

Summary Minutes
City of Sedona
Planning & Zoning Commission Work Session
Council Chambers, 102 Roadrunner Drive, Sedona, AZ
Tuesday, March 20, 2018 - 3:30 p.m.

1. CALL TO ORDER & ROLL CALL

Chair Losoff called the work session to order at 3:30 p.m.

Roll Call:

Planning & Zoning Commissioners Present: Chair Losoff, Vice Chair Kathy Levin and Commissioners Randy Barcus, Eric Brandt, Kathy Kinsella, Larry Klein and Gerhard Mayer.

Staff Present: Audree Juhlin, Ryan Mortillaro, Cynthia Lovely, Cari Meyer, Rob Pollock and Donna Puckett.

Councilor(s) Present: Mayor Sandy Moriarty

2. ANNOUNCEMENTS & SUMMARY OF CURRENT EVENTS BY COMMISSIONERS & STAFF

Audree Juhlin announced that Commissioner Barcus tendered his resignation, and we are seeking someone to fill that seat, and since it is close to the end of his term, we will fill the remaining portion of his term and the following 3-year term. The deadline is March 29th and, so far, no applications have been received; however, she thinks a potential applicant is in the audience.

3. Discussion/possible direction regarding the update of the Land Development Code.

Chair Losoff introduced the agenda item and commented on the 313-page packet and the hope that Commissioners would remember that the hope is to condense the formal Land Development Code. Audree Juhlin explained that with the change to the new Office 365 software, we have had glitches with our new system, including email, so some of you had difficulties getting the emails.

Presentation:

Mike Raber indicated that there are two parts to this agenda item; one is the continuation of the Commission's November 30th, January 16th and February 6th discussions on Part Two of the draft. There are a number of attachments for that continued discussion, and the second part is an introduction to Part Three, Administration and Procedures, which Consultants Matt Goebel and Tareq Wafaie with Clarion Associates will introduce.

Mike explained that Part Three will be the last individual piece of the Code before getting the consolidated draft. If you are going to make comments based on the footnotes in the draft, use the version that we just handed out, because the numbering might be slightly different than the version online. Chair Losoff suggested that Commissioners refer to the page numbers; however, Mike clarified that they are all the same, only the footnote numbers are different. Starting with the continued discussion on Part Two in the January and February work sessions, we prepared and discussed a summary of questions and comments on the draft. On February 6th, the Commission finished comments on that, except on density and the Firewise discussion in Landscaping.

Mike stated that staff conducted two focus group sessions on January 23rd and 24th, and those were regarding Part Two and included comments from those work sessions. Additional public comment on Part Two is attached in the packet. We would like to start with the Firewise and landscaping discussion and then move to the discussion on density before going to Part Three of the Code.

Mike referenced an attachment to Section 5.6.F that removed the Wildfire Mitigation Standards as a mandatory provision and indicated that there is a memo from Legal staff regarding the Firewise

principles. Mike explained that the page numbers in the attachment are not quite correct, so just reference the Section number. It also shows the redlines and things added in that section. Commissioner Mayer and Vice Chair Levin asked for a page number, and Vice Chair Levin and Chair Losoff stated that it starts on page 59; however, Tareq Wafaie clarified that page 48 is where Landscaping begins, and Page 58 is where Wildfire Mitigation Standards are.

Commissioner Brandt noted that the first section doesn't have any of the edits; it is deeper in the 313-page . . . Mike Raber interjected that the main Part Two of the Code is not the handout with the edits; that is included in the packet as the Landscaping, Buffering and Screening Section.

Mike showed the referenced page 59 on the screen and explained that it is out of the Landscaping Section. Vice Chair Levin indicated that the packet did not include the strike through; however, Mike Raber stated that it did. The Vice Chair then noted it is in the attachment, not in the body of the Land Development Code, and Mike agreed and indicated that it has a page number of 49 to start, but it repeats pages, so give staff the section number in the attachment. Chair Losoff then stated that we are on page 59 of 313.

Mike stated that our existing Code is sometimes contradictory to the Firewise principles and insurance policies are now considering landscaping relative to fire coverage and sometimes denying coverage, so we need to balance having a community that integrates well into the landscape while also recognizing those conflicts. Staff's recommendation is to delete Section 5.6.F on page 58 of the main draft. This was the Section that covers defensible space, and we are making this recommendation also based on the memo from Legal staff as well. Although it is not advisable for us to regulate this, there are several other areas where we want to reduce the landscaping requirements as follows:

- Remove the requirement for one tree for every 500 sq. ft.
- Reduce plant density in several other areas of the Code
- Reduce the number of trees and shrubs for parking lot screening and landscaped islands
- Remove building perimeter landscaping on street frontage
- Remove standard for planting of large vegetative areas to reduce building mass

Mike indicated those would be discussed in more detail following this, and staff has outlined what those Sections are. Chair Losoff asked if staff is suggesting eliminating F, and Mike stated yes. The Chair then indicated that they have the Section in their packet, but it is not redlined; however, Mike indicated that it is redlined. Commissioner Kinsella and Commissioner Mayer agreed that it was not in their packet. Audree Juhlin noted that some Commissioners didn't receive the emails, so staff will make some copies; some people got the email and some didn't. You can access the information on the City's webpage under your Planning & Zoning Commission page. Commissioner Kinsella stated that she is trying that on the webpage now, but it is not coming up redlined.

Chair Losoff suggested continuing; it was discussed last time, so it is not new. Mike Raber explained that basically that Section is struck, and there are related clauses in other parts of that Section that go with that and have also been eliminated or clarified. Chair Losoff asked for the rationale, and Mike stated that we want that balance that addresses both the need to integrate into our landscape, but also recognize that we have some conflicts that we need to address. The Chair stated that you are recommending that we strike F and asked if any Commissioner had an objection to that.

Commissioner Klein referenced where it says "Remove this Section". This will become guidelines instead of standards." He then asked where the guidelines are going to be set forth, and Mike Raber indicated they will not be in the Code; that would come from another process with the City. Vice Chair Levin asked if there will be a philosophy or a policy around that or will it come from Council to frame those guidelines. Audree Juhlin explained that staff is cooperating with the City Manager's Office, Community Development and the Fire District to come up with an education campaign, so it will be a joint effort between our two departments and the Fire District to develop that; it will not come back to the Commission. The only regulatory documents that will be applicable to the Commission are what we are recommending now in the Land Development Code. Vice Chair Levin asked if the

guidelines will be referenced in the Land Development Code, and Audree and Mike Raber stated no, because we don't know. . . Vice Chair Levin then interrupted to ask if the Design Standards might be separate as well, and Mike indicated that they would be in a separate manual. It is possible in the future, but we don't know what those are right now, so we wouldn't be able to reference them. The Vice Chair then wanted to know if they will be presented to potential homebuyers and commercial developers as something they need to be apprised of as guidelines. Audree stated exactly; we are doing a first wave of a marketing, educating campaign with the Ready, Set, Go program. Both the Chief and the Fire Marshal are present and can explain that a little more. They are doing their own marketing and we are as well. She is sending out some information to our contractors, developers, landscapers and HOA Associations, etc., to get the word out about fire safety steps. Then, we will have another. . . Chair Losoff interrupted to say that the issue is that he didn't hear any objection to striking this Section.

Commissioner Barcus asked the Chair to poll the Commission; he objects to it. The Chair then asked who would like to see this Section F stay in, and Commissioner Mayer stated that he does. Commissioner Klein stated that he is a half, and Commissioner Kinsella stated that she is undecided.

Rob Pollock explained that this recommendation was made on behalf of the Legal Department partially because of some of the negligence risk that could come from having wildfire mitigation standards. It is very tough to enforce, when we undertake gratuitously a service on behalf of landowners and people in the City, because we then have a special duty of care to them and that creates some legal risk to us if we have this in the Code. Then, we have wildfire mitigation requirements, and it creates more of a duty on our part to enforce these standards and that might be tough for the City and the departments to enforce. Chair Losoff indicated that he would image that the City would take on a great legal burden if this is required for every house, building, etc., and to enforce that would be a legal nightmare. He is hearing staff, our Legal Department and our Fire Department saying to keep it as a guideline, not as a requirement.

The Chair indicated that he saw two hands for removing it, and Commissioner Kinsella stated that she is for removing it, and the Chair summarized that it would then be four to three; however, Commissioner Brandt asked the Chair to hold on a second and Vice Chair Levin agreed.

Commissioner Brandt stated that first he would like for Mike to finish his presentation, so we can understand what the Code is updating in place of Firewire and where the Firewire legislation came from. He doesn't think we are creating it out of the blue and our Legal team might see things differently than other jurisdictions, but I would like to know that. He doesn't just want to vote on something. Chair Losoff stated that this was discussed at the last meeting, and staff . . . Commissioner Brandt interjected that it was discussed as presented to be incorporated, not to be deleted, so hold on a sec. The Chair indicated that at the time, we discussed if we wanted it as a requirement or criteria, and they were going to come back for the discussion, so we are discussing it again. Legal has stepped in to give a legal report, in addition to the consultant, Fire District and staff, and that is what we are acting on today, so he doesn't know that we need to go back and rehash it all, but if you want to we can.

Vice Chair Levin stated that she did not raise her hand up or down, because she thought it was premature to try to develop a consensus, as Commissioner Brandt pointed out. We haven't really heard the full presentation. At first blush, it was hard to reject one for guidelines, which are basically unseen. Although philosophically, you can present that to us; that is kind of the lurch in our administrative capacity. The second point is there are probably jurisdictions that have surmounted Legal's concerns about implementing Firewise and maybe that is true in all of Arizona or in the southwest, but clearly, Firewise standards have been embraced in other jurisdictions, and she would be curious to know how that happens. You hinted at a prior meeting that it was long process to lead the decision-making bodies through an understanding to embrace that. She would like Mike to continue as well, so we get to the point that we know what is as best as possible and what would replace this proposed language.

Chair Losoff expressed concern that we are micromanaging or over analyzing this; it is simple. We have one recommendation from several viewpoints – Legal, Staff, Fire District, and it is to keep it in or keep it out. Audree Juhlin stated that if this is something that the Commission wants to pursue in spite of the direction that Legal has provided, we can move forward with staff's recommended changes and have, as part of your recommendation, Council look into the program that would analyze and consider everything we discussed last time where we looked at the properties, where the zones would be, where the more hazardous areas might be, and do a more comprehensive look at Firewise outside of the Land Development Code and, if we are able to and Council agrees, we could come back with a different proposal at that time. This is something far more comprehensive than what we are being tasked with right now.

