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BEFORE THE ARIZONA CORPORATION COMMISSION

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2006 NOV 13 P 4: 21

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Commissioner

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Arizona Corporation Commission
DOCKETED
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IN THE MATTER OF THE APPLICATION) DOCKET NO. W-01157A-05-0706
OF WEST END WATER COMPANY FOR)
EXTENSION OF EXISTING CERTIFICATE)
OF CONVENIENCE AND NECESSITY)
)
) **NOTICE OF FILING OF**
) **TRANSCRIPT OF 9/7/06**
) **HEARING BEFORE THE**
) **MARICOPA COUNTY**
) **PLANNING AND ZONING**
) **COMMISSION AND REQUEST**
) **FOR SHORT EXTENSION**
)

The City of Surprise ("Surprise" or "the City") hereby submits this transcript of Agenda Item #4 of the September 7, 2006 hearing of the Maricopa County Planning and Zoning Commission on the Walden Ranch Development Master Plan, DMP2004001. ("P&Z Hearing") and request that the Transcript be admitted as a late-filed exhibit.

The P&Z Hearing was the subject of extensive testimony by witnesses at the September 13, 2006, hearing in this proceeding. See e.g. Sept. Tr. 29; 60-62; 65-66; 70-72; 94; 105; 134-137; 144; 152-54. Representations made by counsel for Woodside Homes at the P&Z Hearing are relevant to this case and were the subject of direct and

cross-examination in this proceeding. At the end of the September 13, 2006, hearing, Judge Bjelland inquired about obtaining a transcript of the P&Z Hearing. *See* Sept. Tr. 151:4-152:1. Counsel for the City of Surprise agreed to try and obtain a copy of the transcript and inquired of the County about such a transcript, on a weekly basis, since the September 13th hearing. Only last week, was the audio file released by the County to counsel for Surprise. Counsel immediately provided the audio file to the Arizona Reporting Service and asked that a transcript be prepared on an expedited basis. That transcript was produced by Arizona Reporting Service today, and is attached. Arizona Reporting Service has authorized the City of Surprise to file the transcript, in its entirety, in the public file. The City of Surprise requests that this transcript be admitted as a late-filed exhibit in this proceeding.

Because this transcript only recently became available, the City of Surprise is also requesting a short extension in the briefing schedule. The City requests that the due date for the closing briefs be extended by three business days from November 16, 2006, to November 21, 2006. Counsel for the City of Surprise discussed this request with Mr. Charles Haines and Commission Staff does not oppose this short extension. The City of Surprise also discussed this request with counsel for West End Water Company on Friday November 10, 2006. Mr. Rhodes is tied-up with another matter and has not been able to consult his client regarding this request.

///

Respectfully, submitted this 13th day of November , 2006.

OSBORN MALEDON, P.A.

By Joan S. Burke

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Original and thirteen (13) copies of
the foregoing were filed this 13th day of
November, 2006, with:

Docket Control
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Copy of the foregoing e-mailed and mailed
to:

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Copies of the foregoing hand-delivered
this 13th day of November, 2006, to:

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2 MARICOPA COUNTY PLANNING AND ZONING COMMISSION
3 CITY OF SURPRISE

4
5 IN THE MATTER OF WALDEN RANCH)
6 MASTER DEVELOPMENT PLAN) Case No. DMP2004001
7) Agenda Item No. 4

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11 REGULAR MEETING OF THE
12 PLANNING AND ZONING COMMISSION
13 OF MARICOPA COUNTY

