



PLANNING & ZONING COMMISSION A G E N D A

**PLANNING & ZONING COMMISSION
REGULAR MEETING / STUDY SESSION
THURSDAY, APRIL 12, 2012
9:00 AM**

**COUNCIL CHAMBERS
CITY HALL
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

The following agenda will be considered by the **PLANNING & ZONING COMMISSION** at its **REGULAR MEETING / STUDY SESSION** to be held on **THURSDAY, APRIL 12, 2012, at 9:00 AM** in **COUNCIL CHAMBERS, CITY HALL**, located at **201 S. CORTEZ STREET**. Notice of this meeting is given pursuant to *Arizona Revised Statutes*, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

MEMBERS

Tom Menser, Chairman
Ken Mabarak, Vice Chairman
Joseph Gardner
Timothy Greseth

Len Scamardo
Don Michelman
George Sheats

III. REGULAR ACTION ITEMS

1. **Consider approval of the minutes** of the January 26, 2012 regular meeting / public hearing.

IV. PUBLIC HEARING ITEMS

1. **RZ12-001, 2121 Larry Caldwell Drive.** APN: 102-06-005H totaling ±23.5 acres. Existing zoning is Single-Family Residential (SF-9), Neighborhood Oriented Business (NOB), and Residential Office (RO). See the map below for existing zoning designations. The current application is for a rezoning to a Business General zoning district, of the NOB and SF-9 portions of the property only.

V. CITY UPDATES

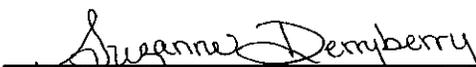
VI. SUMMARY OF CURRENT OR RECENT EVENTS

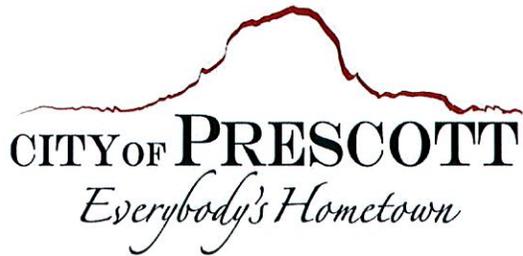
VII. ADJOURNMENT

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on April 4, 2012 at 2:00 p.m. in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department



**PLANNING & ZONING COMMISSION
REGULAR MEETING / PUBLIC HEARING
JANUARY 26, 2012
PRESCOTT, ARIZONA**

MINUTES of the PRESCOTT PLANNING & ZONING COMMISSION held on January 26, 2012 at 9:00 AM in COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET, PRESCOTT, ARIZONA.

I. CALL TO ORDER

Chairman Menser called the meeting to order at 9:00 a.m.

II. ATTENDANCE

BOARD MEMBERS

Tom Menser, Chairman
Len Scamardo, Vice Chairman
Don Michelman
Ken Mabarak
Joe Gardner
Tim Greseth
George Sheats

STAFF MEMBERS

George Worley, Planning Manager
Mike Bacon, Community Planner
Matt Podraky, City Attorney
Suzanne Derryberry, Administrative Specialist

COUNCIL PRESENT

Jim Lamerson, Councilman

III. REGULAR ACTION ITEMS

1. **Consider approval of the minutes** of the October 13, 2011 regular meeting / public hearing.

Mr. Michelman, **MOTION: to approve the minutes**; Mr. Sheats 2nd. **VOTE: 6-0-1**
Mr. Scamardo sustained from voting as he was absent from that meeting.

IV. PUBLIC HEARING ITEMS

1. **SUP11-001, 218 E. Willis Street.** APN: 113-16-032. Request to place an emergency natural gas generator unit for a cell site at 218 E. Willis Street. Owner is Brown Revocable Trust. Applicant/agent is ATTN. Reg Destree. Community Planner is Mike Bacon (928) 777-1360.