Commissioner Klein indicated that as he understands it, Legal's concern is if we allow this, and then the City doesn't enforce it and somebody's house burns down because there were trees too close to the house, they will sue the City. Rob Pollock stated yes, if they are relying on these Wildfire Mitigation Standards, they might rely on them being enforced by the City for the simple fact that it is in the Code. If it is not in the Code, in theory, there is not as much of a reliance on enforcement. Commissioner Klein asked if you could put something in there that says it is the responsibility of the homeowner to take care of these measures. First, most of these claims would be paid by insurance, so it is not going to really be the homeowner who is suing; it is going to be if the insurance company wants to try to get their money back. Rob explained that might or might not be true, but he can look at other language that could be added or any other jurisdictions that might have added language to that effect, but from his research, it is all about duty, and if you undertake a duty, you have a higher standard of care, so that is the concern. We are undertaking a higher duty if we put the language in the Code that we wouldn't be undertaking if we weren't putting it in the Code, so that raises the standard of care in the event there was a negligence claim against the City. You are right that it might or might not go to insurance first, but if there was a catastrophe event that was larger than insurance, then we might be liable. Commissioner Klein asked if a potential homeowner has some responsibility for this too, if they knew the guidelines and didn't put them in place. Chair Losoff stated that if they are guidelines, but if they are requirements. . . The Commissioner interjected if they are requirements, would that put some responsibility on the homeowner for not doing it. Rob then stated that if the Commission wants legal advice, it would be more adaptive to an Executive Session. Chair Losoff stated that the way it was explained to him was that we could require the homeowner, but if the City doesn't enforce it, the City could be liable. It is the homeowner's responsibility, but also the City's responsibility to enforce it, but we are getting into a legal issue that is beyond . . . Rob stated that we don't want to get too far into that; we want to stay more on topic, but he can look at the language.

The Chair then asked if the consultants and the Fire Marshal wanted to jump in on this. Tareq Wafaie stated that what he basically heard from the Commission on January 16th was that 1) You don't have policy in your Sedona Community Plan that mentions wildfire or natural hazards beyond the floodplain. 2) He wanted to respond to Vice Chair Levin's question about other jurisdictions. Tareq agreed that it is an important issue and an increasingly problematic issue for a lot of communities, but there is a range of different ways to get at the issue. As Mike pointed out, some communities like Flagstaff have adopted a Wildland Urban Interface Code, WUI, which is a standard code from the International Building Code family that addresses issues like that. In other communities, when we say "Firewise" that is not a set of standards more than a set of a neighborhood adopted principles that is set up to operate more as a program at the neighborhood scale. It is more about community education and outreach to get neighborhoods involved and set up things like chipping programs and other things you are doing to protect your community, subdivision or even on a smaller scale. Guidelines are a good start to get at the issue, and Mike pointed out that these standards that were in F, could be at odds with your other landscaping standards. On one hand, we are saying thou shalt plant this many trees and, on the other hand, we are saying don't plant trees here. Those are in conflict, so it is more of a question of which one you are supposed to do and, based on the City Attorney's Office opinion at this point, it seems simpler to remove the standards in F., while also reducing the minimum landscape requirement, so people could have more flexibility to do Firewise things.

Fire Marshal Jon Davis indicated that the last time he spoke, he talked about the Firewise principles and the Wildland Urban Interface Code. There is a code that deals with wildland urban interface issues; the Firewise is a set of principles. He can appreciate that sometimes these may be at odds with Legal Counsel, but Mike is making good steps forward in reducing the density at which plants have to be planted. You are getting a lot of information and opposing viewpoints, so it is essentially a question that you have to answer as to what the City is comfortable with and which direction you want to take it. The Firewise principles are an excellent start, but he can appreciate that they might not belong in the Land Development Code, maybe there is a place for it in the Property Maintenance Code. We are moving down the right path. Is it as far as he would like to go, probably not, but maybe it is further than some people want to go. This is a good discussion and something we need to keep advancing. Whether you decide to take a small or a big step, he supports any steps we take at this point in time. Audree was correct that we have started a joint marketing campaign with the City and the Fire District, Coconino and Yavapai Counties and the Sheriffs' Offices, so everyone is focusing on a coherent message that everybody is reading from the same playbook – Ready, Set, Go. The “ready” part is, “Is your property ready for a wildfire?” Whether that is going as far as adopting a Wildland Urban Interface Code or adopting individual neighborhood Firewise principles and cleaning up their neighborhoods. It is all about taking the first step and being ready. He appreciates that this is a complex issue; there is a whole range, and he would obviously prefer that we take bigger steps, but you have Legal Counsel and constituents to think of, so there is a whole range and he doesn't envy the position you are in. He doesn't know if he has helped or muddied the waters, but. . . Chair Losoff thanked the Fire Marshal for this input.

Commissioner Barcus stated that he is practicing Firewise principles at his residence, but his neighbor is not, and guidelines don't lead to enforcement of the same kind of behavior, because his adjacent property owners are impairing his property. His second comment is that it is the duty of this community to provide sufficient standards, because he is concerned that because Sedona does not have wildfire mitigation standards, we are going to see blanket insurance company determinations that they will no longer provide that kind of insurance in Sedona. He is very concerned that by excluding this, we impair all residents of the community. His third point is that he doesn't think this is a decision that is at our pay grade. This is a City Council decision and we make recommendations to the City Council, but he doesn't feel that the Commission should make a determination as to if this is included or excluded from this document.

Commissioner Mayer stated that he shares those concerns and in a drought situation any steps to diminish the chance of Sedona burning up because of a neighbor not being wise -- if something happens in Sedona, there is not much of a chance that all of it doesn't go up. A little step would be to cut down on the trees that people have to plant. Why not have the 30 ft. distance between the building and the planting. What is wrong with that? That is just a little step rather than having them plant five trees next to the house. Some sort of little step; you are talking about a little step by implementing the guidelines, but the guidelines don't mean anything; people just do what they want to do here. He really has concerns in this climate we have here.

Commissioner Brandt asked if the Landscape, Buffering and Screening Section is predominantly for Commercial and Multi-family, and Mike Raber indicated that staff had asked for clarification on what did apply to Single-family, and that is something the Commission has asked for that we will get back when we get the full draft. One of the things we removed was the requirement for one tree for every 500 sq. ft., which did apply to Single-family. Commissioner Brandt recalled that when that was discussed at the last meeting, it seemed to make sense because most of the residential projects he works on already have enough trees to meet that, so you don't have to include that; however, he also remembered the development on Navoti Dr. that has a policy of cut and fill almost lot line to lot line or at least the envelopes, and it seems that if we allow that, within the new grading language, it seems as though that is still allowed to cut and fill your property up to 3 ft. away from the property line. If you allow that to happen, then we still need the legislation to put trees back, because the first purpose under Landscaping says, “Blending the built and natural environment to ensure the natural landscape remains the dominate feature of the City”. It is like okay, you can do both; you can have trees and it can be Firewise, so let's make sure there are enough trees. He thinks that needs to be revisited and,

regarding the big picture, he agrees that Firewise should be jettisoned and looked at as an overall policy, not part of the Land Development Code update; he agrees with that, but most of the landscaping codes are written for Commercial and Multi-family development that are in the center of the city and have a lot less risk of wildfire. We should keep the current densities in the Land Development Code; for instance, the Code for screening proposed for parking lots says one tree and three shrubs per 400 sq. ft. If it happens to be 4 ft. wide and 100 ft. long, is one tree and three shrubs enough screening for a parking lot; he doesn't think so. We are reducing this more than it needs to be, so he would agree that we want to take the Firewise legislation out, because it is more complicated than we have time that this requires and, legal or not, there can be more thought put into Section 5.6 that isn't working to implement Firewise in parking lots in the center of the City.

Vice Chair Levin indicated that her questions are directed towards having a better understanding. First, she asked if a Wildland Interface Code were adopted would that only apply to new construction and redevelopment, and Mike stated yes; it would not be retroactive; however, Audree clarified that it would really be a decision of the City Council. The Vice Chair then indicated that typically we could assume that is how it would be. The Vice Chair then noted that we are probably nearly built out residentially and maybe 70% to 80% commercially, and Mike Raber agreed. Vice Chair Levin then stated that given the scenario about enforcement, we would be principally looking at protecting in the future those properties commercially that would be redeveloped or constructed new and that would be the preponderance of the geographic areas for which that enforcement would take place. She is in an older home with older junipers and the only thing she can do is make sure they don't touch her roof, and a lot of us are in the same place and that goes to Commissioner Brandt's point about retaining the natural vegetation. The new Code is suggesting that more deciduous trees would be less fire materials or fuel than those that describe our terrain. Chair Losoff asked if she would take those trees down to conform with the standards or if it would devalue her house, and the Vice Chair stated that we have just answered that question about enforcement.

Audree Juhlin stated that we could have provisions, if you are going in that direction, that allow existing property owners to voluntarily comply. Chair Losoff indicated that as a follow-up, Commissioner Barcus' point was if he is asked to do it and his neighbor is not, it gets into a complicated issue. Vice Chair Levin pointed out that we talked about how it would be enforced on new or redeveloped properties. The Chair then stated that if your house today is not enforced and a person builds next door and it is enforced, you still have that conflict, and is it going to be fire safe?

Vice Chair Levin stated that it is a conundrum for sure and asked if Sedona is similar to Flagstaff geography in terms of the amount of Forest Service land and the fact that we are surrounded by forest. Are we similar to Flagstaff in how they then gauge the threat and commitment to adopt a true code? Fire Marshal Jon Davis stated that there are some similarities, but we also are vastly different in many ways. One concern is that we are surrounded by U.S. Forest Service property and a wildfire coming through, especially a large wind-driven fire front, is a huge threat to this community. Conversely, a fire that starts in a house is a huge threat to spread to the wildland, so the threat goes both ways. We are similar but vastly different with our topography and our escape routes. He then commented that, when talking about a code that applies only to new construction, if you adopted the Wildland Urban Interface Code, it would only apply to new construction, however, that is with any code. His home built in 1970 couldn't be built under the Code today. If you adopted a Wildland Urban Interface Code, it would apply to new construction, but it also makes it much easier for existing homeowners to say they want to make their house look like the new one across the street, so they could apply it to their property as well.