14
15 September 7, 2006
16 Phoenix, Arizona

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TRANSCRIPT OF PROCEEDINGS OF AGENDA ITEM NO. 4

CD
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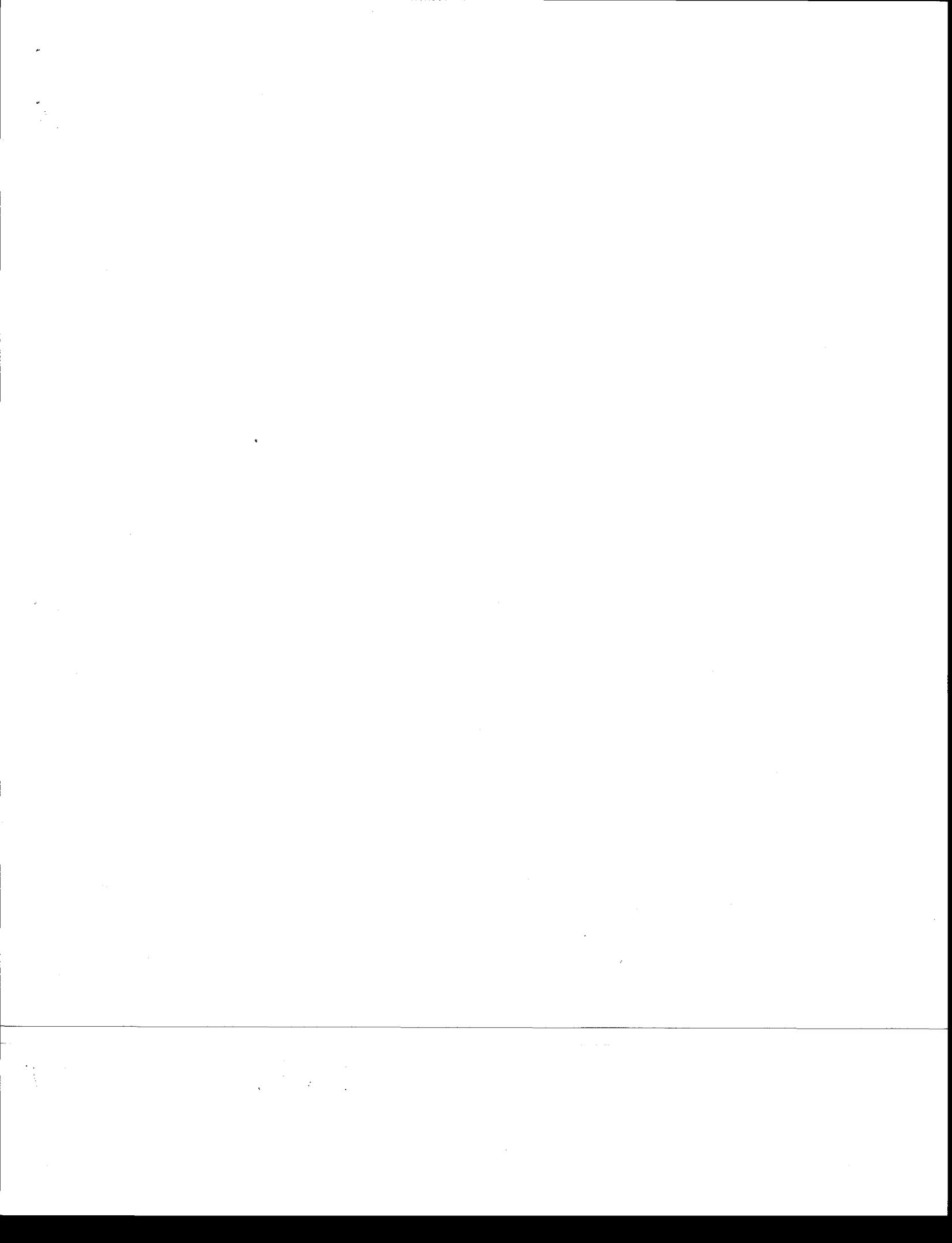
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PREPARED FOR:

CITY OF SURPRISE

Transcribed by:
Katherine A. McNally
CERTIFIED TRANSCRIBER
CET**D-323



1 THIS TEXT WAS TRANSCRIBED FROM AN AUDIO RECORDING
2 BE IT REMEMBERED that a Regular Meeting of the
3 Planning and Zoning Commission of Maricopa County was held
4 in Phoenix, Arizona, commencing on the 7th day of
5 September, 2006.

6

7 BEFORE: JASON BARNEY, Chairman
8 RUSSELL BOWERS, Commissioner
9 ROBERT L. JONES, Commissioner
10 ELLA MAKULA, Commissioner
11 DICK SMITH, Commissioner
12 MARK PUGMIRE, Commissioner
13 JERRY ASTER, Commissioner
14 MAX MASEL, Vice-Chairman
15 ABE HARRIS, Commissioner
16 Secretary

17 APPEARANCES:

18 AGENDA ITEM No. 4, DMP2004001

19 For Woodside Homes:

20 MIKE CURLEY, Attorney at Law

21 For West End Water Company

22 MARVIN COLLINS

23 For Staff

24 Unidentified Speaker

25

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2 (Commencement of excerpted portion of
3 proceedings.)

4 CHMN. BARNEY: Moving on to Agenda Item No. 4,
5 DMP2004001.

6 Staff?

7 STAFF SPEAKER: Chairman Barney, Members of the
8 Commission, Case DMP2004001 involves Walden Ranch, a
9 master-planned community, located one-half mile west of
10 Grand Avenue, generally bordered by Lone Mountain Road on
11 the north, 211th Avenue on the east, Peak View Road on the
12 south, and Crozier Road on the west, in Supervisor
13 District 4; size approximately 520 acres; and is located
14 within the county's White Tank and Grand Avenue area plan,
15 the Wickenburg Highway scenic corridor and the City of
16 Surprise's municipal planning area.

17 This case was previously heard at the July 13th,
18 2006, P and Z hearing, where it was continued to
19 July 27th, to allow the applicant an opportunity to get a
20 will-serve letter from the City of Surprise for water
21 service to the southern third of the property.

22 This letter has since been provided and is
23 included in your packet.

24 At the July 27th hearing, it was continued to
25 today's hearing at the applicant's request. This is a,

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2 primarily, single family, residential development with a
3 gross density of approximately 3.1 dwelling units per
4 acre. Smaller areas have been designated for open space,
5 educational -- public and educational facilities, as well
6 as commercial and employment uses.

7 However, Staff will note they still have concerns
8 about the lack of employment-related uses, and therefore
9 it's recommending a stipulation that would require
10 approximately 15 acres of the project to be rezoned to
11 commercial office.

12 Walden Ranch does include over 28 acres of
13 proposed open space, mostly in four wash corridors that
14 cross the site from north to south. This includes an
15 8.6-acre community park, three neighborhood parks --
16 approximately three acres in size each, and several
17 smaller pocket parks.

18 The community park will be located adjacent to a
19 proposed 12-acre elementary school site. The Nadaburg
20 School District does not currently have a high school, so
21 students would have to attend a high school in a
22 neighboring jurisdiction.

23 The Wittmann Fire District and Maricopa County
24 Sheriffs' Office would provide fire and police services.

25 The surrounding area is generally rural in

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2 nature, with mostly undeveloped desert and a few scattered
3 residences on one acre or greater lots.

