoning cases along Scottsdale Road. The proposal would create additional neighborhood cut-through traffic posing a threat to residents and cause west bound turning traffic onto Sweetwater Avenue from northbound Scottsdale Road to back up while awaiting the u-turn movements. The proposal would impact property values negatively. This was a prime residential area that was not in deterioration. There is available office space in the surrounding area.

Support

The following submitted cards in support but did not wish to speak.
Holly, Rylee & Ashley Gallun 11748 East De La Ord, Scottsdale, AZ 85255;
Mario & Joyce Kay 4635 East Michelle Drive, Phoenix, AZ 85032;
Jim Mannari 12854 North Scottsdale Road, Scottsdale, AZ 85254;
Deborah Mannari 12850 North Scottsdale Road, Scottsdale, AZ 85254;
Linda & Raegan Gall 6725 East Cholla Street, Scottsdale, AZ 85254;
Thomas Moebius 12838 North Scottsdale Road, Scottsdale, AZ 85254;
Lyle Gall 12826 North Scottsdale Road, Scottsdale, AZ 85254;
Tyler Breitag 6725 East Cholla Street, Scottsdale, AZ 85254;
Robert Alpert 12802 North Scottsdale Road, Scottsdale, AZ 85254;
Travis Gall 4075 East Sleep Ranch Road, Cave Creek, AZ 85331;
Mike Prokes 2515 East Turquoise Avenue, Phoenix, AZ 85028;
Mark Reddie 120 South Ash Avenue, Tempe, AZ 85281;
Beverly Cheesman 20660 North 40th Street #1017, Phoenix, AZ 85050;
Hillary Alpert & Falan Alpert 8389 North 58th Place, Paradise Valley, AZ 85253;
Maryann Parrish 4601 North 100th Drive, Phoenix, AZ 85037;
Graeme, Denny, Hunter and Riley Warring 4626 East Janice Way, Phoenix, AZ 85032;
David Blidy 854 North Windsor Circle, Mesa, AZ 85213;
Mike Orrock 1807 East Missouri Avenue, Phoenix, AZ 85016;
Bob and Linda Huffman 4527 East Sandra Terrace, Phoenix, AZ 85032.

Applicant

Mr. Morris noted residents were concerned with existing traffic which is one aspect that makes the five lots no longer viable for residential use. Scottsdale Road is not Camelback Road, Cactus Road, Thunderbird Road or Shea Boulevard and cannot be compared to such roadways. Stipulations are proposed which cannot be modified without a public hearing.

Mr. Mapstead stated that the committee had previously taken CC&R issues into account in their previous recommendation but now understand that CC&Rs are a private matter and the proposal must be evaluated from a land use perspective. Though he would prefer an alternative to right-in-right-out circulation, there are differences between the site plan previously presented in 2007 and the current proposal. Mr. James moved to approve, subject to stipulations per Addendum B with modification to stipulation 10:

Committee members inquired about including traffic calming measures on Sweetwater Avenue and if staff had studied the number of vehicular accidents occurring near similar developments.

Ms. Anaya noted that residents could request a study on Sweetwater Avenue once the impacts of the proposal were evident and could lead to additional traffic calming measures. There is an existing traffic calming measure on Sweetwater Avenue west of the subject site. Staff could research the number of vehicular accidents occurring near similar developments and report back to the committee at a later date.

Mr. Griffin seconded the motion.

Ms. Lindsey asked why staff and the Village Planning Committee had previously recommended denial on R-O cases at 64th Street and Cactus Road. Ms. Anaya

responded that those cases were single lot requests and did not include multiple lots with shared access. Ms. Lindsey believed traffic concerns were the reason for denial.

Mr. Banfelder noted these five lots were unique along Scottsdale Road.