Vice Chair Levin commented that we all have a concern about 19 years of drought that Arizona has experienced in its recent history and many of us saw the Brynn's fire and the Slide Fire, so we are not unaware of the potential for a real threat to this community, and we have some responsibility to acknowledge that, act on it and make recommendations to Council in a responsible way.

Commissioner Klein asked the Fire Marshal what he meant when he said this probably doesn't go far enough. Fire Marshal Jon Davis stated that he would like larger steps and more regulation on

vegetation close to buildings, especially one and two-family dwellings. Commissioner Brandt was right that this is directed at commercial development. From his point of view, he would choose larger steps or more restrictive codes as far as vegetation close to buildings than City staff, so he has a different viewpoint, but he understands there is a balancing act here that has to take place. It is not an easy decision to make and just because he would rather see things go farther doesn't mean that is where it will end up. He would err on the side of being more restrictive as far as vegetation goes. Commissioner Klein then asked if, in spite of that, he is still in favor of striking this Section from the Land Development Code. The Fire Marshal stated that he would rather see it in there, but there are many ways to skin the cat, whether it is part of the Property Maintenance Code or we are doing a joint effort with the Ready, Set, Go campaign and there is an education component, so he would like to see it remain in, but there are other ways to get there that, while not being his first choice, are amenable to him.

Commissioner Klein asked staff if we keep this in and say it is just going to apply to new construction, we are talking about a small percentage of homes in Sedona. Mike Raber indicated that it is the remainder of the buildout plus any redevelopment, so there is at least 30% to 35% more new buildout residentially and another 20% commercially and a good chance of major redevelopment over the next several years. The Commissioner then asked if it is going to make a difference if we leave this in and it applied to all of the new construction but not the existing, and we had a huge fire. Mike stated that we are relying on our Legal Counsel and what they have advised us, and that is the perspective that we have to look at. Rob Pollock indicated that if they are requesting more legal advice, we could have an Executive Session, but he wouldn't want to get into specifics at this point.

Commissioner Kinsella indicated that initially she was under the impression that there was agreement among Community Development staff, Legal, the Fire Chief and Fire Marshal and the consultants about removing this, but now she is not clear on that based on the Fire Marshal's comments, so she would like to know where the Fire Chief stands on this as well.

Fire Chief Kris Kazian commended them for undertaking this task. They, as a Fire District, stand separate as a different entity, while Legal Counsel recommends things for the City and protects the City from their vantage point, we don't sit under that umbrella, so it is unfair for them to agree or disagree with what Legal thinks on the matter; they look at it from a City perspective. The Fire District has a Legal Counsel that works for the Fire District umbrella protection. He listened to his Fire Marshal who is the expert on this and does the work with City staff, but we have an obligation to the community on both sides of this coin, so anything to make our folks safe, anything they can do to make the community more safe without being too restrictive or making rules that they can't enforce – things like that are not effective, but where we can make impacts, we should be making impacts and in today's fire environment, it is getting worse and worse every year and there is no sign of that changing. Each and every year that our trees and brush mature will create a larger and larger problem in the community, so you they can find happiness – and that is why you get paid the big bucks and are outside of your pay grade, that may become a City Council decision on how restrictive we want to make people's lives, but as the Fire District, they support as much of an impact on making the community fire safe as possible. As a Fire District, they do not have the enforcement arm that the City has to take action. He appreciates anything the Commission can do to help them achieve their goal of making the community fire safe and balancing that. If you leave this in or make a recommendation, as the Fire Marshal said, there are a couple of ways to skin the cat, but they want to see the end game happen and see people wanting to make their home Firewise.

The Fire Chief explained that they have a Wildland Interface Ordinance for the Fire District that was adopted in 2003, but they don't have an enforcement arm to make it happen. When the Fire Marshal says there is a new development and it is in the WUI and they should comply with the Code, meaning the roof type, etc., those are all recommendations, but they don't have that enforcement. Ready, Set, Go is an educational campaign and a great message. It is a joint message, but that is after the fact. They are just trying to catch up, and that is just one arm of this piece. Commissioner Brandt's comment about parking lots, etc., they just sent firefighters to California, and they were burning down Costcos and Home Depots with asphalt everywhere in the Santa Rosa fire and very urbanized areas,

so concerns about parking lots, he gets the one tree and three bushes and he is not here to advocate what those numbers should be, but as the Fire Chief, the biggest frustration they have is when someone wants to make their house Firewise and the Code says that if you cut that tree down, you have to plant four more, because that contradicts what they are trying to accomplish. If some of those things can be accomplished, whether it is taking it out or leaving it in or through the maintenance code, he doesn't have the expertise to tell you, but he is passionately telling you that as a Fire Chief, he doesn't sleep at night, worrying about the fire danger in the community, and he applauds you for taking the steps to listen to this and take staff's suggestions, put it into what you have to decide and know that they support making the community as safe as possible and getting this in as a guideline or as part of the Code. He can't answer the question specifically because of his lack of knowledge; this is not his bailiwick.

Commissioner Kinsella stated that we keep hearing the concept that enforcement is the key issue, and the Fire District doesn't have that capability, and the City is concerned about the liability for enforcement. These are both legitimate and serious concerns to be vetted. She is sensitive to the liability issue for the City regarding enforcement, and it is something that maybe we need to have a further conversation with Legal Council about. On a separate issue, with a lot of these standards there will be built in conflicts with the other referenced parts, but there is one thing that, if the whole Section comes out, 2.A says, "Placement or storage of combustible materials or vegetation is not permitted", and combustible materials speaks to more than landscaping materials, and that is a regulation. If something gets pulled out of here, she wants to know that something that broad is going in somewhere else; she doesn't want to lose it.

Chair Losoff indicated that he hears all of the conflicts and we all want a safe environment, but he is torn. He knows that, as the Commission, we don't have the authority of the Council, but he wonders how far the City can go in demanding some of these things. It would be a very restrictive ordinance if it was incorporated into the Land Development Code. On a lot of the issues, the Building Code for example, is more important than the landscaping. You could have a fire and the tree may be smoldering, but if the building materials go up in flames, regardless of what is happening with the landscape, the building material issue is very important and to some extent more than the landscaping. He would be concerned as far as house value, and in their neighborhood, if the houses next to him were to comply with the Firewise regulations, it would destroy the aesthetics of their area and would devalue the price of their home. Landscaping in and of itself makes some of the beauty. We can move trees away from the top of the house and move some of the bushes back, but you still want some of that greenery and the privacy that it provides, so if there is a balance that is fine.

The Chair added that he also has to look pretty strongly at what Legal Counsel stated. They have looked at this a lot each time, so he doesn't think we need more recommendations. We have had their recommendations a couple of times now, and he likes the compromise issue that the consultants alluded to, where it may not be a requirement; it is a guideline and a neighborhood situation, but more importantly, it is a combined issue between the Fire District and City where we have a joint educational program with everybody working on how to achieve this balance. He would be in favor of taking that Section out but incorporating building materials and others in different sections.

Audree Juhlin then suggested letting Mike move on with his presentation to talk about some of the other proposed landscaping changes, and as far as the building materials, we will be updating the Building Code and this will be some direction that we give to staff as we do that to make sure these kinds of components are incorporated, and that does not go in the Land Development Code. The Chair then stated that we have to remember that the Land Development Code is a major document and what we put in it has a lot of authority.

Fire Chief Kris Kazian stated as far as comments about properties and concerns, Firewise concepts are not a moonscape to annihilate everything. There are many ways to accomplish it, so regarding the aesthetic, the beauty, the privacy that makes your house special, there are ways to accomplish those by limbing the trees up and doing different things. Some of those trees that are right up on your house may need to go, but the one that is 15 ft. away may be fine to stay if it is treated the right

way. It is not take everything down and someday you will say we cut down every tree in Sedona; that will never happen and that is not what they are proposing. It is not what Firewise is at all and it is like eating the elephant. This is one bite at a time, so even if we didn't create this purpose, it will take years and decades to come close to what the Fire Marshal alluded to about taking those large steps. Even if tomorrow, he said this is what we are going to do and here is the Code, it is not going to happen in his career and probably not in his lifetime, so taking those steps now will help create a future for the future people of Sedona and the children, so it is a one bite at a time concept. This isn't a paintbrush, done and it is fixed tomorrow. The Chair thanked the Fire Chief and repeated that it is how we achieve a balance.

Mike Raber suggested discussing what we are doing to reduce plant density, etc., and indicated that in the focus groups there was considerable agreement in removing this Section on defensible space standards; there was a lot of concern about that. We also received an additional public comment that expressed concern from a property owner indicating that his neighbors were concerned too, and that was attached in your packet.

Mike referenced the whole Section on Minimum Landscaping, Rear and Side Yard Buffers, and General Landscaping Standards, and stated that it was noted that there are several landscaping reductions proposed, and some of these are in the existing draft and some staff is proposing in addition to what is in the draft. The draft Code no longer includes the requirement for one tree per 500 sq. ft. and that applied to Single-family. The Section 5.6.C.2.a.2 on street frontage landscaping reduces the plant density in the landscaped area from one tree and three shrubs in 200 sq. ft. to the same in 400 sq. ft. and that was also recommended for parking lot screening adjacent to street frontage. For parking lot landscaping adjacent to residential zones, we want to continue that one tree and three shrubs per 400 sq. ft. as we did earlier; the proposed text is using the current two trees and three shrubs and a 250 sq. ft. calculation and that was also footnoted in the draft. For parking lot landscaped islands, we also want to continue that ratio as well, but also provide a percentage that is based on the square footage of the landscaped area rather than a requirement per island, so that would give more flexibility to the developer, and that is Section 5.6.C.3.b; that is another case where we are asking to further reduce what you see in the draft. We also want to continue the one tree and three shrubs for 400 sq. ft. for the minimum rear and side lot buffer options and that is Section 5.6.D.3. The proposed text was using the two trees and three shrubs for 250 sq. ft. Those are some of the key areas and on building massing not using landscaping next to the building as part of the offset for alternate standards. Mike indicated that the next item was an item that one of the Commissioners brought up in your earlier discussions, and then asked if the Commissioners had any questions.