4 The unincorporated community of Wittmann is
5 located a half mile north of the site; the Chrysler
6 proving grounds are one and a half miles to the north; and
7 Luke Air Force Base's Auxiliary Airfield No. 1 is one and
8 a half miles to the south.

9 The City of Surprise has provided a letter
10 indicating general support of the Walden Ranch project.
11 The letter also outlines their intent to provide sewer
12 services to the project, pending a pre-annexation service
13 agreement. It also states they intend to initiate
14 annexation of the site when possible.

15 The applicants say that in their narrative
16 report, that they intend to get water service from West
17 End Water Company. While most of the site falls within
18 the existing West End Water service area, it does not
19 include the southern portion of the project. Therefore, a
20 CC&N expansion application was filed with the Arizona
21 Corporation Commission, but is being opposed by Surprise.

22 As stated previously, the City of Surprise has
23 provided a will-serve letter for the southern -- for water
24 service for the southern third of the property.

25 As a result, there is a judicial hearing on

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2 September 13th regarding this issue. Although the
3 Maricopa County Environmental Services has signed off on
4 the case, because they are satisfied there will be a
5 viable system for providing water services to the project
6 regardless of the outcome of this judicial hearing, the
7 Planning Staff believes it is important for this process
8 to be -- the judicial process to be completed, so that
9 this DMP will move forward in a timely fashion.

10 At this point Staff does not know when this might
11 occur. Therefore Staff recommends a continuance of
12 DMP2004001 to the October 5th, 2006, hearing; however, if
13 the Commission decides to recommend the case to the Board
14 of Supervisors, Staff recommends it be subject to
15 Stipulations A through II, in Paragraph 68 of your
16 packet.

17 At this time we will answer any questions you
18 might have.

19 CHMN. BARNEY: Thank you. Would you -- do you
20 have any more detail you can provide with regards to --
21 was it September 15th judicial --

22 STAFF SPEAKER: It's September 13th.

23 CHMN. BARNEY: September 13th?

24 STAFF SPEAKER: It's a hearing before an
25 Administrative Law Judge. And basically, we don't have a

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2 lot of information on the timing. But we feel once the
3 hearing is complete, we might have more information.

4 CHMN. BARNEY: Yeah. Here's my concern with
5 that, since we don't know what the content or the
6 potential outcome of that hearing would be, by continuing
7 this case, based on that recommendation, we don't know if
8 we'll have gained anything or a lot. And I guess we're
9 just kind of guessing at what might come out of that.

10 I'd like to, you know, figure out how we can get
11 this case to a situation where -- where it's either moving
12 forward, or we really just put it on ice until we know how
13 this thing is -- is going to pan out in terms of the water
14 situation, as opposed to, you know, kind of continuing it,
15 at the hopes that maybe some judicial procedure will move
16 this thing along.

17 Sometimes these judicial -- especially
18 administrative law hearings can -- can gain a lot;
19 sometimes they can gain very little.

20 But it sounds like you don't have any more detail
21 on that.

22 STAFF SPEAKER: Chairman Barney, we really
23 don't. Perhaps the applicant can provide more
24 information.

25 CHMN. BARNEY: Okay.

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2 STAFF SPEAKER: I'm not sure.

3 CHMN. BARNEY: And, you know what, when the
4 applicant --

5 STAFF SPEAKER: I will note that --

6 CHMN. BARNEY: -- comes up, we'll hear that.

7 STAFF SPEAKER: I will note that we -- the
8 stipulations that we have recommended, and if you don't
9 decide to continue --

10 CHMN. BARNEY: Yeah.

11 STAFF SPEAKER: -- hopefully will cover -- they
12 would have to provide this information prior to any
13 rezoning or plats.

14 CHMN. BARNEY: Thanks. Okay. All right.

15 Commission, do we have any questions for Staff?

16 MALE SPEAKER: No.

17 CHMN. BARNEY: None?

18 Is the applicant here?

19 Please come forward.

20 And you've already heard one question to
21 address. If you have a lengthy presentation, you might
22 try and abbreviate. More so, let's address some of the
23 concerns that the Staff has had.

24 And of course, your name and address for the
25 record.

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2 MR. CURLEY: Mr. Chairman and Members of the
3 Commission, for your record, my name is Mike Curley; my
4 address is 3101 North Central.

5 Darren, if you could try get us those exhibits
6 up. I'll try to be relatively brief.

7 I'm here representing Woodside Homes today, which
8 has assembled this 520-acre site.

9 And as Staff has indicated, the case comes before
10 you with the support of the City of Surprise, who
11 eventually is going to annex the site.

12 That support comes as a result of about three
13 years of working, on our behalf and two other property
14 owners in this immediate area, to gain the support of
15 Surprise. And it was primarily because we had been able
16 to reach an accommodation on the provision of sewer, which
17 was one of the main issues that sort of plagued this
18 area.

19 And the case is not only consistent with
20 Surprise's wishes, but it's consistent with some actions
21 taken by this Planning Commission and the Board of
22 Supervisors, recently, on two contiguous cases -- Rancho
23 Maria, which is immediately contiguous to us, which was
24 recently approved by the Board of Supervisors; and there's
25 a larger parcel immediately to our north, Broadstone

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2 Ranch, which is going to be developed by Elliot Homes.

3 Elliot Homes, ourselves, and Rancho Maria, over
4 the past three years, have basically worked with the City
5 of Surprise to provide sewer.