Motion

Mr. James moved, with a second by Mr. Griffin to approve, subject to stipulations per Addendum B with modification to stipulation 10. **Approve, subject to stipulations per Addendum B with modification to stipulation 10, Vote: 10-2 (Ms. Lindsey and Mr. Pennock).**

5. (INFORMATION ONLY NOT FOR COMMITTEE ACTION) Presentation and discussion on case Z-83-08-2 a request to rezone 0.78 acres of land located at the northwest corner of 37th Street and Greenway Road from R1-14 (One-Family Residence) to PUD (Planned Unit Development) to allow a mixed-use development. Presentation by Edmir Dzudza; E-Project International.

Staff

Ms. Anaya stated the PUD zoning category is a unique zoning category in that the applicant authors and proposes standards and guidelines that are tailored to the context of a site on a case by case basis. A PUD development narrative is submitted by the applicant which includes standards and guidelines pertaining to permitted uses, development standards, design guidelines and sustainability. Once approved by City Council, the PUD development narrative becomes the Zoning Ordinance applicable to the subject site.

It is recommended that a PUD application go before the respective Village Planning Committee for information prior to a Village recommendation. The case will come before the Village Planning Committee for a recommendation at a later date.

Applicant

Mr. Dzudza presented the details of the proposal noting there would be approximately 1,800 square feet of medical office space and 1,500 square feet of administrative office space on the ground floor with three residential units on the second floor. The concept was to provide a live/work opportunity for medical assistants completing their education.

Committee members inquired about trash collection, surrounding uses, gated residential entrances and access. Mr. Dzudza clarified there would be private trash collection. There was recent opposition from the residential property owner to the north that was concerned with the proposed height. Mr. Dzudza had informed the resident that a two story structure could be constructed under the existing zoning. There is a church west of the subject site and an R-O development at the northeast corner of 36th Street and Greenway Road. Residential access would be gated and access would occur off of 37th Street and Greenway Road.

Ms. Lindsey left the meeting at 8:44 p.m. bringing the quorum to 11 members.

Opposition

Emmett and Lynda Vickers 15420 North 37th Street, Phoenix, AZ 85032 submitted cards in opposition but did not speak. Paul Barnes spoke regarding the recent April 2008

adoption of the PUD zoning district. No PUDs have been approved in the city of Phoenix to date. He discussed the PUD proposal for the Arizona Biltmore and asked how neighbors were expected to understand a proposal that was two binders thick. PUDs give additional entitlements than the traditional zoning categories and are typically applied to larger phased tracts of land. Sites with PUD zoning less than an acre in size could be considered spot zoning and there would be no consistency. He urged the committee to seek specific information about any PUD before them for recommendation.

Discussion

Committee members discussed the intent of the PUD district noting it could lead to inconsistency and asked how they were to review such a proposal. Ms. Anaya clarified the PUD rezoning process that involved extensive staff and neighborhood review. PUDs should be analyzed as any other rezoning case would. Some proposals may be more complex than others as can be said of traditional rezoning cases. Committee members noted PUD categories are utilized successfully throughout the valley and would require more due diligence early in the process on behalf of the committee.

No action was taken.

6. Presentation, discussion and possible recommendation on text amendment case Z-TA-15-08 to amend Zoning Ordinance Sections 202, 622, 623, 624, 637 and 659 to allow outdoor cooking as an accessory use to a restaurant or bar. Presentation by staff. ***The Planning Commission will consider this request on April 7, 2009.***

Mr. James moved, with a second from Mr. Pennock to continue Z-TA-15-08.
Continued, Vote: 12-0.

7. Presentation, discussion and possible recommendation on text amendment case Z-TA-16-08 to amend Zoning Ordinance Sections 622, 623, 624, 626, 637 and 659 to allow outdoor dining and alcohol consumption as an accessory use to a restaurant or bar. Presentation by staff. ***The Planning Commission will consider this request on April 7, 2009.***

Mr. James moved, with a second by Mr. Pennock to continue Z-TA-16-08. **Continued, Vote: 12-0.**

8. Committee member requests for information, follow-up or future agenda items (not for committee discussion or action).

Next regular meeting is scheduled for April 6, 2009.