Mr. Bacon reviewed the staff report and indicated:

- The Location is just outside of the downtown district
- Site already has an existing cell tower
- Applicant is proposing to place a block wall and install a generator for back-up emergency services
- The wall will be about 6 feet tall and 12 feet wide
- Regarding possible resident concerns for noise levels of the back-up generator, the applicant submitted overall decibel levels for various items
- Mr. Bacon explained to the commissioners that the impact of noise produced by the generator will be negligible
- A condition of approval will require the block wall to be painted white or grey to match the building
- Chairman Menser inquired if there is a set back issue from the property line
- Mr. Bacon stated there are no issues and a 6 ft. tall wall would be appropriate; technically they could go right up to the property line
- Applicant stated his name for the record: Reg Destry of 3200 N. Hayden Rd. Scottsdale, AZ; he is representing Verizon
- Mr. Destry agreed with the staff report as to the color of the block wall and is suggesting grey as he believed it would be the best match
- Mr. Michelman asked if there was ever any thought of having the generator placed inside the building
- Mr. Destry stated that the problem with placing it inside a building would cause ventilation issues
- Mr. Michelman inquired if there would be a set time to do the monthly test on the generator
- Mr. Destry stated that if the commission wished to place a time restriction on such testing, that it would not be an issue
- Mr. Sheats wanted to know how much fuel storage would be kept on site
- Mr. Destry explained that it will be tied into a natural gas line that is already on-site
- Mr. David Arave of 208 N. Alarcon St. who lives right behind the property wanted to express to the commission that the emergency generator is a good idea, where it will be placed is a good idea, and would also like the monthly testing to take place during normal business hours

Mr. Michelman, **MOTION: to approve SUP11-001** with the following conditions of approval:

- The block wall will be painted either a white or grey color to match the existing buildings on site
- The 1 hour per month test will take place during normal business hours between 8:00am and 5:00pm

Mr. Greseth 2nd. **VOTE: 7-0.**

V. CITY UPDATES

1. Discussion of the 2011 General Plan Committee presentation of the updated water element. Community Planner is Ryan Smith (928) 777-1209.

Mr. Worley displayed a PowerPoint presentation to the committee in order to show some of the changes that have been made to the General Plan by the committee.

Mr. Worley indicated that:

- The initial time spent by the committee was used hearing presentations and learning background information on different topics for better understanding
- There are ten elements that show significant impacts
- The Water Element was the first item the committee had gone through
- They are currently working on the Land Use Element
- The Water Element affected so many different aspects that the committee spent numerous meetings on that one element
- A goal of the committee was to include measurable goals and strategies
- A key aspect was to make sure that the updated material for this element is accomplishable
- Information needs to be general enough that it's possible to accomplish it in more than one way
- Also included was updated data and maps
- The committee came up with 5 goals and 15 strategies to implement the concepts that went into the water development text
- Mr. Worley asked the commission members if they have any questions or concerns
- Chairman Menser requested that Mr. Worley quickly run through just the 5 goals
- Mr. David Quinn, general plan committee member, came forward to answer questions from the committee
- Mr. Scamardo expressed concerns regarding the growth of private wells
- Mr. Quinn felt the degree of the growth of exempt wells in Yavapai County is very concentrated
- He is concerned that proliferation of exempt wells without the ability to measure its impact is a problem within our communities
- Also expressed within the draft plan is a concern about trying to take more advantage of the water shed runoff
- Mr. Scamardo showed concern with the fact that the numbers show a 98% rain runoff; he would like to have a hydrologist confirm these findings
- Mr. Quinn explained what they are suggesting to council is that there should be a more proactive outreach to the sister jurisdictions for some kind of integrated effort
- Mr. Quinn pointed out that one of the reasons their hands are so tied is due to the flaws of the states approach to water legislation
- Mr. Mabarack commended the general plan committee members for taking on the water issue
- He also asked Mr. Worley what kind of timeline had been set in place for the other items following the water element

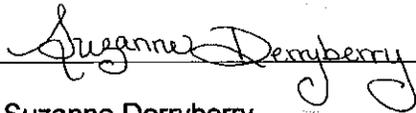
- Mr. Worley stated that a firm timeline had not been established because the committee has to be confident with what they come up with for the plan
- Mr. Worley did state that his intention was to have the General Plan completed by the end of 2012
- Daniel Mattson, 148 E. Merritt, Prescott AZ, stepped forward to address the committee
- Mr. Mattson wished to express his thoughts on how critical the issue of water is in our community; if the wells run dry we won't have a city anymore
- He is concerned about how little public attendance there has been and would like the residents of Prescott to become more involved

VI. SUMMARY OF CURRENT OR RECENT EVENTS

No current or recent events to summarize

VII. ADJOURNMENT

Chairman Menser adjourned the meeting at 9:52 a.m.