6 This exhibit, which is a little difficult to see,
7 given the scale, shows -- if you can see our parcel in
8 red -- rancho Maria is really -- is immediately contiguous
9 to us; Broadstone Ranch is immediately to the north.

10 When we approached the City of Surprise about
11 four years ago and expressed our interest in developing
12 this property along Grand Avenue, the City of Surprise
13 basically said two things. They said, We're willing to
14 allow development to occur -- and the areas north along
15 Grand Avenue were the next logical step in the development
16 pattern because they were immediately north of Anthem and
17 Arizona Traditions, which was developed by Continental,
18 which is essentially along Bell Road; and the path of
19 development up along Grand Avenue was logical.

20 But the City of Surprise basically said, Look,
21 you've got to solve the sewer situation. We're not in a
22 position right now where we're going to be able to develop
23 these sewer plants. So you, private developer, have to
24 get -- have to petition, with other developers in this
25 area, to provide sewer.

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2 And so that's one of the reasons why this
3 property was -- or this case was filed about four years
4 ago. We basically put the case on ice until we were able
5 to resolve the sewer issue, because we didn't want to come
6 before you until that sewer issue was resolved.

7 And with sparing you all the details, we've come
8 to a -- we've come to a position right now where ourselves
9 and the two other developers in the State Land Department
10 have located the sewer site, have basically engaged in a
11 financial agreement whereby we're going to be building the
12 sewer plant for the city -- and the city will be
13 participating to some degree.

14 But essentially, financially, it's a multimillion
15 dollar proposition, and it's coming about as a result of
16 our efforts. And so once the sewer issue was resolved, we
17 then felt it was appropriate to come back before you and
18 move forward on the zoning case.

19 And again, it's difficult to see -- but the areas
20 in green, for example, you look where the red area is,
21 which again represents our site. The areas in green are
22 other master plans that have followed the City's dictates
23 of creating an assemblage of properties. Because what the
24 City was really fearful of was that as you go up Grand
25 Avenue and you look in some of the Wittmann areas -- areas

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2 again that the City of Surprise is ultimately going to be
3 annexing -- a lot of wildcat subdivisions were occurring
4 in the area, where these subdivisions were not developed
5 per the city standards. There were no design review
6 standards implemented in the development of those; there
7 was very little infrastructure; septic tanks were
8 occurring in the area.

9 And so the city basically said, Look, we want you
10 to -- if you want to come in and develop the property, you
11 have got to, number one, solve the sewer issue; but number
12 two, we want a master plan approach here, where you're
13 going to be having open space; where you're going to be
14 having design and review standards.

15 And so we followed those dictates, in addition to
16 several of the other properties up and down Grand Avenue.

17 Again, just cutting to the -- cutting to what I
18 think are the three issues, let me just address them.

19 From a density standpoint, a land view
20 standpoint, what we're proposing here is consistent with
21 every one of those other master plans up and down Grand
22 Avenue, including the two which were recently approved --
23 Rancho Maria and Broadstone Ranch -- by the Planning
24 Commission and the Board of Supervisors. Our density
25 ratio is actually lower than those two projects.

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2 In terms of open space, we're in agreement with
3 the Staff concept of providing the open spaces. There's a
4 stipulation in there -- we may have to tweak it a little
5 bit with Staff -- but in concept of providing open space,
6 we're agreeable to that. But for purposes of today's
7 hearing, we're okay with the open space.

8 I want to point out that unlike a couple of the
9 other projects in this area, from the school standpoint,
10 we're agreeing to dedicate a 12-acre school to the
11 Nadaburg School District. And we're also contributing a
12 thousand dollars per home to the Nadaburg School
13 District. Generally, it's one or the other. And in every
14 city that I've developed in, you're either developing --
15 you're either giving a site or you're giving a thousand
16 dollars.

17 Nadaburg basically said to us, Look, we don't
18 have the money here, so would you please do both? And
19 we've agreed to do that.

20 The two issues dealing with the water --

21 And Darren flip ahead, I think there's one that
22 shows -- one more -- yeah.

23 This shows the situation from a water
24 standpoint. The area in blue is West End; and then the
25 area in red, to the south of the blue, is -- or just above

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2 the dark blue is the City of Surprise. So basically West
3 End has the northern two-thirds CC&N for this area and the
4 City of Surprise is to the south.

5 The City of Surprise is annexing everything along
6 Grand Avenue. West End came to the original owners of
7 this site and said, We would like to expand into the red
8 area -- and again this would be the southern red area --
9 we'd like to expand our CC&N into that southern area.
10 Would you support it?

11 The previous owners of the site said, Yes. And
12 hence the CC&N requests started processing through the
13 Arizona Corporation Commission.

14 The City of Surprise then came to us and said,
15 Look, we have a problem with a lot of these private water
16 companies. We're annexing up Grand Avenue. We would
17 prefer to be the water provider. And we agreed.

18 So right now, the water situation is as follows,
19 it's either going to be one or the other; it's either
20 going to be the City of Surprise or it's going to be West
21 End. That's going to be decided within the next couple of
22 weeks.

23 We don't think a continuance is necessary to
24 resolve this issue because all that we're dealing with
25 here is the DMP.

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2 CHMN. BARNEY: Can I interrupt you on that?

