TOWN OF PAYSON
PLANNING AND ZONING COMMISSION
MINUTES OF THE PUBLIC MEETING
June 8, 2009

Chairman Goddard called the duly published and posted public meeting of the Planning and Zoning Commission to order at 3:00 p.m. in the Council Chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL
PRESENT: Jere Jarrell, James Scheidt, Russell Goddard, Joel Mona, Gary Bedsworth, Lori Meyers, and Jeff Loyd.
ABSENT: None
STAFF PRESENT: Ray Erlandsen, Acting Community Development Director, Sheila DeSchaaf, Planner II, Chris Floyd, Executive Assistant, and Tim Wright, Deputy Town Attorney.

A. APPROVAL OF MINUTES

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   The minutes were approved as submitted.

B. PUBLIC COMMENTS - Comments concerning items not on the agenda. Note: Those wishing to address the Planning and Zoning Commission during this time need not request permission in advance. Action taken as a result of public questions and comments shall be limited to directing staff to study the matter or rescheduling the matter and decision at a later date. There shall be no discussion regarding any issues presented.

There were no public comments.

C. SCHEDULED HEARING(S)

1. P-354-09 Zone Change Request
   Filed by: Ponderosa Baptist Church, property owner
   Location: 1800 North Beeline Highway
   Purpose: For a zone change request from R1-175 to C-2 for construction of additional church facilities.

   Ray Erlandsen, Acting Community Development Director, summarized the staff report.

   Staff recommends approval with the following conditions:

   1. The development shall be in substantial conformance with the Master Site Plan,

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dated March 17, 2009.

2. Engineered grading and drainage plans for all five phases shall be submitted and approved with Phase One.

3. A master tree and plant conservation plan and landscape master plan for all five phases shall be submitted and approved with Phase One.

4. Development standards, including landscaping provisions, for each phase of development shall be satisfied concurrently with the respective phase of development. Commencement of future phases may be contingent upon satisfactory completion of preceding phases.

The Commission asked questions, which were answered by staff.

Chairman Goddard opened the public hearing.

Bernie Lieder, architect for project, gave a brief overview of the proposed development. He noted that this would be a phased project.

The Commission asked additional questions, which were answered by Mr. Lieder and the applicant.

Chairman Goddard closed the public hearing.

Motion: Recommend to the Town Council approval of P-354-09, a request to rezone the west portion of the property located at 1800 North Beeline Highway from R1-175 to C-2 as depicted on Exhibit A of the staff report.
Moved by Jere Jarrell, seconded by James Scheidt.

Vote: Motion carried 7 - 0
Yes: Jere Jarrell, James Scheidt, Russell Goddard, Joel Mona, Gary Bedsworth, Lori Meyers, and Jeff Loyd.

2. P-355-09 Zone Change Request
Filed by: Patrick and Barbara Underwood, property owners
Location: 1601 East Underwood Lane
Purpose: For a zone change request from R1-90 to R1-44 for the purpose of subdividing a 15.08 acre property into 14 single family residential lots. (Tuscany Estates)

Ray Erlandsen, Acting Community Development Director, summarized the staff report.

Staff recommends approval with the following conditions:

1. The development shall be in substantial conformance with the Rezoning Site Plan, dated May 19, 2009 and shall not exceed a total of 14 lots.

2. A note shall be added to the final plat stating "Areas outside the designated building envelopes shall not be disturbed in any manner except for defensible space thinning/maintenance. Any accessory structures, including fences, shall be located within the designated building envelope. Driveway widths outside the building envelope, on all lots, shall be limited to a maximum of 14 feet wide unless a greater width is needed to meet Fire Department requirements."

3. Building envelopes will be kept off the ridgelines and sensitive environmental areas.

4. Adequate sanitary facilities shall be designed in accordance with Northern Gila County Sanitary District standards prior to submittal of the Final Plat.

5. Storm water detention/retention shall be provided in accordance with the Town of Payson Requirements.

6. If a subdivision sign is planned, a sign easement shall be created on the lot where the subdivision sign will be placed.

7. The developer shall submit a proposal outlining their contribution to the pedestrian circulation in the area prior to Council consideration of the rezoning.

8. All applicable Town standards for development shall be met.

9. If any conditions above, cannot be met or the applicant does not have an approved Final Plat within two (2) years of the approval date of the zoning change, then the R1-44 rezoning may revert to the original R1-90 zoning, pending Council action.

The Commission asked questions, which were answered by staff.