Commissioner Brandt reiterated that we shouldn't reduce the densities for Commercial. The Fire Chief said to look at California, but there were Santa Ana winds of 70 mph and there are a lot more power lines that caused those fires that we don't have in Sedona. We don't have overhead power lines as much or nearly as much, and he has never gone around the City and commented on new commercial development and said man, they planted a lot of trees there. He has never said that. He doesn't agree with the direction this is going for Commercial and Multi-family development; however, Commissioner Mayer added that we have a lot of overhead power lines, so he disagrees. Commissioner Brandt asked if along the commercial corridor and Commissioner Mayer stated along SR 89A. Commissioner Brandt then commented that if it blows one way, it is going to go down on the highway and if it blows the other way, it is going to go down on parking lots. In Northern California and Prescott where that fire was by Mayer, there is a lot of chaparral and dense. . . Commissioner Mayer asked which fire, and the Chair suggested staying on topic.

Mike stated that one of the other areas that we heard from a Commissioner was retaining mature deciduous trees onsite, and staff's observation was that, although this was a comment was it something we should look at, because of the concern about preserving native trees. A number of deciduous trees may not be native or acceptable based on the list of deciduous trees compatible with the area. He doesn't know if there was further discussion, but it was one item left. Vice Chair Levin stated that deciduous trees could be Willows, which are pretty drought tolerant or they could be

Cottonwoods near a water source and that is sort of native vegetation, so not every deciduous tree is the same; maybe it needs to be genus specific.

Mike indicated that was all from the Commission. We had a list of other items brought up regarding landscaping through the focus groups that we will look into further, and we can put those up, unless you want to have more discussion on Firewise based on what additional steps we are taking to reduce plant density. Chair Losoff asked about the focus groups not being in favor of some of the restrictions in Firewise and Mike indicated that one group was very concerned about it. The other group didn't discuss it as much; they were looking at things that were more potentially water conservation-oriented. One group was concerned about leaving a mandatory defensible space in the Code.

The Chair indicated that the Commission had probably talked this to death and he doubts that we have a consensus. We seem to be split. Audree stated that staff is going to ask for direction from the Commission; we are putting together the consolidated draft after this review of Part Three, so which way are you going? She wanted to frame this a little differently, philosophically in the past landscaping has always been a high priority, especially to the Commission, and when applications have come forward it wasn't good enough that they met the Code. They had to do more landscaping than required, so that is the policy and philosophy that we have worked from in the past. Are we going to shift that philosophy, so when applications come forward we are now okay with minimal landscaping? That is the discussion that the Commission needs to have, because there are consequences to this as far as the built environment. We are used to a certain look and we perhaps are going to change that.

The Chair commented that if we leave it in, then it is a requirement and creates some pressure on the City if they adopt it, from a legal perspective. If we take it out and leave it as a guideline but do other things in the Land Development Code to balance it out, then that could be a healthy compromise. Audree indicated she thinks so and from staff's perspective after reading the legal opinion that we received, if we take this out and put it in a policy, and then have standards in the Land Development Code that allow property owners to change their existing landscaping and even new development that is respectful of the fire-principle guidelines, because they are associated with a fire hazard, we could support that. We are giving flexibility for those folks; unfortunately, as Commissioner Barcus stated, the neighbor who does not want to do this, but for the folks who voluntarily want it, we are proposing a Code that allows some flexibility in who is applying the standards and not a strict application across the board.

The Chair then asked in or out, and Commissioner Kinsella stated out, Commissioner Klein stated very reluctantly he would say out and Vice Chair Levin stated the same reluctantly. Commissioner Brandt indicated that regarding Firewise, he liked the saying that there are other ways to skin the cat, so he would like to see it done, but it should not be in the Land Development Code. Commissioner Mayer stated out, but he wants to see some implementation and some other ways, because it takes just one bad guy and everybody else is going to suffer. Something has to come back in a different, maybe in maintenance or something like that definitely; otherwise, we are just asking for trouble. Commissioner Barcus indicated that he didn't understand the compromise that was proposed. If we take it out, then we are going to stiffen other things and that seems reasonable, but if we are just removing it and not doing anything else, then he is really concerned about blanket insurance companies saying they are not going to insure houses in Sedona. If you are worried about property values, think about what your property value is going to be if you can't get fire insurance, so we need to substantially stiffen the requirements for guidelines in the other elements if we take it out.

Vice Chair Levin stated that is inherently contradictory; you can't stiffen the requirements for guidelines; they are only guidelines. The Chair again asked if Commissioner Barcus is recommending to leave it in or take it out, and Commissioner Barcus stated that he doesn't think Firewise is onerous or it is going to denude the community, so he would prefer to leave it in. Chair Losoff suggested taking it out given the other issues, and we have to make this recommendation with a big asterisk using the word "reluctantly". We've heard that without any question, but we all heard enough. Staff gets to flavor what we have talked about; we don't want to just ignore it. We want to

eliminate it from the Land Development Code section as a criteria or requirement, but we want something to help supplement, whether it is a separate guideline, part of the Land Development Code, part of the Building Code, etc., that stresses the things that we are talking about. We've talked about green Building Codes and fireproofing Building Codes, so a lot of those issues need to come to the Commission too. He then asked if staff had any questions of the Commission.

Tareq indicated that it was a great discussion, you are having a discussion similar to many western communities and he applauds you for having this lengthy discussion. Chair Losoff referenced the Fire Marshal and indicated if you look at the worst-case scenario and plan for that or look at the best-case scenario, which is do nothing or go someplace in the middle. It is fire safety and there is no second guessing that.

Mike Raber referenced the focus groups' comments that are also in the memo, but there are some things staff is going to look at a little closer, including the removal of dead trees and if we need clearer language about that; stormwater management features; low impact development regarding ways of using existing grading and drainage patterns for better use of water; and proactive limits to water features, such as fountains, artificial lawn or turf as a conservation measure in some cases and if that is appropriate to allow, and then the landscaping irrigation and maintenance section, because parts of that may belong in a manual, and there was some concern about it being overly complicated.

Commissioner Brandt referenced prohibiting artificial lawn or turf and asked if that was from the Section that says, "No artificial plants." Mike explained that is the only place where it talks about a prohibition and he thinks it was in reaction to that. The Commissioner asked if language could be added that says artificial lawns are okay, and Mike indicated that it may depend on the scope of that, but it is something we wanted to look at further. He then asked if the Commissioner had a suggestion and Commissioner Brandt stated that artificial turf should be allowed.

Vice Chair Levin asked if the Commission had talked about water features before, and Mike indicated that this came up in the focus group's discussion, but he is not sure if we got any clear direction on that. The Vice Chair stated that she would certainly like to discourage those. Chair Losoff recalled that there was a discussion on water features when the Marriott came in, and we were all over the board on that.

Commissioner Brandt then asked if we were going to talk about density today and Mike indicated that is the next item on the list. Commissioner Kinsella referenced the note about water features that says, "Should there be more proactive limits to the water features?", and she asked for an example. She is referring to the focus group's comments, and Mike Raber stated that their comments were broad. Audree Juhlin suggested that before moving from this topic we can get a consensus on water conservation, and she asked if the Commission supports the misters at restaurants and in outdoor dining areas and water features, etc., and if you allow for water features and water fountains, do you want it to be tied to recirculating water? Chair Losoff pointed out that we do require commercial developments to have some type of art and some argue that is art. Audree stated yes but explained that if there is a code that says you can't have a water fountain or water feature, you can incorporate that element without that component. The Chair then asked Audree to ask her question again, so she asked how the Commission feels about those water features, do we want to allow them, promote them, discourage them or say no to them?

Commissioner Kinsella stated that without a discussion, she doesn't think a lot of the Commissioners are comfortable saying yes or no until the question is fully vetted, and Vice Chair Levin agreed. Commissioner Barcus indicated that in the currently proposed Land Development Code on page 57 of the .pdf document, item 10, water conservation seems adequate to him.

Commissioner Kinsella asked him to repeat that, and Commissioner Barcus clarified it is page 57 of the public draft that addresses water conservation in item 10 or page 68 of the .pdf. Chair Losoff expressed the need for staff to coordinate the reference and page numbers, and Commissioner Barcus explained that the .pdf document is the meeting handout that was on the website that includes

the agenda, etc. On page 57, right above the footnotes, in the Land Development Code, it is item 10 and it seems good to go to him. He appreciates the public comments received, but he thinks this addresses those. Vice Chair Levin asked if without mentioning water features specifically and Commissioner Barcus stated yes. Vice Chair Levin indicated that this has to do with overall landscaping lawn and turf; it does not have to do with water features. She doesn't disagree that that covers 80% of what we are talking about with respect to water conservation, but it doesn't cover water features. Mike Raber added that he didn't find it in the main notes, but in his consolidated notes that is all they said.

Chair Losoff stated that the issue is water conservation and do we or do we not encourage water features. If we do, what are some restrictions? If we don't, so be it. It is as simple as that, so he doesn't know if we need to go into any more issues. Commissioner Kinsella stated that she is reluctant to prohibit any and all water features, because there might be a small development that is recycling its water and she doesn't want to see something like that lost in a prohibition. She wants sensible restrictions to conserve water, but a small amount of evaporation is going to happen and there are some features – but we have to be clear on what they are. Audree Juhlin indicated that we don't need to have the details hashed out now. If you give staff some direction, staff will do that. Commissioner Kinsella stated restrictions; not prohibition.

Chair Losoff commented on the purpose of work sessions and indicated that we are not looking for the details now. The Commission just has to rely on staff to understand what the Commission is asking for.

Commissioner Klein indicated that it would be okay to have water features that have recirculating, but it would be okay to ban misters, because even though it is nice to get cool, it is wasting water. Commissioner Kinsella indicated that she agreed. Vice Chair Levin wanted number 10 to also address the use of artificial turf and that it is encouraged, and she would agree with Commissioner Kinsella about the water features. Somehow provide language that wouldn't extinguish the use but would minimize them in some reasonable way. She doesn't know if that would be just as to recirculation or as to volume or commercial or residential.

Commissioner Brandt indicated he had nothing more to add, and Commissioner Mayer stated that recirculation is fine. Commissioner Barcus also indicated that recirculation is fine, and he disagrees with Commissioner Klein, because misters are okay certain times of the year and make the community more vibrant.

Mike Raber referenced density and explained that we wanted to clarify how density is applied in the Land Development Code and that affects the section on Subdivision and the Zoning Districts in Part One. Coupled with that is clarifying maximum density, units per acre and minimum lot size in square feet to clarify those two things, when we are considering a simple land division versus a subdivision.