3 MR. CURLEY: Yes, sir.

4 CHMN. BARNEY: Do you carry the weight on that?

5 Or is it just, as long as you get water, you're happy?

6 MR. CURLEY: Well, as long as we get water, we're
7 happy. And it's going to be one or the other. We prefer
8 the City of Surprise, but we can live with West End also.
9 And so we can't control West End's ability to petition the
10 Corporation Commission to extend their CC&N --

11 CHMN. BARNEY: But the process for getting the
12 decision on that is in court proceedings at this point.

13 MR. CURLEY: Correct. It's before the
14 Corporation Commission actually.

15 CHMN. BARNEY: Can you speak to this hearing
16 that's coming up and any other events that might bring
17 resolution to that?

18 MR. CURLEY: It is my understanding -- I'm not an
19 expert in the Corporation Commission law -- but it's my
20 understanding that the Corporation Commission gives very
21 strong weight to what the applicant whose property is
22 going to be served -- what their desires are.

23 I can't speak for the judge. I think that it's
24 likely -- now that we've withdrawn our requests for the --
25 for the expansion of the CC&N, I think it's likely the

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2 City of Surprise is probably going to be the provider, but
3 I can't say that dispositively. So obviously --

4 CHMN. BARNEY: But again, my question is, On
5 September 13th, what do you think an outcome of that --

6 MR. CURLEY: I think the outcome of it is going
7 to be that the City of Surprise is going to be the service
8 provider. If the corporation --

9 CHMN. BARNEY: As in "done deal," no more talking
10 about it after that?

11 MR. CURLEY: Yes. I believe that that's the
12 case. But again, if we were before you with zoning or
13 plats, I'd say probably a continuance would be
14 merit-worthy.

15 If the Planning Commission feels strongly a
16 continuance of a couple weeks is somehow necessary, I'm
17 not going to stand here and fight it. But the actuality
18 is that it's going to be one or the other. And we're only
19 at the DMP stage. We're not zoning the property; we're
20 not platting the property. We've got to come back to
21 you. And I think at the plat stage, clearly the
22 resolution of the water issue is necessary. But at this
23 stage, it's going to be one or the other. And we'd just
24 prefer going at this time, if it's -- unless it's felt
25 strongly by the Commission.

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2 The only other issue that Staff has raised is
3 dealing with the amount of employment in the area.

4 Could you go to the next one, Darren, please?

5 The County has got a policy with the DMPs, as you
6 know --

7 One more please. Darren, I'm sorry, one more.

8 Thank you.

9 The County has a policy of providing employment
10 in the -- within each DMP. And it looks at those DMPs in
11 isolation, doesn't look at what's happening surrounding
12 this particular area.

13 Again, our area is in red on the left -- the
14 left-hand side. Everything that's in blue represents
15 employment that's occurring in this area. It's an area
16 that's impacted by Luke; it's an area that's land planned
17 for employment. It constitutes about 3,000 acres. It's
18 going to be about 8 million jobs in this area, at ultimate
19 buildout. So we don't see the need to have more
20 employment in our particular site.

21 CHMN. BARNEY: Let me get real clear on what
22 we're talking about here.

23 Staff recommended a 15-acre commercial addition
24 to the current proposal. What's currently in the plan,
25 not including that?

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2 MR. CURLEY: What Staff is recommending,
3 Mr. Chairman, is Stipulation V, which basically says that
4 Parcels 1 and 2 of this -- of this site ought to be
5 converted essentially from retail to employment. And so I
6 think that, roughly, there would be about 20 acres of CO
7 in this area.

8 CHMN. BARNEY: If we don't do that stipulation --
9 if we don't have that extra 20 acres, how many acres of
10 commercial do we have in this --

11 MR. CURLEY: There'll be a roughly 12-acre -- I
12 think it's 12 acres of retail, which also could
13 incorporate office. And there would be an 8-acre office
14 piece. So I think what staff --

15 CHMN. BARNEY: So 12 and 8, roughly?

16 MR. CURLEY: Yeah. What Staff is basically
17 saying, I think, is to convert the retail -- the retail
18 piece, essentially, to most of it being office. And our
19 response is we can do --

20 CHMN. BARNEY: So we're not doubling the amount
21 of employment, slash, commercial-type designation. We're
22 just changing it.

23 MR. CURLEY: You're convert -- I'm sorry.

24 CHMN. BARNEY: Let me take Andy on that.

25 STAFF SPEAKER: Yeah.

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2 Chairman Barney, basically, we would take a
3 portion of the retail and that would be zoned commercial
4 office. There would still be a retail component, but it
5 would be smaller. There would be, I believe, five acres,
6 approximately, of retail/commercial. And then the
7 difference -- the seven acres added to the already
8 recommended or proposed employment to bring it up to
9 approximately 20 acres.

10 MR. CURLEY: And our only response is, again,
11 we're not going to fall on our sword on this issue. But
12 our response is, is that when you look at this immediate
13 area, within three -- I misspoke before -- within three
14 miles of our site -- the area in blue represents 4,500
15 acres of future employment. It's an area that has to be
16 employment because it's impacted by the Luke contours.

17 And so in our view, there's going to be ample
18 employment in this particular area. And there's not the
19 necessity to convert the retail to the office. But
20 again --

21 CHMN. BARNEY: Gotcha on that.

22 MR. CURLEY: -- if the Commission -- if the
23 Commission feels strongly about it, we're willing to abide
24 by the Commission's decision.

25 CHMN. BARNEY: Okay. All right. The point's on

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2 the commercial employment -- the point's taken on that.

3 I think the issue here is the water company
4 issue. We've got -- it looks like we've got somebody here
5 from West End Water Company.