Ray Erlandsen, Acting Community Development Director, read a portion of the staff report which stated: "In April 2004, the Planning and Zoning Commission recommended approval of this rezoning to the Town Council. On June 10, 2004, the Town Council approved Ordinance #653 rezoning this property from R1-90 to R1-44. On July 8, 2004, the Town Council voted unanimously to rescind Ordinance #653 leaving the zoning at R1-90. On August 12, 2004, the Council unanimously approved Resolution #1981 denying Application Number P-305-04, the original rezoning application, and provided a waiver of fees for any future zone change application for the property located at 1601 East Underwood Lane. The resolution further provided that Patrick and Barbara Underwood might again apply for a zone change for this property in the future when a new, adequate water supply became available for the property. Since that time, the Town has acquired wells to expand the Town's water portfolio and has suspended the "20 ERU" policy."

Commissioner Mona read a portion of the Land Use Plan which states: "Density. The Town intends to permit reasonable land use intensity for all types of uses,

commensurate with plan goals. Sufficient demand must exist before authorizing higher land use intensity than present zoning permits. Regulatory provisions, accompanied by development review practices are designed to favor compatible, master-planned construction in terms of residences per acre or site coverage as compared with piecemeal development."

Commissioner Bedsworth also read a portion of the Land Use Plan which states: "Rural Residential (.25 to 1.0 DU/AC) - Denotes areas where large lot single family residential development is desirable. The density range .25 to 1.0 dwelling units per acre is intended to preserve the rural character of the area and provide sufficient open space that create a natural buffer between uses. Rural Residential is typically located in areas with limited access, topography constraints, hillsides, and forest areas."

Chairman Goddard opened the public hearing.

Several members of the audience voiced their opposition to this rezoning request. They felt there was no compelling reason to change the zoning, that it would be detrimental to the area, and safety was a concern. Comments were made regarding the zoning and why it should remain 2 acre parcels.

Ray Erlandsen, Acting Community Development Director, read a portion of the CCR's from 1994, which is not an official Town document, that stated: "No parcel may be zoned for density less than D90, (90,000 square feet per parcel) unless the parcel is subdivided according to the Town of Payson subdivision regulations and subdivision standards for the zoning requested are met. No parcel may be smaller than D90 unless a sewage collection system is provided and the sewer system connected to the Northern Gila County Sanitary District system."

Commissioner Mona read a portion of the P & Z minutes from 1994, which recommended a zone change from the R1-D175 to the R1-D90, that stated: "For the purpose of having a viable and reasonable zoning for the development of these properties. Mr. Bob Gould presented the staff report as follows: The purpose of this application is to rezone lands from R1-D175 to R1-D90 and R4. The purpose is to allow single-family residents on a minimal 2.06 acre lot sizes and a recreational vehicle park and the office facilities for the KMOG radio station."

Ray Erlandsen, Acting Community Development Director, read a portion of a letter from Norval Tyler, dated 9-1-94, which stated: "As part of the agreement with the town on the Payson III Land Exchange, the decision was made that because there were so may parcels of land, that we would take certain steps with the property. We agreed to zone the property to 90,000 square feet lots and record covenants and restrictions. The zoning is being advertised and going through the necessary steps." Mr. Erlandsen noted that he had read the entire letter and he found no guarantee that the property would always be R1-90.

A question was asked whether or not the Commission did a tally of the letters that were for and against this proposal and if the letters were considered in the

Commission's decision. It was also mentioned again that the Land Use says sufficient demand must exist before authorizing higher land use intensity.

Chairman Goddard replied that each Commissoner handled it in their own way. Several Commissioners noted that they appreciated the comments received from the public.

Commissioner Loyd asked if there was a document available on the R1-44 zoning that has yet to be built out, to which the reply was no it wasn't available.

The recently adopted Housing Study was mentioned and one of the recommendations is for increasing density. It was also mentioned that the Underwood's do a very nice development.

Another concerned citizen voiced opposition to this rezoning request.

Ralph Bossert, Verde Engineering, stated that he had spoke with Ray Jones, who wrote the CCR's, and he said it was not the intent for the property to remain R1-90, but it could not be rezoned unless current Town code standards were met. Mr. Bossert mentioned that he had worked with the Underwoods on their other development in the area and how nice the project was.

Barbara Underwood, applicant, stated that she felt the Commission would look at all the facts and give a fair hearing to both sides. She gave a brief overview of their involvement with the subject property.

The Commission asked further questions, which were answered by the applicant.

Further information was given to the Commission regarding opposition to this rezoning request. It included a list of property owners in the area that were opposed to the rezoning request in 2007, a portion of the General Plan Update, and pictures of water in the proposed rezoning area.

Patrick Underwood, applicant, addressed some of the concerns presented by property owners in the area.

Chairman Goddard closed the public hearing.

Commissioner Mona commented on the amount of work that was done to provide information to the Commission by a very concerned property owner in the area.

Motion: Recommend to the Town Council approval of P-355-09, a request to rezone a 15.04 acre property located at 1601 East Underwood Lane from R1-90 to R1-44 for the purpose of a 14 lot single family development with the conditions listed in the staff report.