Mike stated that the draft Land Development Code update does not carry a maximum density forward, but the current Code does along with each Zoning District. Staff proposes that we include those maximum densities for each Zoning District along with the minimum lot size. You can see from the table that looks at the different proposed Zoning Districts that we have a series of blanks where it says density and those would be filled in, going back to Part One of the Code that you will see when the consolidated draft comes back.

Mike showed an illustration of the approach and described a subdivision with four or more lots with a total number of dwelling units expressed by dwelling units per acre within the entire subdivision area versus lot splits, which would be three or fewer lots. Staff is proposing that only the minimum lot size would apply in that case. We don't have a lot of these, but they would only be required to meet that minimum lot size, because it is on such a smaller scale than a subdivision, which would be required to meet the density of the Community Plan. This makes it clearer; the practice we have gone through over the years is not very clear in the Land Development Code, but we would add the density

requirement back into the updated draft, because that was taken out for each Zoning District, if we are looking at a subdivision of more than three units.

Tareq added that he wanted to give a little history and context behind why those were not carried forward in the first draft of the Zoning Districts. Currently, the Community Plan defines, with a map, the different land use designations throughout the City and the maximum densities associated with those land use designations. In the current Land Development Code, you have maximum densities and FARs, maximum lot coverages, setbacks, maximum height – a lot of these different parameters that are really trying to get at the same thing, which is to control how much development there can be on a parcel. They thought there was too much and mentioned that in the Assessment Report. After this first draft, they only carried forward a few of those maximum densities, but then how do we know those minimum lot sizes are aligned with the maximum density allowed in that future land use designation in the Plan, so to avoid confusion and create an opportunity to zone a property to something that would not comply with the Community Plan, we reintroduced those maximum densities in each Zoning District.

Mike Raber repeated that the Commission will see that in the consolidated draft and noted that was the end of staff's presentation on Part Two. Commissioner Brandt summarized that you are going to carry forward the zoning density from the existing Land Development Code, and Mike Raber agreed but explained that the only difference is that we would be specific about lot splitting and how that is interpreted as it applies to subdivisions versus simple lot splits up to three lots. We want better direction in the Code on how we approach that.

Vice Chair Levin stated that she liked having tables replacing text. You have done a good job of taking complicated information and putting it in one easy to read table.

Chair Losoff recessed the work session at 5:05 p.m. for staff to prepare for the discussion on Part Three and resumed the work session at 5:10 p.m.

Matt Goebel referenced Part Three of the Code and explained that the task is to give you an introduction to material that most of you probably haven't spent much time with yet. They want to make sure you understand their thinking, so as you start your detailed review, you will have a sense of the highlights.

Matt indicated that the goal of the presentation is remind you of where this piece fits into the larger context of the project and give you an overview of Part Three. He then reemphasized that the second bullet of the project goals was to streamline the development review procedures, and when they kicked off this project, one area of concern they heard from stakeholders in the community was about the predictability, the clarity and the transparency of the different procedures. How do they get a project approved or how do they get it evaluated? People were looking for this project to create more clarity, so that is one of the goals they had as they drafted this. Implementing the Community Plan is another important part of the goals.

Matt Goebel explained that there are three modules – Zoning Districts and Uses, Development Standards and Administration and Procedures. This one is Administration and Procedures, this one is maybe some of the drier material as to how you put together a good application and get a good decision from the Commission, but it is important and how development gets approved. We have done staff and public drafts of this material, so everything you see will have benefited from staff's drafts already. We are getting close to the consolidated draft, which will lead to the adoption phase. You will be seeing some more detailed dates from staff for proposed work sessions on the consolidated draft of the Code that will roll all of these modules together with an initial round of edits based on everything they have heard from the Commission, the public and the staff. The consolidated draft will be an important milestone. The goal is to use that consolidated draft and take it as far as possible into the adoption process before preparing that final version.

Matt referenced the overall outline and indicated that today we are focusing on Article 1 and Article 9, so General Provisions and Administration and Procedures. General Provisions is the first Article that sets the legal foundation for the Code. This is the one that the lawyers read, and it is important as background material, but it is not the kind of thing you or the public will use on a daily basis. Matt then highlighted the following items:

- Title and effective date – what is the official title of the Code and when does it become effective.
- Purpose, authority, applicability, and jurisdiction – what is the jurisdiction of the Code, the applicability of it.
- Interpretation and conflicting provisions – what are the rules for interpretation of ambiguous provisions and how do you evaluate conflicting provisions between the Land Development Code and other parts of the Municipal Code.
- Transition from prior regulations – this is where you repeal the current Land Development Code and replace it with new regulations and where you clarify that prior violations continue to be violations, unless they are legal under the new Code. This is where you also have rules that govern applications submitted during the transition phase from the existing Code to the new Code. The general rule there is you play by the rules that are in place when you submit the complete application.
- Nonconforming situations – what happens to the lots or structures or physical features that were legal when created, but they are no longer legal under the new Code. All of those things are called nonconformities and there is a Section to deal with that. They initially carried forward the current provisions, but in subsequent conversations with staff, he thinks they are going to make some additional changes to better distinguish different types of nonconformities.
- Enforcement. – clarifies who is responsible for enforcement of the Code and what the ranges of penalties are for the different things.

Matt Goebel stated that it is important stuff, a little bit dry, but very important for the overall effective implementation of the document. To highlight nonconforming situations, Matt indicated that as it is drafted now, it is based closely on the existing Code, but he thinks it is going to change a little in the consolidated draft. We can do a better job of distinguishing the rules between what applies to nonconforming structures and nonconforming site features like landscaping, parking, buffers or exterior lighting. Many communities have gotten a little more aggressive about nonconforming site features, and when they have to come into compliance with new Code standards. Some communities would look at those nonconforming landscaping features and say any development on that site needs to come into compliance with the new Code, so that is where that role comes into play, so please focus on that part of the Code as you move forward. Separately but related to it is the nonconforming signs, and as part of the Sign Ordinance update, staff has been working on some potential edits that Cari will review.

Chair Losoff referenced the nonconforming issues and indicated that the existing are grandfathered in basically. Matt explained that they are grandfathered as legal nonconforming situations if they don't comply with the new standards. The Chair then asked if there are any incentives to encourage those nonconforming to conform, even though they don't have to. Matt Goebel stated that communities have adopted a real spectrum depending on how tough they want to be on nonconformities. Some community say these are bad; they are not in compliance with the new Code and we need to phase them out as fast as possible. They will make it as hard as possible for them to continue their current operation. Other communities say they will be flexible with nonconformities, because, they provide the community color and life and create interest. Santa Fe had a more relaxed way of dealing with nonconformities, because they just had so many. There are tools to incentivize the conversion of nonconformities. You can create a special process that allow staff's review of minor changes to allow them to expand. You can ensure that minor maintenance and repairs are allowed by right. Chair Losoff asked where Sedona falls in a spectrum based on their observations, and Matt indicated that Sedona is right in the middle, but as part of these edits, they may need to be a little more thoughtful about those nonconforming site features and when they need to come into compliance, because your Code is a little silent on those now, and that is something where a lot of communities are starting to get more thoughtful.

Cari Meyer referenced nonconforming signs, because as going through the Sign Code update last year, they came up and we are a little further ahead on this Section than the other Sections. We did want the Commission's feedback on what we are doing with nonconforming signs. Currently, that Section in the Code is somewhat short, but deals with continuance, maintenance and replacement, etc., but in general, the summary is that you do not have to change your legal nonconforming sign. It can stay as is, but once you change it, you are very limited in what you can do. Basically, you can't do anything to it unless it fully conforms to all Sections of the Code. You cannot enlarge, reword, redesign or alter in any way, including repainting a different color except to conform to the Code, and if the replacement value exceeds 25% of the sign, it has to conform. All new signs have to conform, but there is one exception and that is for multi-tenant signage, so signs with multiple businesses on them – you cannot make the fifth business on a sign force the other four businesses to change their signs to comply, so the current Code has an exception that you can change the business names on multi-tenant signs. Other than that, there is not a lot under the current Code that you can do with a nonconforming sign except leave it as is. Cari then showed examples of a multi-tenant signs where panels could be changed even if the background is out of compliance.

Commissioner Mayer asked if a new owner comes in and wants to change the name, would the new owner need to comply. Cari stated no and explained that they can replace the panels. She then showed a picture of a sign that was not in Sedona and indicated that in Sedona, they could change those panels even if it didn't comply. Another similar example in Sedona was shown and Cari stated that it didn't comply in height, size and location issues, so we had to go through a variance process to change from La Vista Motel to La Petite Sedona.

Commissioner Barcus asked if in the small rectangle, the tenant can do whatever they please without any guideline. Cari stated that isn't clear in the current Code and we are going to get to our recommendation to handle that. The current Code just says business names can change from time to time, so there are not a lot of guidelines. Commissioner Barcus then stated that what you are going to tell us is that they can change the panel, but we can regulate what goes on the panel. Cari indicated that basically we are going to say that you can change the panel, but we may want you to bring certain things into conformance. Commissioner Barcus wanted to be sure we weren't. . . , he didn't know where you were going with your presentation.

Cari pointed out that the sign (Sedona Motel) had only advertised one business, but if there had been two businesses on the sign, they could have changed that sign face without any issues, but because there was only one business, they had to go through a variance.

Commissioner Kinsella referenced an earlier comment about painting it a different color, and Cari repeated the restrictions and explained that it says if it is a nonconforming sign, you can't touch it unless you are bringing it into conformance. Cari then referenced the Sedona Motel sign and explained that they had a panel that advertised 25" TVs, safes and king and queen beds, and they could not update their information and that sign is out of compliance. The issues we run into is that a business cannot change their name or update information without rebuilding the entire sign, and that is what we are looking to address. In addition, they cannot make a change even if it would make it more compliant if it doesn't make it fully compliant. In other areas of the Code in the nonconforming section, we have the ability to get into closer conformance. For instance, if a parking lot is deficient in the number of spaces, and they redesign it to add a couple of spaces, even though they are not in full compliance, we can approve that. We don't have that same ability with signs, and that is what we are looking to change. Also, the all or nothing approach doesn't provide any incentives to property owners to improve their signs, because if they touch it, they have to completely change it.