6 I would like to hear from -- I apologize if I
7 don't say your name right -- Marvin Collins.

8 MR. COLLINS: Collins.

9 CHMN. BARNEY: Go ahead and say it at the
10 microphone with your name and address and --

11 MR. COLLINS: Yes. My name is Marvin Collins.
12 I'm manager of West End Water Company. My address is 9098
13 West Pinnacle Peak Road, Peoria, Arizona 85383. That's my
14 business address.

15 CHMN. BARNEY: Thank you. And briefly, if you
16 can give --

17 MR. COLLINS: Briefly what happened is West End
18 did make application to the Arizona Corporation Commission
19 to extend our certificated area. This area south of
20 Dixiletta is immediately adjacent to our existing --

21 CHMN. BARNEY: Darren, can you go back to that
22 slide that shows that, please.

23 Continue.

24 DARREN: Oh, you want the --

25 CHMN. BARNEY: Yeah. That one right there.

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2 MR. COLLINS: Okay. The 160 acres immediately
3 south of Dixiletta -- I believe it's that red shown above
4 the dark blue down on the bottom.

5 CHMN. BARNEY: Right.

6 MR. COLLINS: But anyway, we did make
7 application.

8 There is a hearing scheduled September the 13th
9 before an Administrative Law Judge.

10 After the hearing, the Administrative Law Judge,
11 it is my belief, will give closing arguments. And
12 normally they take them oral, but they can also take them
13 written. In this case, I believe she's going to request
14 written closing arguments.

15 After that, she will take it under advisement.
16 She will write a recommended order to the Commissioners.
17 And then the Arizona Corporation Commissioners will make
18 the final decision whether to grant the CC&N application
19 expansion or decline it.

20 So my best guess estimate is that that would
21 probably come up in the November open meeting. Because
22 the hearing is the 13th. She will probably allow a week
23 or two --

24 CHMN. BARNEY: So what you're saying is by
25 October, we -- there won't be a resolution to this

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2 (indiscernible).

3 MR. COLLINS: You know, I can't say that,
4 Mr. Chairman.

5 CHMN. BARNEY: In your opinion -- in your
6 opinion.

7 MR. COLLINS: Then in my opinion, no, because it
8 has to go to the open meeting and be -- prior to the open
9 meeting, to get scheduled, there has to be a recommended
10 order. And my guess is that that recommended order
11 probably won't come out until sometime in October. It
12 could be on the open meeting in October, but my best guess
13 would be November, as the earliest.

14 CHMN. BARNEY: Thank you. Do you have anything
15 to add?

16 MR. COLLINS: No. That's all that --

17 CHMN. BARNEY: Thank you for your time.

18 MR. COLLINS: You're welcome.

19 CHMN. BARNEY: Now, Mr. Curley, do you want to
20 respond to the issue that it may not be resolved in
21 October?

22 MR. CURLEY: Again, I don't -- I can't say it for
23 certain. I think the gentleman is right, that there may
24 be a delay in the -- in the order forthcoming. But again,
25 I just stand on my earlier comments that to me it's really

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2 an irrelevant issue as to this DMP, because, again, the
3 DMP -- the plat is what is going to be --

4 CHMN. BARNEY: And I'm trying to understand. If
5 I knew for a fact that September 13th would clear things
6 up forever and for good, that would be one reason to
7 continue a continuance on this thing.

8 I think from -- and in this kind of discussion
9 for the Commission, from my point of view, it is very
10 important for us to make sure that there is a water
11 solution before we approve a DMP.

12 I think in this case we don't know which one, but
13 we can establish that there will be one, one way or
14 another.

15 MR. CURLEY: Correct.

16 CHMN. BARNEY: I just don't want to get in the
17 situation where we keep continuing and kind of chasing the
18 tail of an administrative law proceeding that we don't
19 know how -- what the outcome is going to be.

20 MR. CURLEY: And Mr. Barney, I would just -- I
21 would just add one more -- one other point, and that is
22 that we're probably about two months away from filing our
23 plats on this. And so the -- getting rid of the DMP today
24 would allow us to move forward with that.

25 CHMN. BARNEY: Gotcha on that.

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2 MR. CURLEY: And we will stand on the record by
3 saying that the plat will not come forward to you until
4 the water issue is resolved.

5 CHMN. BARNEY: All right. Do we have any more
6 questions of the applicant before we turn him loose?

7 Jerry?

8 COM. ASTER: Mr. Chairman, Mr. Curley, tell me a
9 little bit about the tweaking that needs to be done with
10 Staff, as you put it, with regard to the open space. I'd
11 like to hear about tweaking.

12 MR. CURLEY: The Staff has the -- there's --
13 first of all, there's a flaw in the Staff report as to the
14 amount of open space that we actually are providing in the
15 DMP. When I say there's a flaw, there's an error --
16 whether it was on the Staff's part or our part.

17 But we basically, in our plat that's going to be
18 submitted within the next -- within the next two months,
19 we have about 19 percent open space. In the Staff report,
20 there's a notation that we only have five percent open
21 space. I think that that five percent didn't calculate
22 the community part that we were dedicating. We actually
23 have got close to 10 percent shown, committed to, in the
24 DMP.

25 What the Staff report stipulation says is that in

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2 order to make sure there's enough open space, they say
3 that in every one of the individual residential parcels --
4 of which I think there are 14 -- they are asking that an
5 acre pocket park be placed in each one of those
6 communities.