Commissioner Joel Mona explained that his decision came as a result of weighing several factors. Property owners in the area could have a reasonable expectation that

the R1-90 zoning would remain. The applicant, who once had the zone change approved then retracted due to a concern over availability of water, has seen additional water become available and also could have a reasonable expectation that they could rezone. There have been evolving trends in planning, and there is substantial opposition as well as support for the request. Mr. Mona stated that after he weighed all of the facts he would support this application.

Commissioner Jeff Loyd stated that he agreed with Mr. Mona that this is a substantial decision. He stated he did not see a legal reason why this request should be denied, but felt the request did not conform to the spirit of the UDC or the surrounding neighbors. Mr. Loyd commented that he would have a hard time supporting this request because he has an issue with the definition of the word demand. He would like to see more sufficient information regarding percentage of build out, and would not support this request because he feels there is an increased amount of information that he still needs to weigh before he could say yes to it.

Commissioner Lori Meyers reminded the Commission that she didn't see the pipeline for Blue Ridge water flowing into Town yet. She stated that she agreed with Commissioner Loyd that they did not have a lot of information related to the demand. She stated that when a property owner goes into a neighborhood that is already established that property owner needs to be a little more friendly as to how they fit in. The surrounding area is R1-90 and the people within that area deserve some consideration. She commented that like Commissioner Loyd, she could not support this request.

Commissioner Gary Bedsworth reminded everyone that regardless of the Commission's vote this application would still proceed to Council. He commented that this property was contiguous to higher density, just as other properties within the R1-90 area were contiguous to higher density properties that allow for mobile homes so he felt the argument that this zoning change does not fit, did not completely fly true to him. He stated that he certainly respects all of the people who made efforts to provide the Commission with feelings and comments.

Commissioner Jim Scheidt commented that this rezoning proposal was not contingent on C C Cragin water coming to Payson, it was contingent upon the Town's ability to provide additional water through some means since it was originally denied. He stated that regarding the CCR's, he understands the importance of having them and what they actually mean. He reiterated that the Town does not enforce them, but the homeowners that are under the guidelines of the CCR's do have to live with them. He further stated that what he heard today was that the portions of the CCR's for this development that were read said these things could not change unless these things happened. The Commission was hearing only one side - the zoning was this way and it was always suppose to be, but they were not being presented the what-ifs. He felt that this presented a whole new perspective for him. Yes, those provisions do exist as well as provisions that exist within the Town rules and regulations and the Unified Development Code that allow this to happen and the Commission has to consider all of these things. He stated he would again support this request based on what he felt they had to do as a Commission. He

would support a recommendation to the Council of approval.

Chairman Goddard stated that the bottom line for him was that they were asking for an increase of seven additional units. He didn't know how that works in terms of job creation or city revenues or increased infrastructure costs whether they develop the property with seven lots or fourteen lots. He felt it would be fairly much the same. In regards to the issue about demand for more development he stated he, like Commissioner Loyd could not really get over that issue. He doesn't see a huge demand. Chairman Goddard commented that when he looked at this area he didn't see the need to change the zoning for this particular piece of property. He stated an applicant has a right to request a rezoning, but they are not guaranteed a zoning change. People cannot buy property and expect that the guy's property next door is going to stay the same, just as this property owner cannot have an expectation that he can buy a R1-90 zoned property and then at some later time be automatically guaranteed he can rezone it. Chairman Goddard stated he does not feel that the increase in density fits in this subdivision and he would not support this request. Moved by James Scheidt, seconded by Gary Bedsworth.

Vote: Motion carried 4 - 3
Yes: Jere Jarrell, James Scheidt, Joel Mona, and Gary Bedsworth.
No: Russell Goddard, Lori Meyers, and Jeff Loyd.

D. SCHEDULED DISCUSSION/POSSIBLE ACTION

1. See attached List of Previous Requests for future Agendas

Jim Scheidt questioned if Council needed to approve the beekeeping, the fence ordinance, accessory dwelling unit and the impact fee update as part of a proposed revision to the UDC. Ray Erlandsen, Acting Community Development Director, replied that Council asked staff to set aside the beekeeping and not proceed any further; the Council asked that a fence policy be established instead of an ordinance, which has been done; accessory dwelling units was approved and is in the UDC; and an impact fee study would have to be authorized by the Council, which has not been done.

E. REQUESTS TO STAFF FOR THE PLACEMENT OF ITEMS ON FUTURE PLANNING & ZONING COMMISSION AGENDAS

Joel Mona stated that in the airport land exchange there was some property designated for an overlook area and asked if during rezoning or plat request could a strategy be discussed to ensure that it was developed. It was recommended that staff review it and bring it back to the Commission.

F. INFORMATION TO COMMISSION (Not for Discussion)

There will be a July meeting.

ADJOURNMENT - 5:50 P.M.

Russell Goddard, Chairman

7-13-09

Approved

Chris Floyd, Executive Assistant