Suzanne Derryberry,
Administrative Specialist

Tom Menser, Chairman

RZ12-001

Rezoning

Agenda # _____

2121 Larry Caldwell Drive

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION

PLANNING AND ZONING COMMISSION for April 12, 2012

STAFF REPORT

TO: City of Prescott Planning and Zoning Commission

FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 
Ruth Hennings, Community Planner 

DATE: April 12, 2012

REQUEST: RZ12-001

EXISTING ZONING: Single-Family 9 (SF-9) and Neighborhood Oriented Business (NOB)

PROPOSED ZONING: Business General (BG)

LOCATION: 2121 Larry Caldwell Drive

APN: 102-06-005H **AREA:** 23.5 acres

OWNER: The Heights Church
2121 Larry Caldwell Drive
Prescott, AZ 86301

REQUEST: The Heights Church property is located on Larry Caldwell Drive, just north of East State Route 89A. The Church has requested a rezoning to Business General of the areas of the parcel zoned Single-Family 9 and Neighborhood Oriented Business. The Residential Office zoning district at the western end of the property is to remain.

The conceptual site plan shows the proposed uses to be church facilities and accessory uses that support the church operations. The accessory uses, as shown, include classroom areas and administrative offices. The total area of all new buildings is approximately 140,000 square feet. The largest building, a new worship facility, is proposed at approximately 50,000 square feet and 50 feet high. The existing facilities total approximately 35,000 square feet.

A phasing plan has been submitted that describes the Church's plans for future development. The phasing plan has also been delineated on the conceptual plan, and shows the geographical grouping of the phases. The most immediate plans are to construct additions and new buildings in the vicinity of the existing worship center. The Church has proposed that as attendance is increased, the larger facilities will be needed, but that at this time it is unknown when this construction might occur.

As a part of this project, the existing Development Agreement (DA, attached) is to be revised. The Heights Church has proposed to use the DA to limit the uses that would typically be permitted by the Business General zoning district, to only those allowed by the Neighborhood Oriented Business district. The DA will also include infrastructure improvement requirements as set forth by the Traffic Impact Analysis (TIA). Development beyond the scope of what was covered by the TIA submitted will require an additional study and infrastructure improvements.

PROJECT BACKGROUND: A detailed chronology of past Board of Adjustment, Planning and Zoning Commission, and City Council activity is below.

2002 The property located at 2121 Larry Caldwell Drive was purchased by The Heights Church. An application for a rezoning of the entire property to Neighborhood Oriented Business was submitted in September. After discussions at a neighborhood meeting, the Heights revised its proposal to request a rezoning of only the far eastern and western portions of the property, and a Conditional Use Permit for the middle 17 acres to allow for a church.

The Board of Adjustment reviewed and approved a Conditional Use Permit for a church in November. The CUP was subject to four conditions: 1) substantial conformance to a conceptual site plan which was to allow a building not to exceed 30,000 square feet on the south side of the property, 2) meeting requirements for a building permit, 3) parking lot lighting that was to turn off one hour after end of event, and 4) landscaping to be doubled along Larry Caldwell Drive.

2003 City Council approved the two rezonings on the Heights Church property in January: 1) the eastern-most five acres to Neighborhood Oriented Business (NOB) and 2) the western-most two acres to Residential Office (RO). A Development Agreement and an Avigation Easement for the property were also approved at that meeting.

The Development Agreement (DA) restricted the allowable uses within the RO and NOB zones. The DA also required any future development plans to be reviewed by the City Transportation Coordinating Committee (no longer existing) and site plans for the NOB area to be approved by City Council.

The Board of Adjustment granted The Heights Church an 18 month extension of the requirement to begin construction related to the Conditional Use Permit in May.

- 2005** The Conditional Use Permit was reviewed by the Board of Adjustment. The Board granted an extension to the Church to complete the landscaping, and it was noted that the lights were not turned off at the appropriate time and that was to be corrected.
- 2009** An application was submitted by The Heights Church in August for a rezoning of the SF-9 and NOB zoned areas to Business General.
- 2010** Staff held two area meetings, in January and in February, in regards to the rezoning request. Concerns were noted by the neighbors regarding, traffic, noise, and future uses of the property. Due to deficiencies in the required application submittals, specifically the Traffic Impact Analysis, the project was determined to be incomplete and was closed.
- 2011** An application was submitted by The Heights Church in June for a rezoning of the SF-9 zoned area to Neighborhood Oriented Business. Due to deficiencies in the required application submittals, the project was withdrawn and closed.
- 2012** An application was submitted by The Heights Church in January for a rezoning of the SF-9 and NOB zoned areas to Business General. The application was determined to be complete. An area meeting was held in February, and details have been provided in this staff report.