Cari stated that we looked at other cities and this is one area where, from our research, we believe Sedona's current regulations are more restrictive than other cities. Most of the cities staff looked at do allow wording changes. Flagstaff allows replacement of a nonconforming sign, if they are reducing the nonconforming height or area by 25%, so they are saying if you are reducing it by 25%, we don't care if it is not in full compliance; it is still closer. Cottonwood allows a sign face or panel change

provided the structure is not changed. Scottsdale and Glendale allow similar things and there is a number of other cities that we looked at.

Commissioner Mayer stated that Sedona is going to be very stringent and Cari agreed that Sedona is much more stringent than the ones staff looked at, so we are recommending changes to the sign face when the sign structure is not changing and essentially allow the words to change, but we would want to add that certain things need to be brought into conformance. For example, lighting if the sign has noncompliant lighting. There are easy ways to fix lighting on an existing sign by changing it to a ground-mounted light or a goose neck, etc., so we are getting lighting compliance. Also, background color – the Sedona Motel sign has a white background, so we would ask for a dark background, so they could change their panel, but they could not keep the white background, and we would get the background color into compliance. We would also look at the legibility standards in terms of not overcrowding signs, but with the exception that on multi-tenant panels, we cannot enforce that or say that you have to choose one of the fonts that somebody already used or say that you can change the panel, but only use one word, so we would look at multi-tenant signs differently. Those are the areas that we would say that you can change the panel as long as you do not change the structure but bring certain things in compliance.

Cari indicated that there are a couple of areas where staff wants Commission feedback. First, on which signs this should apply to. In the Sign Code, we separated signs into property signs that are allocated per property, such as a directory sign for multiple businesses, the monument sign that is generally at the street and directional signs; service station signs and drive-thru signs are all allocated per property; whereas, business signs are allocated per business and that would include a wall sign, a projecting sign, an awning sign or a window sign. Generally, most of the examples are on monument signs, when we talk about changing panels, because they are typically the ones with a separate sign structure. Directory signs are kind of in the same vein, but we want feedback on whether or not there are any other signs that should have these standards, such as business signs if they are only advertising one business.

Commissioner Barcus stated that it sounds good to him. Cari confirmed that he meant applying the nonconforming to allow the change just for the signs with a separate sign structure. Commissioner Mayer, Commissioner Brandt, Vice Chair Levin and Commissioner Klein agreed. Commissioner Kinsella asked how it would be handled if on a monument sign with multi-panels, someone proposes changing one panel to a green background when five panels have a white background. Cari explained that we would hope that over time the sign would slowly come into conformance, but there could be a situation where some backgrounds would be different. Commissioner Kinsella then stated that in general she is for this.

Chair Losoff asked how many sign enforcers staff would have to look at nonconforming issues across the board, and Audree Juhlin stated that we have two Code Enforcement Officers and this is part of their regular duties, and this will actually make things a little easier for them, when we are enforcing the Sign Code in the field, as well as the Planners who review sign applications. The Chair commented that when the Land Development Code is updated, there will be nonconforming on lots of other things too; however, Cari pointed out that in general nonconforming sections are treated like we said, "If you are not going to touch it, we are not going to make you change anything; it is when you want to make changes that the nonconforming sections would dictate how much you could do.

Cari indicated that there are some incentives and bonuses, etc., with signs. First, signs with relief – if a sign incorporates relief on over half of the copy area, it can increase the sign area by 20%. Second is landscaping, and for both of these, the City Council's direction was that they wanted to incentivize; they didn't want a lot of extra regulations, but they wanted to provide incentives, so if someone wanted to do a higher-quality sign design, they would get some bonus. Signs with relief was the first one and landscaping was the second one. The Code says that if you place your monument sign in a landscaped area that is in accordance with our street frontage landscaping, you could either increase the sign area or increase the sign height. The question is if the sign could be conforming if they did one of these things, is that something we should look to do before we say you

can replace it. For example, the landscaping allows a sign to go up to 10 ft. if it is in a landscaped area instead of 8 ft. in height, so if you have a nonconforming sign at 10 ft., but not in a landscaped area, should we say that if you landscape it, it would be conforming so let's look at the available bonuses before allowing you to replace the sign face. Commissioner Kinsella asked if that is very complicated for staff, and Cari explained that there are only two bonuses, so we can look at it quickly and say based on the height, we could be in closer conformance if we did these things. The list of available bonuses isn't too long, so it isn't that complicated.

Commissioner Kinsella then stated that she is in favor and Commissioner Klein stated fine. Vice Chair Levin asked if you can increase the sign if you bury the first two feet in landscaping. Cari stated yes, that is what was approved by Council. Commissioner Brandt stated yes. Commissioner Mayer asked if the sign is nonconforming because of the background color, and he provides the landscaping that entitles him to conformity, if the white background would be allowed then. Cari stated no and explained the three items – background color, lighting and art are the things that would have to conform. Commissioner Mayer stated fine and Commissioner Barcus stated that he is good with this.

Matt Goebel indicated that concluded the discussion on Article 1, and that is a good example of how the Sign Ordinance is being pulled into the Land Development Code, and you will see that as part of the consolidated draft.

Matt stated that Article 9, Administration and Procedures. He doesn't have a lot of questions to ask, but they look forward to the feedback. Article 9 is all of the procedures, and the organization is summarized, but he is not going to walk through all of the sections. It is anchored by a table that tells you what all of the procedures are, and then there is a set of common review procedures, which is the general rules that apply across the board to any type of application, and then it goes through a specific series of procedural types, such as development permits, subdivisions, etc., all of which refer back to the common review procedures.

Matt then showed a Summary of Development Review Procedures table and explained that on the left-hand side are the different types of procedures for development in Sedona. The categories are development permits, subdivision ordinance, etc. There is a reference to where that applies in the Code and an indicator of notice required -- published in the newspaper, written mailed notice or posted notice on the property. Is there some pre-application conference required? The final columns cover the different review and decision-making bodies – staff, Historic Preservation Commission, Planning & Zoning Commission, City Council and Board of Adjustment, and "R" is for review recommendation, D is for decision, A is for appeal and the bracketed arrows indicate if a public hearing is required.

Matt stated that he was going to focus on Development Review and Administrative Use Permit, which is new. He then referenced the second half of the table and indicated that preservation procedures have their own section, and finally, flexibility and relief; if he can't comply with the strict letter of the law, then what are the tools to get a variance or appeal? Matt wanted to emphasize the common review procedures and indicated it is basically the standard framework that all the different procedures need to comply with, and this is not entirely new to the Code, but it is a more succinct presentation of this material.

Matt pointed out that there are seven different steps and every procedure has to go through some flavor of that and this simple graphic shows which pieces apply. The goal is to prevent repetition. In the current Code, some steps are repeated and oftentimes a little differently in different places, which begs the question of whether or not that was intentional. Did you intend for pre-application meetings to be conducted differently? Consolidating them saves paper, makes it more consistent and easier for staff to administer consistently, and makes it easier for the public to understand.

Matt indicated that you are doing the pre-application meeting now, then they submit their application and there are rules for application handling by staff. This is where staff determines if the application is complete. Only complete applications can go forward. The citizen review process is kicked in after

the application is submitted, and in Sedona, every application that requires a public hearing has to submit a citizen review plan that indicates how the project will be communicated to affected stakeholders. Then, staff reviews the project and takes action. Sometimes that staff review is just going to be a recommendation to the Commission or the Council or sometimes staff will stop the process in step four. If it proceeds, staff will schedule the public meetings, then there is the review and decision by the body and post-decision actions could be things like how to amend a permit or could the approval expire if something isn't done on the site. Matt stated that is an overview of about 14 pages in the Code that saves a lot of time and space later in the document.

Chair Losoff suggesting including who is involved in each step. Matt pointed out some of that is already in the draft. The Chair indicated it is in the narrative, but as an image, and also when you talk about the citizens review process, the narrative doesn't say it, but this could imply a citizen review committee, and the intention is not to have a committee every time an application comes in. Matt explained that the intent is not to change the workings of the citizen review plan. Audree Juhlin explained that we are into semantics. We require a Citizen Participation Report; they have to talk to neighbors to get feedback on their project and bring that forward as part of their application. Chair Losoff repeated his concern about "citizen review" and said it is citizen participation. Rob noted that citizen review process is a statutory term, and Audree added that we can change it; this would never be associated with a citizen review committee. Matt agreed and pointed out that is the way it is described in the statutes. We have some flexibility on terminology, but we can talk more.

Matt then showed an example of how they have tailored versions of the graphic for each procedure with text at the bottom that gives a little more description of who does what, which gets to the question.

Matt referenced the substantive types of permits and indicated they are organized in Section 9.4 as follows: Development Review, Conditional Use Permits, Administrative Use Review – a new tool, Single Family Residential and Temporary Use Permits. They are written in the Code in a new way that refers to the common set of review procedures. He then highlighted the Administrative Manual, a separate document outside the Code that has things that are important for the Code's operation, but they don't need to be in the Code itself, such as a list of submittal requirements and fee schedules. Things that the City probably wants to update on a frequent basis without having to do a full amendment process, so we are talking with staff about what goes in that document, but one way this document is shorter than the current Land Development Code is that we have removed a lot of the lengthy lists of submittal requirements to the Manual.

Matt indicated that development permits include Development Review, which is built on existing procedures, but he wanted to highlight that they are proposing more things go to the staff level, and they are raising the threshold of what comes to the Commission level for review. This is the review of projects for compliance with parking requirements or landscaping, etc., and there is a table that shows the draft applicability thresholds for Development Review. On the left-hand side, there is different types of projects – Residential, Multi-family, Non-residential – any new building, new use of land, and any expansion of existing structure or site. The minor category is staff level review of up to 10 dwelling units, which is up to two dwelling units in the current Code, so this would send more projects to staff and it is a 5,000 sq. ft. threshold gross floor area for non-residential, which is 2,000 sq. ft. in the current Code, so anything above those thresholds would be P&Z.

Matt referenced the Assessment Report and indicated that one thing discussed in addition to the clarity was trying to get the small stuff through faster and trying to make sure you were able to concentrate your resources on the more important projects that have bigger impacts, and one way to do this is to send more stuff to staff and try to delegate more things to the staff level. Matt indicated that they would like to hear the Commission's initial thoughts on raising this threshold.