7 Our plat actually distributes the acreage
8 differently. So in other words, say there's -- say
9 there's two parcels -- there may not be an acre in one
10 parcel, but maybe two and a half acres in the adjacent
11 parcel which they're combined.

12 So technically, if you read Staff's stipulation,
13 it will require an acre in each one of those parcels. We
14 don't have a problem with the amount of open space the
15 Staff is requesting, but we have a problem in terms of how
16 it's distributed.

17 So the spirit of the -- the spirit of the
18 stipulation we agree with. We may just have to tweak the
19 stipulation between now and the Board of Supervisors, to
20 reflect the plat.

21 COM. ASTER: Okay. Question for Staff.

22 Does anybody on Staff have a problem with that,
23 that after we vote on this, with a stipulation as outlined
24 here, that there would be a change?

25 STAFF SPEAKER: Chairman Barney, Commissioner

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2 Aster, I think our concern is, typically, we want to see
3 at least a one-acre park. I guess the concern is -- I
4 think we can work with it, as long as there's at least a
5 one-acre park and not less -- not half-acre parks or tiny
6 little parks that --

7 MR. CURLEY: That's -- that's -- and we're in
8 agreement with that. We are in agreement with that. In
9 order for the park to really function, it has to be at
10 least an acre.

11 Again, it's just the way the stipulation is
12 technically worded. It would require every parcel to
13 have -- every residential parcel to have an acre, as in
14 that would -- that might preclude, for example, having a
15 larger three- or four-acre park that might be able to
16 serve as two parcels. And that -- that's the only --
17 that's the only difference that we have.

18 COM. ASTER: Mr. Piper (phonetic), you guys are
19 okay with that? I think I heard you say something a
20 little bit different.

21 STAFF SPEAKER: Mr. Chairman, Commissioner.
22 Aster, we'll -- Staff will work with the applicant if they
23 want to try to craft revised stipling (phonetic), which --
24 but you can rest assured we won't recommend anything to
25 the Board of Supervisors that we're not comfortable with.

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2 If there are ways to consolidate some of that acreage so
3 that it's appropriately located for two residential
4 development parcels, we'll try to work that flexibility
5 and to provide stipling.

6 COM. ASTER: Okay. I just want to make sure that
7 the stip, if we voted one acre per residential of the 14
8 sites or 13 sites, that we don't get hung up -- somebody
9 doesn't get hung up downstream with it. That's all I care
10 about.

11 CHMN. BARNEY: Okay.

12 COM. ASTER: I mean, I'm willing to vote it in
13 terms of the total, if you guys are okay with it. That's
14 where I'm coming from.

15 MR. COLLINS: Okay.

16 CHMN. BARNEY: Okay. Anything else for the
17 applicant on this?

18 All right.

19 MR. CURLEY: Thank you, Mr. Chairman.

20 CHMN. BARNEY: Thank you.

21 Anybody else from the public want to comment on
22 this? Any further discussion?

23 COM. PUGMIRE: I have one general item of
24 discussion that has to do with the plan.

25 Do I understand the DMP is a general plan

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2 amendment? Is that -- so is this for 22 -- I mean growing
3 smarter stuff -- this is a general plan amendment. Is
4 that right?

5 STAFF SPEAKER: Mr. Chairman, Commissioner
6 Pugmire, it's Staff's interpretation that a development
7 master plan acts as a plan amendment.

8 COM. PUGMIRE: Okay.

9 CHMN. BARNEY: Okay.

10 STAFF SPEAKER: They are not considered major
11 plan amendments, therefore they can be heard at any time.

12 COM. PUGMIRE: Okay. I just have the question
13 then -- and I don't know how to answer it.

14 Do we have in our -- do you believe that any time
15 we come into an area that is planned for all purposes --
16 one to the acre -- that if we have a DMP we should -- that
17 it should also trump? A three to the acre DMP is always
18 better than the general one to the acre septic?

19 I'm not saying I'm going to vote against this
20 one. It's just always -- we always move that out farther
21 and farther and farther. It just needs to come up again.
22 We've got it here.

23 CHMN. BARNEY: Should we hear from Environmental
24 Services on that?

25 MALE SPEAKER: We've got the City of Surprise

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2 that says it's -- the plan is one to the acre. Our plan
3 calls for one to the acre. We've got a good master plan
4 of three and a half to the acre.

5 Does that mean that one to the acre is really --
6 in our plan, is really just a holding? Is it really just
7 a holding zone?

8 STAFF SPEAKER: Mr. Chairman, Commissioner
9 Pugmire, a lot of people like to treat one to the acre as
10 a holding zone, and the fact that Rule 43 -- they believe
11 that's a holding zone, but it's not.

12 It develops as much of this area outlined in blue
13 is already subdivided by RJ Springer in this very same
14 vicinity.

15 But we do consider the DMP to be the specific
16 area land use plan that supersedes the more generalized
17 county area plan in this area.

18 And when there are changes that increase the
19 density, we want to see corresponding mixes, appropriate
20 land use ratios, so that we can accommodate that increased
21 incident.

22 And that's one reason we're wanting to see the
23 employment offset.

24 CHMN. BARNEY: Okay.

25 COM. PUGMIRE: I just wanted to bring it up.

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2 CHMN. BARNEY: All right. Well, let's move this
3 thing along then.