EXISTING SITE CONDITIONS: There are several existing buildings on the SF-9 zoned area of the property, including a 15,000 square foot worship facility and accessory buildings. These buildings were approved under the original Conditional Use Permit. Landscaping has been completed adjacent to the developed portion of the lot. The remaining area has been left in a natural state, with the exception of dirt roads used to access the western half of the property.

REZONING REVIEW CRITERIA: In determining whether to recommend approval, approval with modifications, or denial of a rezoning, issues for consideration by the Planning and Zoning Commission shall include, but not be limited to (LDC Section 9.15.5):

- 1) **Consistency with the General Plan:** The proposed rezoning to a commercial zoning district is consistent with the General Plan Land Use Map (adopted in 2004), which projects commercial land uses for the property.
- 2) **Consistency with other Plans:** The Airport Specific Area Plan (adopted in 2000) proposes the property to be developed for low intensity commercial uses, and targets this area for its vicinity near an established neighborhood.
- 3) **Compatibility with present zoning and conforming uses of nearby property and the character of the neighborhood:** To the immediate north of the property are the Golf Links Subdivision and the Antelope Hills Golf Course, owned by the City of Prescott. There are 70 lots in the subdivision, and both the golf course and the residential are zoned Single-Family 9. To the south of the subject property are East

State Route 89A and the Centerpointe West Commerce Park to the South, zoned Industrial Light.

Potential compatibility issues with nearby properties include traffic, noise, lighting, and scale of development.

- 4) **Suitability of the subject property for uses permitted by the *proposed* zoning district:** Uses typically permitted in the proposed zoning district, Business General, include retail, offices, and service uses. The applicant has proposed an amendment to the existing Development Agreement which would further restrict those uses to those permitted by the Neighborhood Oriented Business district and requires improvements to traffic controls and roadways adjacent to the property. At present, the property would require significant infrastructure upgrades and a new Traffic Impact Analysis to allow uses typically permitted in the Business General zoning district.
- 5) **Suitability of the subject property for uses permitted by the *existing* district:** Uses typically permitted by the existing zoning district, a combination of Single-Family 9 and Neighborhood Oriented Business, are low density residential development, and a low to moderate intensity zoning district. Significant improvements to existing infrastructure would need to be completed to allow for development of either use. The property is currently further restricted by the existing Development Agreement.
- 6) **Infrastructure impacts:** Further evaluation of site, drainage, and civil plans will be required for future development. At this time, it is recommended by the water specialist that water consumption records be monitored. If site consumption exceeds a use of 5 acre feet per year, a water service agreement with the City will be required.

The Fire Marshal has noted that they do not have concerns regarding response times to the community as a result of the proposed growth. All development will be reviewed and required to meet local fire codes. A report from the Traffic Engineer has been attached, related to required infrastructure improvements and traffic impacts.

AREA MEETING: An Area Meeting was held on February 15 in the Council Chambers and there were approximately 40 people in attendance. Todd Marolf, representing The Heights Church, presented information regarding the proposed rezoning project and took questions from the audience. Staff was available to answer questions as related to Land Development Code requirements and processes.

A significant number of concerns were noted by the neighborhood, including the following:

- Traffic control for regular and special events
- Design of the buildings (architectural style)
- Location of the buildings
- Noise during services and other events

- Fire and police response times
- Communication issues with The Heights Church
- Impact of development on property values