None.

9. Adjournment

Mr. Mapstead made a motion, with a second by Mr. Banfelder to adjourn. **Approved, Unanimous, Vote: 11-0**

Meeting adjourned at 8:57 p.m.



Village Planning Committee Meeting Summary_Revised Z-37-07-2

Date of VPC Meeting	March 2, 2009
Request From	RE-24 (3.68 acres)
Request To	R-O (3.68 acres)
Proposed Use	To allow residential office
Location	Southwest corner of Scottsdale Road and Sweetwater Avenue
VPC Recommendation	Approval, subject to stipulations per Addendum B with modification to stipulation 10
VPC Vote	10-2

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Staff noted that City Council remanded the case back to the Village Planning Committee so any new information could be heard by the recommending bodies. An overview of the staff report and addendums was provided along with staff's recommendation for approval, subject to stipulations per Addendum B with modification to stipulation 10. That the developer shall **CONSTRUCT** ~~improve all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping~~ and other incidentals as per plans approved by the Development Services Department. All improvements shall comply with all ADA accessibility standards.

The applicant presented the details of the proposal noting these were the only five homes/lots with direct access and frontage onto Scottsdale Road without a frontage road. He discussed development trends along Scottsdale Road, site plan changes, unlikely neighborhood cut-through traffic and the results of a traffic study.

Committee members inquired about refuse collection, use of alleys, other businesses in the neighborhood, gates along the western property lines, volume of activity at the Jewish Community Center, property management, existing utilities in alleys, lighting and a future frontage road along Scottsdale Road at this location.

The applicant explained that refuse collection would be internal to the site and likely privately contracted. Alley abandonment approval south of Lot 5 would likely include landscaping. Home occupations throughout the neighborhood may be permitted subject to standards. Existing gates along the western property line may remain but would not be utilized for vehicular access. Various activities occur at the Jewish Community Center. Properties could be individually or collectively managed but stipulations would ensure conformance with the overall plan. Alley abandonment

approval with existing utilities would require utility relocation or an easement. Lighting will be low-level downward oriented lighting. A frontage road had been planned but the city of Phoenix reserved the area for future right-of-way expansion.

In support of the case, 28 cards were submitted. In opposition to the case, 25 cards were submitted. Residents that spoke before the committee in opposition believed that this was not an area of transition and different than existing R-O properties along Missouri Avenue and 44th Street. Camelback Road was an arterial street with RE-24 zoning and did not include R-O zoning. This is a case of spot zoning that will lead to similar rezoning cases along Scottsdale Road. The proposal would create additional neighborhood cut-through traffic posing a threat to residents and cause west bound turning traffic onto Sweetwater Avenue from northbound Scottsdale Road to back up while awaiting the u-turn movements. The proposal would impact property values negatively. This was a prime residential area that was not in deterioration. There is available office space in the surrounding area.

The applicant noted the concern was existing traffic which is what makes the five lots no longer viable for residential use. Scottsdale Road cannot be compared to other roadways.

Committee members noted they now understood that CC&Rs are a private matter and the proposal must be evaluated from a land use perspective. Though an alternative to right-in-right-out circulation is preferred, there are differences between the 2007 site plan and the current proposal. Committee members inquired about including traffic calming measures on Sweetwater Avenue and how this case compared previous denial of R-O cases at 64th Street and Cactus Road which had traffic concerns. Staff noted that residents could request a study on Sweetwater Avenue in the future that could lead to additional traffic calming measures. The previous cases were single lot requests that did not include multiple lots with shared access.

Motion

Mr. James moved to approve, subject to stipulations per Addendum B with modification to stipulation 10. Mr. Griffin seconded the motion. **Approve, subject to stipulations per Addendum B with modification to stipulation 10, Vote: 10-2 (Ms. Lindsey and Mr. Pennock).**

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

Staff is supportive of the VPC recommendation and stipulations.