4 Without any other discussion -- or do we?

5 MALE SPEAKER: I have a question.

6 CHMN. BARNEY: I see you guys chomping at the bit
7 down there.

8 MALE SPEAKER: Well, about this employment issue.

9 CHMN. BARNEY: Yeah.

10 MALE SPEAKER: Giving up retail in a DMP, I don't
11 think is desirable. I mean retail is where people go
12 daily to do their shopping and things like that. And to
13 give up retail is -- I think is harming the DMP aspect,
14 rather than helping it.

15 CHMN. BARNEY: I think I'm tracking with you on
16 that. I think part of the intent is so that people don't
17 have to drive across three other DMPs to go buy milk.

18 MALE SPEAKER: Exactly.

19 CHMN. BARNEY: Yeah.

20 MALE SPEAKER: So I think, if we can get a
21 compromise here somewhere -- because I'd hate to see the
22 retail go down five acres.

23 CHMN. BARNEY: Yeah. I wasn't tracking on that
24 one. So --

25 MALE SPEAKER: So if we could hit a compromise

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2 maybe -- or if the Staff feels that we still have to have
3 some employment base, maybe we could go down to 10 acres
4 in distance, rather than 20 or something -- or just omit
5 that stipulation altogether.

6 CHMN. BARNEY: Or just omit it. It might be as
7 simple just to omit it as a stipulation too.

8 MALE SPEAKER: Well, I believe there is going to
9 be an employment base in the area, as outlined. Because
10 of the Luke situation, there's not going to be much
11 advantage out there or opportunity for more development,
12 as far as residential's concerned.

13 CHMN. BARNEY: Jerry, were you trying to make a
14 comment down there?

15 COM. ASTER: No. That's all right. Go ahead
16 with them.

17 CHMN. BARNEY: All right.

18 COM. ASTER: I'm on board.

19 MALE SPEAKER: So I would be in favor of omitting
20 that stipulation.

21 CHMN. BARNEY: Okay. Very good.

22 In that case, do we want to -- Staff, do you want
23 to talk about that further or -- in terms of Stipulation

24 V?

25 STAFF SPEAKER: Mr. Chairman, we'll just defer to

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2 your discussion.

3 CHMN. BARNEY: Defer it? Okay. Very good.

4 All right. Are we ready for a motion on this?

5 COM. SMITH: Mr. Chairman?

6 CHMN. BARNEY: Yes.

7 COM. SMITH: In reference to Agenda Item 4,
8 specifically DMP2004001, it seems to me the only
9 controversial problem was the water supply. And I think
10 the applicant has proved to us today that he certainly has
11 adequate water supplies.

12 Therefore, I recommend that we approve --
13 recommend approval, in accordance with Staff
14 recommendations set out in Paragraph 68, with stipulations
15 A through I -- with the revision that we have discussed
16 today regarding open space and employment.

17 CHMN. BARNEY: Now, I have Stipulation A through
18 H on this one.

19 COM. MAKULA: Chairman Barney --

20 MALE SPEAKER: A through II.

21 COM. MAKULA: II.

22 STAFF SPEAKER: II.

23 CHMN. BARNEY: II?

24 COM. MAKULA: II.

25 MALE SPEAKER: Oh, at the very end?

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2 MALE SPEAKER: They shortchanged you.

3 CHMN. BARNEY: Okay. Did you -- and you want to
4 leave Stipulation V in there, as is?

5 COM. SMITH: I think it should be massaged.

6 CHMN. BARNEY: Massaged or removed?

7 COM. SMITH: That's up to the Staff.

8 CHMN. BARNEY: Well, let's get this one buttoned
9 down then.

10 COM. SMITH: Yeah, we should.

11 CHMN. BARNEY: Okay.

12 COM. SMITH: If Staff agrees, Stipulation V will
13 be removed.

14 I didn't hear that myself.

15 MALE SPEAKER: We can leave the first sentence.

16 CHMN. BARNEY: Yeah. We can leave the first
17 sentence. But the converting the commercial office -- I'm
18 with Commissioner Smith on this one. I'd rather see that
19 remain commercial because it can be converted to office in
20 the future, if need be.

21 STAFF SPEAKER: So Mr. Chairman, you're wanting
22 to see the phrase "And at least seven acres of Parcel 1
23 shall be rezoned to CO" stripped?

24 CHMN. BARNEY: That's right.

25 STAFF SPEAKER: Okay.

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2 CHMN. BARNEY: Well, that's -- it's not my
3 motion, but --

4 COM. SMITH: Yes, that's right.

5 MALE SPEAKER: Yes.

6 CHMN. BARNEY: Okay?

7 So your motion stands, but with the Stipulation V
8 having the sentence stricken that starts with, "In
9 addition, all of Parcel 2, 8.2 acres, and at least 7 acres
10 of Parcel --" gets stricken, and then your motion stands.

11 COM. SMITH: That's correct.

12 COM. MAKULA: Second.

13 CHMN. BARNEY: Do we have a second?

14 Got a second.

15 All in favor?

16 MULTIPLE VOICES: Aye.

17 CHMN. BARNEY: Any opposed? None.

18 Stand approved. Okay. Thank you.

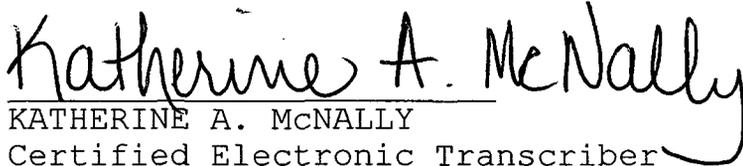
19 (Excerpted portion of proceedings concluded.)
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