Commissioner Barcus indicated that he likes that you are raising the threshold; the professional staff has a good sense of how to deal with these things. What he was listening for and didn't hear is if somebody is not in agreement with a proposal, what their remedy is for relief. Now their threshold is 2,000 sq. ft. and if it goes to 5,000 sq. ft., and somebody has a 5,000 sq. ft. project and it comes to

P&Z, people who object come to testify, and then we make a decision or recommendation or suggestion on how it might be modified. He then asked how that works for larger projects and how is that spelled out. Is it about the same for 2,000 sq. ft. or less? Matt stated that there is an appeal process that is carried forward, so if you don't like the decision from the Director, you still have the ability to appeal just like you do now. Commissioner Barcus explained that he means a citizen as opposed or the applicant. Matt stated that an aggrieved person can appeal, but there is also the ability for the Director to refer a project to the Commission even if it technically would fall within that small level of review, if the Director thinks there is something that based on the sensitive nature of the project or location or visual impacts, it can be referred to the Commission, so there is an ability to kick it upstairs in the Code. Conversely, there is also the ability even if something technically falls within the threshold for the major Development Review, if it is really a minor thing, it is entirely within the building envelope and not doing anything to change the exterior, then the Director can go ahead and make the decision on that without it having to come to P&Z.

Commissioner Mayer stated that he is delighted to see that, and staff would come to us if it is something of importance or historic or whatever, so we can discuss that; it's great. Mike Raber added that we can always seek neighborhood input too, if we felt it was a major enough project. Commissioner Mayer stated that if it has a major impact or magnitude, he is sure.

Commissioner Brandt asked that if there was a nine-unit apartment proposed, staff would bring it to P&Z, because there would be so many people who don't want to see that in our City, and they aren't going to want to be the lightning rod. We have had unbelievably talented Directors, but the other thought is in the era of Trump, anything is possible. Do we really want to give up this much review? That is looking at it from the two different sides and, obviously, things usually fall somewhere in the middle. Commercial is fine; for apartments he is not sure, but with the talent at the City, they bring stuff to us and we wonder why they are bringing it to the Commission. There is usually some controversy. They want the public to comment here, and that is probably the biggest deal. Will it make it seem to the public that the City is just doing what they want and that is probably the biggest thing to think about. He would say to err on the side of that, of course, we want the public to comment on everything.

Audree Juhlin indicated that she has been debating this for about a year as to how much we want to do at a staff level and how much should come forward to the Commission and City Council perhaps. For the reasons you stated, she has had situations where people have wanted to chop her head off when we had the administrative authority, but where she feels comfortable with this recommendation is really it is black and white. We have regulations that we have to make sure they adhere to; there is no subjectivity to the review process, so she feels more comfortable in just applying the strict application of the Land Development Code regulations, so that is our perspective on why we are supporting this. Commissioner Brandt replied that on the other hand, it is an incentive for small development to not have to come through the whole hearing process, so it is making it easier for small guys to get development done, so good idea.

Vice Chair Levin indicated that staff has been moving in this direction for the past year to 18 months, and she has been surprised about developments that didn't come to the Commission, like the distillery and the Sedona Motel, etc., because she thought they were large enough or the public would need a public opportunity to comment. It is better to bring it into the public hearing process or public venue. Using those as examples, do they fit into this applicability threshold, which gives administrative authority in addition to the Administrative Waiver we just heard for a total of five feet, which was the neighborhood issue. She is assuming that was the Director's discretion, but because of sensitivity you wanted us to hear that waiver on the triplex. Audree Juhlin said no and explained that it is written in the Code that when you have an Administrative Waiver, we have the ability at a staff level to make that approval; however, when that is associated with a Development Review project, it must come to the Commission by Code for your input, so that wasn't discretionary; it was by regulation. As far as the motel, it was within the allowance of our current Code. The changes weren't in a manner that we felt was going to cause public conflict, so we approved that at a staff level. We also look at it from a little bit different perspective, and the reason we support this is that if we make the process easier for

buildings to have a facelift, and in the case of those projects it was essentially a facelift, and we are more likely to get these improvements. If it is going to be a long public process, we probably will not get some of the redevelopment improvements on the facades like we are seeing now. We are weighing if it is a benefit to the business owner or property owner to have an easier process in which to adhere to the Code or not.

Vice Chair Levin stated, using those examples, there is no public interface when those decisions for redevelopment are made at the staff level; however, Audree Juhlin stated that staff has the ability to notify people when we feel it is warranted. There is nothing that says we can't notify the public. Vice Chair Levin then suggested adding that discretionary language to the applicability thresholds, so we provide an opportunity for public input. Audree Juhlin stated that we can do that. Her first reaction to that is if they are meeting every component of the Land Development Code, does that provide some confusion by the public that maybe is not warranted, because they are meeting the Code. They have the ability to help influence other changes, but it might cause frustration by the public, but we do have the ability to bring in the public. Vice Chair Levin clarified that she meant public adjacency to those redeveloped sites and under administrative review that would never happen, although Audree stated that staff could do that. There is nothing to stop us from that, and she likes to err on the side of caution.

Commissioner Klein indicated that he would be in favor this proposal. Commissioner Kinsella shared concerns voiced about anything that limits public input and stated that the public hearing process provides a structured way, as opposed to just sending out comments and getting comments back, and they are all over the map or don't conform to a certain style. The public hearings provide an organized way for people to express themselves and it levels the playing field for those expressing their support or distress about a proposed project. As Commissioner Brandt asked about a nine-unit building, that is significant in Sedona, so she doesn't like losing that process from something like that.

Chair Losoff indicated that the purpose is to streamline a lot of this, and we rely on staff. He is comfortable with it. If there is any doubt, staff would bring it to us. He is also comfortable, because when there are suggestions coming up, whether it is 2,000 sq. ft. now or 5,000 sq. ft. in the future, Audree usually confers with the Chair to see if it should come to the Commission or not even though she could do it herself, and there are times when we have agreed to bring things to the Commission even though it could be done administratively and vice versa. There is a good process in place and, as pointed out, we have very good design review criteria, and if an applicant meets those criteria, regardless of what we hear or think, if it is met, there is not much we can do to change it regardless of the public's perception, so 5,000 sq. ft. is arbitrary and 10 units is arbitrary, but he thinks it is okay and if we find it is an issue later on, the Council may not be comfortable with it either, but he is hearing okay six to one.

Commissioner Mayer commented that he is just concerned about Audree's head being chopped off so if there is something controversial, maybe you should let our heads be chopped off too. Audree assured him that she would do it.

Vice Chair Levin referenced the applicability threshold and indicated that it says all of the following will be reviewed by the Director. She then asked if Audree wanted any qualifying language in there like unless otherwise determined that. . . Audree indicated that it isn't necessary, but it wouldn't hurt either. The Vice Chair then asked if in the absence you could with your discretion bring it to the Commission; is it implied that you could make that decision? Audree stated that she thought it was in there and Matt confirmed it is in there. Audree emphasized that she would absolutely want that clause in there to say that she has the ability to take it to the Commission, and Matt agreed and noted that they had talked about having a more robust list of situations that would trigger a referral. Another one is just if someone requests what you now call an Administrative Waiver, some communities would say any time you are seeking a waiver or a minor modification to the Code, it would also kick you upstairs to the Commission. That is not in this draft, but it is something that they often draft. It is important to distinguish Development Review from Conditional Use Permits. This is the tool to really just look at physical compliance of the site and buildings with the standards in the Code, and you've

got good standards so that should be administrative mostly, and as communities get bigger and get more sophisticated staffs, they start to put everything at the staff level. He and Tareq are working with another place that is moving from a two-tiered approach to everything being handled at the staff level with the ability to kick some permits upstairs if they need to, but it mostly is at the staff level; however, if you also need a Conditional Use Permit, then those are submitted concurrently, as you do now, and those applications will always go to the Commission. It technically falls under the minor Development Review thresholds and if they are a conditional use, you will see them as part of that consolidated application.

Chair Losoff agreed that our Development Review standards are there, and it won't stop the public from voicing objections not based on standards or criteria, but based on other issues, and there is not much we can do about it, so he is comfortable with staff.

Commissioner Barcus indicated that what he heard is that with the current limits, we may have fewer kinds of redevelopment, modernization things that we all feel are desirable things to do, because the process for anything over 2,000 sq. ft. is so onerous that businesses aren't doing that and by changing this to 5,000 sq. ft., we may get more redevelopment in a style and form that we like, rather than it just not being done, and that is in the public interest and why he is supporting this.. Chair Losoff noted that we voted this up six to one.

Matt Goebel stated that Conditional Use Permits get carried forward as the same tool you have now. Something new is Administrative Use Permits. This came from staff conversations about the need. . . Chair Losoff interrupted to say that Conditional Use Permits are on page 42 of the handout and asked if we are keeping those in. Matt stated yes. The Chair then asked if Matt had implied that some places don't have Conditional Use Permits or it is not necessary to come to P&Z, and Matt responded that there is an idea by maybe there are uses that require some review that don't need to go to the Commission. Maybe we call it a minor Conditional Use Permit or an Administrative Use Permit – there are different terms you can use. It is the idea that maybe there is a need for an evaluation of a use on a site, but it doesn't rise to the level of a Conditional Use Permit. Some of the examples that staff thought of are modifications to existing CUPs or extensions of time limits, which you hear all the time, and maybe it doesn't need to go to you. Vice Chair Levin agreed they don't. Matt indicated that it is an idea that is still forming; there are two things we could do. They could amend the CUPs and be clear that certain types of amendments to existing CUPs can be handled administratively. Vice Chair Levin added as well as renewals or extensions. Matt pointed out that another thing they could do is have a discreet permit and go back into the Use Table to think through if there are particular uses that are a middle territory that need more review than by right, but they don't rise to the level of a Conditional Use Permit, and this tool would give you the ability to do that, but this is still under discussion. Chair Losoff asked what staff thinks and Audree Juhlin indicated that staff likes the idea; it is just figuring out what would be applicable and what would not.

Vice Chair Levin asked if it is important for the Commission to know what you have addressed administratively from time to time, and Audree indicated that, if this is the direction we are going, we can get direction from the Commission to have a report on the agendas as to what we are doing. We are doing that with the Historic Preservation Commission for anything we approve at an administrative level.