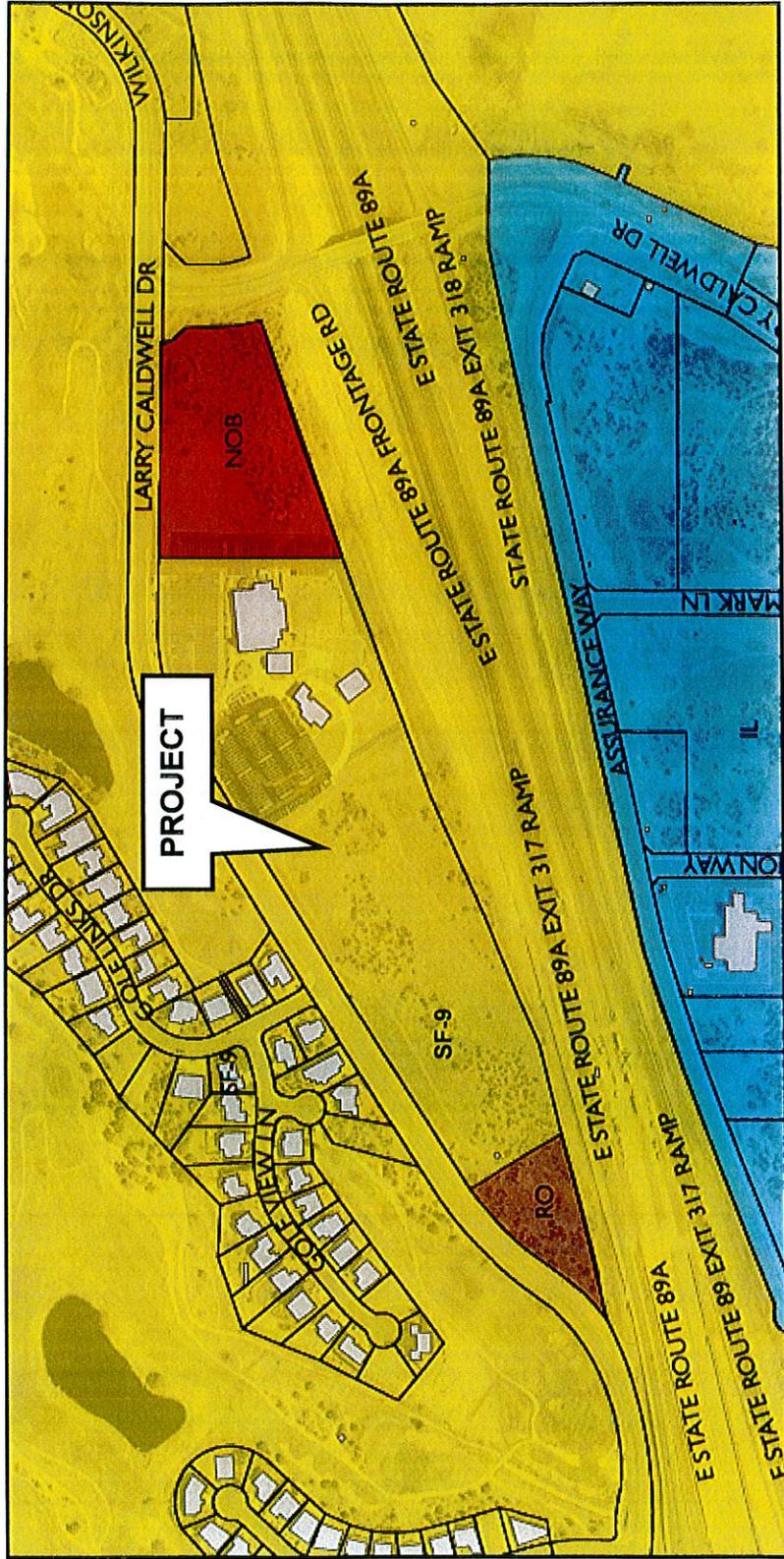
PUBLIC COMMENTS: One written letter has been received to date, and is included as an attachment. Several phone calls have been received, requesting information on the process and in reference to questions about the project submittals.

Attachments:

- 1) General Plan Land Use Map
- 2) Current Zoning Map
- 3) Aerial Map
- 4) Conceptual Site Plan
- 5) Phasing Plan
- 6) Traffic Engineer Summary
- 7) Existing Development Agreement
- 8) Written Public Comment

ATTACHMENT #2

CURRENT ZONING MAP



AERIAL MAP (INSET)





HEADWATERS

ARCHITECTURE P.C.

1951 Commerce Center Circle, Ste A
Prescott, AZ 86301
(928)-776-7180 ph
(928)-771-9625 fx

December 23, 2011

Planning Department
City of Prescott
201 South Cortez Street
Prescott, AZ 86303

RE: Rezoning Heights Church

Dear Sirs,

The Heights Church has been doing some long term planning on how the rest of the undeveloped campus will look in the future. All of this narrative is delineated on the master plan attached.