1. That development shall be in general conformance to the site plan date stamped ~~on March 28, 2007~~ FEBRUARY 9, 2009 WITH SPECIFIC REGARD TO THE EXISTING BUILDING FOOTPRINTS, MAINTENANCE OF THE EXISTING WEST PROPERTY LINE WALLS AND THE ADDITION OF ENCLOSED/COVERED TRASH CONTAINERS as approved ~~or modified~~ by the Development Services Department.
2. That a minimum 6 to 10-foot wide landscape setback along the entire west property line of all lots shall be provided WITH THE CORRESPONDING PHASE. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3 inch caliper trees placed 20 feet on center or equivalent

groupings as approved by the Development Services Department.

3. That a minimum 6-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2 and 3 inch caliper trees placed 20 feet on center or equivalent groupings as approved by the Development Services Department.
4. That cross access and parking agreements for lots 2, 3, AND 4 and 5 shall be created and recorded prior to preliminary site plan approval FOR THE CORRESPONDING PHASE as approved by the Development Services Department.
5. That right-of-way shall be dedicated to the city and a bus bay constructed along Scottsdale Road south of Sweetwater Avenue according to city of Phoenix Detail P1256-1 and a transit pad shall be installed according to city of Phoenix Detail P1261 as approved by the PUBLIC Transit Department.
6. That the applicant PROPERTY OWNER OF LOT 5 shall file for and pursue abandonment of the alley, south of Lot 5 PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE RESIDENTIAL OFFICE USE ON LOT 5. IN THE EVENT THE ABANDONMENT IS NOT GRANTED, A ONE (1) FOOT VEHICULAR NON-ACCESS EASEMENT (VNAE) SHALL BE RECORDED ALONG THE SOUTHERN PROPERTY LINE OF LOT 5 AS APPROVED BY THE DEVELOPMENT SERVICES DEPARTMENT.
7. THAT BUILDING HEIGHT SHALL BE LIMITED TO ONE (1) STORY AND 13 FEET WITH THE EXCEPTION OF LOT 5 TO BE LIMITED TO ONE (1) STORY AND 14 FEET.
8. THAT THE REAR BUILDING SETBACKS (WEST SIDE) SHALL BE LIMITED TO THE FOLLOWING EXISTING SETBACKS: LOT 1 - 77 FEET; LOT 2 - 78 FEET; LOT 3 - 97 FEET; LOT 4 - 103 FEET AND LOT 5 - 111 FEET AS MEASURED FROM THE CENTERLINE OF THE EXISTING 16-FOOT ALLEY.
9. THAT A ONE (1) FOOT VEHICULAR NON-ACCESS EASEMENT (VNAE) ALONG THE ENTIRE WEST PROPERTY LINE SHALL BE RECORDED PRIOR TO PRELIMINARY SITE PLAN APPROVAL FOR THE CORRESPONDING PHASE AS APPROVED BY THE DEVELOPMENT SERVICES DEPARTMENT.
10. THAT THE DEVELOPER SHALL CONSTRUCT IMPROVE ALL STREETS ADJACENT TO THE DEVELOPMENT WITH PAVING, CURB, GUTTER, SIDEWALK, CURB RAMPS, STREETLIGHTS, LANDSCAPING AND OTHER INCIDENTALS AS PER PLANS APPROVED BY THE DEVELOPMENT SERVICES DEPARTMENT. ALL IMPROVEMENTS SHALL COMPLY WITH ALL ADA ACCESSIBILITY STANDARDS.
11. THAT IN THE EVENT ARCHAEOLOGICAL MATERIALS ARE ENCOUNTERED DURING CONSTRUCTION, THE DEVELOPER SHALL IMMEDIATELY CEASE ALL GROUND DISTURBING ACTIVITIES WITHIN A 33-FOOT RADIUS OF THE DISCOVERY, NOTIFY THE CITY ARCHAEOLOGIST, AND ALLOW TIME FOR THE ARCHAEOLOGY OFFICE TO PROPERLY ASSESS THE MATERIALS.