Chair Losoff stated that at first blush he likes the idea, but do we want development permits and CUP permits if we are going for streamlining, can we have one? It just seems to be two separate issues, and it could be confusing. He then asked what they heard from the stakeholders on CUPs, and Matt explained that the minor CUP is new; we didn't talk about that yet, so we need to get feedback. The Chair noted that they get it from applicants who have to pay each time. Matt stated that it is a big incentive to go through an administrative process and not have to prepare and pay for a public hearing, and they heard that a lot. Chair Losoff stated that his thought is yes, it is a good idea, but maybe just have one category whether it is a CUP or development permit. Audree Juhlin indicated that we could have a minor and regular CUP, and in our project summary report we would have all of the staff-reviewed included.

Commissioner Brandt stated that he had nothing to add. Commissioner Mayer indicated that it is all good. Commissioner Barcus stated that he likes it but would feel more comfortable if we had a couple of examples of what an Administrative Use Permit would be. Audree agreed and indicated that it could be brought back to the Commission once it is figured out. The Commissioner restated that he is in favor of it but would like it clarified for the record. Commissioner Kinsella indicated that she had no comment. Commissioner Klein and Vice Chair Levin stated that they agreed with Commissioner Barcus's comment.

Mike Raber stated that in general terms one example would be approval of an extension and if it was at that kind of level, then maybe it would be the less complicated minor versus major within the use permit. If we wanted it to apply to other things too, then we might look at. . . Commissioner Mayer interrupted to say that a sample would be the last time we had the charter school here for the playground, and Mike, Audree and Vice Chair Levin agreed.

Matt Goebel then referenced the Subdivision procedures and indicated that there are not a lot of major changes. They did a lot of rewriting in the background to make these fit with the new structure. The Subdivision waivers are not included. There is a new tool called Minor Modifications that they think should suffice to give you flexibility and more predictability but all the different flavors of Subdivision are covered – Preliminary Plat, Final, Land Division or Combination, Condos and Condo Conversions, and Reversion to Acreage. The only thing he would flag is that in the quest to make as many things as administrative as possible, they looked for flexibility to send Final Plats to the staff level, which is very common around the country. They need to talk more with the City Attorney, but he doesn't think you can do that. Rob agreed and Matt stated that they've investigated that and you can't do it, which is not the case in a lot of other states.

Note: Commissioner Mayer left the meeting at 6:15 p.m.

Matt indicated that Section 9.6 is Ordinance Amendments on rezoning property or rezone to a Planned Development District; they introduced the PDs in the first module. Then, what if he wants to amend the ordinance text itself? These are all the big policy level changes that would either change the map or the Code. On the Planned Development Districts, they are a rezoning, you are changing the Zoning Map designation. They are different, because you are requiring a pretty significant commitment by the applicant for those through the form of a plan, a PD Plan, as to how that site is going to be developed, where they are seeking deviations from the Code's standards, and what they are providing in exchange. It is different than just saying they are going to rezone to an existing base Zone District and comply with the Code where you might apply conditions to that situation. This is saying no, there is a big scheme that they want to implement through a coordinated plan and it will be put in writing. The goal of this part of the Code is to give you a more disciplined way to work through that negotiation with the applicant, so there is a lot of text there that says these are the different required elements of the PD Plan. You have to provide specific information about the land uses proposed and the dimensional standards, and how it is going to deviate from the Code. It is kind of a high bar that you need, because you don't want PD development to be just an everyday run of the mill choice. That needs to be a higher-level commitment, because you are investing a lot in upgrading the fundamentals of the Code. You want people to do the by right development, so PDs are still an option, but there is a higher bar with which they must comply.

Commissioner Brandt referenced developments in CFAs and asked if most of those would be a PD if they are looking to. . . Audree Juhlin stated that is a great question and we spent some time this afternoon talking about how we are going to address that. PD is one way we could, but if we are creating incentives to get these things accomplished, do we want a more strenuous process for approval or not? Is it a separate district or an overlay district? Matt and Tareq have some good opinions about all the different options.

Tareq Wafaie indicated that he didn't want to talk about all of the options just yet, other than the fact that there may be a lot of things that are common among various CFAs that would not have to be repeated in several different PDs or several different overlay districts. There might be things that

should just apply broadly across the City that are good ideas that happen to be captured in the CFA Plan, so they need to have that level of analysis before the chosen approach rises to the surface. Commissioner Brandt indicated that he had hoped that the Commission could have a memo that addressed how the Land Development Code update is addressing all the things in the CFAs that are being proposed. He then asked if it is a two-step process – CFA is the planning and the Land Development Code update is the implementation -- just so the Commission can follow-up on it.

Matt stated that the final category of procedures is Flexibility and Relief, so what if he wants to do something different on his site or he didn't like the application. The new tool is Minor Modification. You currently have Administrative Waivers and that is not being carried forward in its current form. We talked in the Assessment Report about getting away from the idea of waivers, and the idea that you are completely waiving something altogether. The goal is to provide a more structured tool that says that you can modify a standard, but we are going to evaluate it based on criteria, and you still need to be as close to compliance as possible. He then read, "Modifications or deviations from dimensional and numeric standards in the Ordinance without going through a rezoning or a variance", so it is a replacement of the Administrative Waiver tool. It is available for a Table of Adjustments, as well as to provide relief for certain federal laws, like if you need to provide reasonable accommodations for access to a site for the Federal Housing Act. It is specifically written to encourage the use of this tool for that, or if you need to provide some accommodation to ensure compliance for religious exercise under RLUIPA. You can't use this tool for density, change in use, deviation from floodplain or public improvement requirements, but the Table is foundation for this tool, and it is basically a way for the City to go through the Code surgically and target specific places where you would entertain flexibility. You are doing this already with Administrative Waivers up to 25 %, but that is only a limited number of things. They are providing a bigger menu of things, some of which you could modify up to 25% like front setbacks, but others only up to a smaller amount. The reason communities do it like this is they can be thoughtful and say where they are willing to entertain more flexibility. They work in some places where it is a flat 10% across the board. Then, you don't need a table like this, because they are willing to say everything is subject to 10%, but this lets you be more thoughtful. They would definitely like your feedback on this. There are criteria in here that say the requested deviation should be reviewed against the purpose of the Code, so is somebody just trying to do a get out of jail free or are they just trying to do a minor change? This is a decision that is made as part of another application. You don't just ask for a Minor Modification independently; you would ask for it as part of Development Review, Preliminary Plat or Conditional Use Permit. Whoever hears that associated application would make the decision on this, so sometimes that would be staff, the Commission or Council.

Vice Chair Levin stated that she had no comments or questions. Commissioner Klein stated no comment. Commissioner Kinsella stated that she doesn't know if she is comfortable taking the citizen review process out of that, especially because you are talking about modifications to the standard, and it is going to affect somebody differently in each case and, without the review process, there is not a way for that to come to light in a uniform way that might make sense to her for review. Matt Goebel pointed out that the Commission is connected to that underlying application, so if you have citizen review as part of that application, they would know about this request as part of that project description. Also, earlier in the conversation on Development Review they talked about one of the criteria for a Director referring something to the Commission would be a requested Minor Modification, so if somebody requests this type of relief, then it would go to public hearing.

Commissioner Kinsella stated that on the development standards, she understands all of these things having flexibility of a certain percentage, but when we talk about things like traffic and required parking spaces and waving 10%, that could have a significant impact. She doesn't know if she is comfortable having that in here. Audree Juhlin explained that the current Code allows staff the discretion to adjust the parking requirement, so that is a current practice. It has to be tied to a reasonable reason, like being in a pedestrian area, so the parking is not as necessary. Commissioner Kinsella asked if that same requirement would still exist under this, and Audree stated yes. The Commissioner then stated okay. Commissioner Barcus stated that he is comfortable with this; he likes it. Commissioner Brandt also indicated he is okay with it. Chair Losoff then also indicated okay.

Matt Goebel stated that the last Section is Review and Decision-Making Bodies. The Historic Preservation Procedures are carried forward as well, including the existing substance for Certificate of Appropriateness, but they have been rewritten to fit in the new structure.

Vice Chair Levin stated that she had some suggestions on that Section. There wasn't a standardized language used for the landmark criteria. It didn't match what was in the previous ordinance for local historic landmarks and in the Historic Resource Survey Appendix A. Part of that was just grammatical and leaving off like a letter "D", so if you compare those two with the original ordinance and the survey, so the same language carries forward. You also need to add that also for a district. There should be approval criteria for a historic district and that is not in there. She then recommended adding a description of noncontributing properties in a district, like on Brewer if you were landmarking from the "Y" to the Hummingbird House, Hart Store or even at the Airport. There is a row of historic properties that have historic structures on them, but one is not, like the Fuller Barnes sculpture or iron foundry on Brewer would be noncontributing, so you need to call it out, when you create a district, so it is understood that is not a property for which the guidelines apply. Matt indicated that he believed that noncontributing distinction is in the preservation ordinance itself, not the procedures, and Vice Chair Levin asked if he was saying it is still addressed in Article 15. Matt agreed; it is just not in the procedures. The Vice Chair then asked as to the contributing property or the criteria and Matt stated that the criteria are here on page 83 for the district. The Vice Chair then explained that the criteria here do not match the criteria under the landmark for an individual property.

Matt indicated that the final slide talks about the Commissions' and City Council's role and summarizes the roles of the various bodies in the administration of the Code. Matt then stated that Mike Raber continues to be the gatekeeper, and they are talking about deadlines for feedback. Mike Raber stated that we want the consolidated draft to staff by the end of May, so staff needs to get them the comments the middle of April. Matt Goebel added that all comments on all modules are to come to them by the middle of April, so the deadline for the Commission needs to be before then.

Audree Juhlin stated that April 3rd is the next meeting and we do not have any items on that, so if the Commission would like another work session for you to have reviewed what we presented tonight and give us feedback, we could do that on April 3rd. Chair Losoff asked if the consultants are able to put in their own thoughts, since they are the experts. Matt stated that they contribute to all of the discussion and a lot of their feedback is reflected in the drafts. They push back when they disagree, but they also know this is primarily in the community's hands now to put your stamp on it.

4. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Planning and Zoning Commission may hold an Executive Session that is not open to the public for the following purposes:

- a. **To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. **Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

5. ADJOURNMENT

Chair Losoff called for adjournment at 6:28 p.m., without objection.

I certify that the above is a true and correct summary of the work session of the Planning & Zoning Commission held on March 20, 2018.

Donna A. S. Puckett, *Administrative Assistant*

Date