The existing church campus has 4 structures (totaling approximately 27,700 sf). The main sanctuary (H1-masterplan 5), Children's ministry building (H2-mp 3), Youth building (H3-mp 2) and the Outdoor Ramada are all placed on the eastern side of the campus. The church currently is constructing an additional children's building. There is also a current construction permit allowing the expansion of the north side of existing lobby. There are approximately 400 existing parking spaces.

The existing zoning has 3 designations presently. R1-9 (with C.U.P. in the middle portion of site ≥ 17 acres), NOB (extreme eastern side ≥ 2.5 acres) and RO (extreme west side ≥ 2 acres).

The Heights Church is a growing church with a main sanctuary for services and smaller ministry buildings for the children and youth. The future plans are to phase new buildings primarily along a Larry Caldwell drive and provide parking along the south portion of the site. This new layout is the result of the neighborhood meeting held 1/21/10 and subsequent meeting with staff and the neighborhood representatives on 6/24/10. The expansion plans are to radiate out ward from the existing developed campus portion in both eastern and western directions. Typically the areas closer to the existing buildings will be the first phases and those that are farther away will be later. It is unknown when these phases will be built out, but attendance and membership will determine the future expansion phases. The most current information regarding the expansion phases are planned as follows:

Phase A:

Expand north of existing worship building and expand the lobby. These drawings are permitted and ready to start construction.

Phase B:

Expand nursery to the south side of existing worship building under existing canopy as allowed.

Phase C:

Expand Lobby to the west side of existing worship building.

Phase D: Expand to the north of the existing westernmost building with a 1 story 900 sf vestibule to the classroom building under construction currently shown on the construction documents for the building. Parking will remain as is and the building would be placed to allow the pedestrian walkway to continue westward.

The master plan shows anticipated additional buildings on the campus to be added after these initial phases but the timing is unknown at this time as to when they will be needed. As the attendance increases then the larger buildings will be needed

The existing campus has presently Neighborhood Oriented Business on the eastern most side, R1-9 with Conditional Use Permit in the middle and Residential Office to the western most portion of the site.

The church desires to rezone the eastern portion (NOB) and center portion of the site presently zoned as R1-9 with a conditional use permit and maximum building size 30,000 sf to:

Business General (BG) with deed restricted uses. This area is 22.81 acres.

Respectfully submitted,



Todd Marolf



DATE: 4/3/2012

PROJECT #: RZ12-001

PROJECT DESCRIPTION: HEIGHTS CHURCH EXPANSION (HCE)

TRAFFIC IMPACT ANALYSIS SUMMARY

The Transportation Services Division of the Public Works Department has reviewed the Traffic Impact Analysis (TIA) dated May 18, 2011, for the 24.86 acre development located northwest of the Larry Caldwell Drive and Wilkinson Drive intersection, just north of the SR89A freeway and ½ mile east of SR89 in Prescott. This TIA discusses traffic impacts associated with the master plan and expansion of the existing Church property. This expansion consists of the following: a) multi-purpose building, b) classrooms/meeting buildings, and c) office buildings.

The site plan provides for four new site driveways to access the expanded parking areas. Larry Caldwell Drive (LCD) serves as the only access to the property.

The Heights Church Expansion TIA was prepared in accordance with the guidelines set forth in Section 6.14 of the *City of Prescott Land Development Code* for a Category I Traffic Study by Lyon Engineering Inc. The TIA identified the year 2022 as full build out for the Church site and used future traffic generation estimates from the *Granite Dells Ranch, Phase 1 Zoning – Traffic & Roadway Assessment* for the surrounding street system. The TIA includes recommendations and requirements for the roadway network which are highlighted below.

TIA Conclusions (assuming full build out)

- C-1 HCE will generate 252 AM peak hour trips and 219 PM peak hour trips to the street network on a typical weekday.
- C-2 HCE will generate 2,503 peak hour trips to the street network on a typical Sunday.
- C-3 Based on the analysis contained in the report, the following roadway cross sections and driveway configurations will provide for satisfactory capacity and intersection control:
 - Larry Caldwell Drive north of the project shall be constructed to provide two WB lanes from the LCD/Wilkinson Drive intersection to Driveway 5. At D4 and D5, the inner lane will be used as a left turn lane and the outer lane will be used for thru vehicles and

motorists destined for D6 and D7. A fourth lane shall be added for EB traffic between D1 and the Wilkinson Drive intersection.

- To the east of the Project, LCD shall be modified to provide two NB to WB left turn lanes and two EB to SB right turn lanes.
- With the addition of any building Driveway 2 shall be modified (narrowed and directionally constructed) to provide for an existing right turn movement only.
- All other improvements are required to be added upon construction of Building D.

C-4 Stop signs shall be provided at all the driveways.

C-5 In order to prevent conflict between vehicles departing from church and arriving at church, Driveway 1 (D1), D2 and D3 shall be used only as exit driveways on Sunday. D4, D5 and D6 will be the driveways used to access the Project.

C-6 There are no known safety deficiencies in the area at this time.

Comments and Recommendations of the Transportation Services Division

In addition to the TIA recommendations stated in C-1 through C-6, the following comments and recommendations shall be considered requirements for approval to ensure that the street transportation network operates properly and to the satisfaction of area users. The roadway improvements D-1 through D-3 shall be constructed upon building D (50,000 sq. ft. sanctuary) being built.

- D-1 The owner shall construct, at the owner's expense, Larry Caldwell Drive to a three lane section from Larry Caldwell/Wilkinson intersection west to the intersection at Driveway 5 and then transition back to a two lane section (using a taper) to provide a dedicated left turn pocket at both D4 and D5. This is a change from the TIA recommendation which terminated the three lane section at D4. It is required to allow improved traffic operations at the Golf Links Drive/D5 and LCD intersection.
- D-2 The owner shall construct, at the owner's expense, an additional right turn lane (making LCD four lanes in that section) from D1 east to the Larry Caldwell/Wilkinson intersection.
- D-3 The owner shall construct, at the owner's expense, Larry Caldwell Drive from SR89A to Wilkinson Drive to a four lane section to provide two SB lanes and two NB lanes (one left and one combination left and right lane) .

THIS IS A CONFORMED COPY OF INSTRUMENT
RECORDED ON DATE 1-17-03 TIME 3:36
IN BOOK 3994 PAGE 257
PATSY KENNEY-COLON, RECORDER
[Signature] DEPUTY

#03-015

DEVELOPMENT AGREEMENT
PRESCOTT HEIGHTS CHURCH

WHEREAS the City of Prescott (hereinafter referred to as "City") is entitled to enter into this agreement pursuant to ARS Section 9-500.05; and

WHEREAS Prescott Heights Church, (hereinafter collectively referred to as "Property Owner") are the owners of the real properties referred to herein; and

WHEREAS the parties hereto wish to enter into a Development Agreement to provide for the development of certain property upon certain terms and conditions.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS CONTAINED HEREIN, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. That this agreement shall relate to those specific properties, more particularly identified in Exhibits "A", "B" and "C", attached hereto and made a part hereof, hereinafter collectively referred to as "the Property".
2. That this agreement shall become operative upon the recordation of this Agreement with the Yavapai County Recorder.
3. That in the event that the Property described in Exhibit "A" is not rezoned to the Residential Office Zoning District within 180 days of the approval of the Agreement by the Prescott City Council, then and in that event this Agreement shall terminate and be of no further force and effect.
4. That in the event that the Property described in Exhibit "B" is not rezoned to the Neighborhood-Oriented Business Zoning District within 180 days of the approval of the Agreement by the Prescott City Council, then and in that event this Agreement shall terminate and be of no further force and effect.
5. That the development of the Property shall be consistent with the City's General Plan, as adopted by the Prescott City Council on August 27, 1997.

03-015

6. That in the event that the Property described in Exhibit A is rezoned to the Residential Office Zoning District Zoning District, then and in that event the Property Owner hereby agrees that notwithstanding said zoning, the Property may only be used for the following purposes: adult day care; offices; medical and dental offices, with regular operating hours limited to 8 AM to 6 PM, Monday through Saturday; and may only be used for the following conditional uses (subject to a CUP being granted by the City's Board of Adjustment pursuant to Section 4.42(C) of the Zoning Code): churches, elementary schools (K through 8), pre-schools and day care centers subject to the limitations and considerations as set forth in ZC Section 4.43(C)(5); and public utility buildings, high voltage power transmission lines, and other similar structures.

7. That in the event that the Property described in Exhibit B is rezoned to the Neighborhood-Oriented Business Zoning District, then and in that event the Property Owner hereby agrees that notwithstanding said zoning, the Property may only be used for the following purposes: adult day care; day care center; artisan studios (as limited by ZC Section 4.43(B)(13); personal and professional services (as limited and defined by ZC Section 4.43(B)(14); offices; medical and dental clinics; gymnasiums; parking lots; churches; public institutions; retail sales (as defined and limited by ZC Section 4.43(B)(24); banks; grocery stores' libraries, museums, conservatories and greenhouses; restaurants and delicatessens (as limited by ZC Section 4.43(B)(32); studios; and veterinary clinics (provided there is no boarding of animals); and may only be used for the following conditional uses (subject to a CUP being granted by the City's Board of Adjustment pursuant to Section 4.43C) of the Zoning Code): family game centers (as limited by ZC Section 4.43(C)(2); public utility buildings, high voltage power transmission lines and other similar structures; any building for any Permitted Use as listed in ZC Section 4.43(B) which exceeds 10,000 square feet in total floor area; and elementary schools (K through 8), pre-schools and day care centers, subject to the limitations and considerations as set forth in ZC Section 4.43(C)(5).

8. That the Property Owner further agrees that prior to any development of the Property described in Exhibit "B", the Property Owner shall first submit said proposed development to the City's Transportation Coordinating Committee, and shall comply with any and all recommendations of said Committee to mitigate or address traffic circulation issues resulting from said development.

9. That the Property Owner further agrees that any development of the Property is subject to site plan approval by the Prescott City Council.

10. That the Property Owner shall place an Avigation Easement over the Property, in a form acceptable to the City.

11. This agreement shall run with the land, and shall be binding upon the Property Owner's successors in interest and assigns.

12. Pursuant to A.R.S. Section 38-511, the City of Prescott may cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to

the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

13. That the Property Owner hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of this agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the Property Owner or its agents or employees.

14. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court.

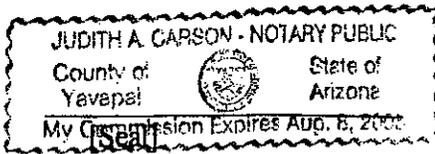
15. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

16. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

17. Time is of the essence in this agreement. The failure of either party to require the strict performance by the other of any provision of this agreement shall not be deemed a waiver of the right of said party thereafter to require strict performance of that or any other provision of this agreement in accordance with the terms hereof, and without notice.

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this 16th day of January, 2003, by Rowle P. Simmons, Mayor of the City of Prescott, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.



Judith A. Carson
Notary Public

DATED this 16th day of January, 2003

[Signature]

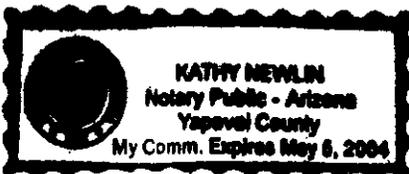
Prescott Heights Church Secretary
STATE OF ARIZONA)
) ss.
County of YAVAPAI)

The foregoing instrument was acknowledged before me this 6 day of JANUARY, 2003 by Paul E Miller, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that she executed it.

Kathy Newlin

[Seal]

Notary Public



RECEIVED
MAR 13 2012

File

March 13, 2012

BY: Acrose

To: The Honorable Mayor of Prescott, Arizona
The Honorable Members of the City Council of Prescott, Arizona
The Planning and Zoning Commission of Prescott, Arizona

Subject: Opposition to Rezoning Proposal by The Heights Church. RZ 12-002, 2121
Larry Caldwell Drive, APN 102-06-005H.

We oppose the proposed rezoning of the Heights Church property, APN 102-06-005H, for the following reasons:

- We have always opposed any large business, commercial, or other development on this parcel that brings traffic and disturbance to our neighborhood in excess of what the original Residential zoning anticipated and implied when we purchased our property in the Golf Links Subdivision.

In spite of neighborhood opposition the City granted a CUP allowing the Church, a large and growing enterprise, to be built.

- By virtue of its size and growth, the Church, as a neighbor, has negatively impacted our lives and property values. We have been forced to complain to the Church about light, noise, weed control, and traffic. Only then has the Church reacted. Some complaints have had to be made to the Police. These problems will only escalate as the Church grows. As an example, the Church has piles of what appear to be supplies and trash scattered throughout their property which are clearly visible from Larry Caldwell Dr. as well as the neighboring homes, and have not been cleaned up.
- At times of high use, the Church traffic impedes not only our access to our homes, but also that of emergency vehicles and visitors. Larry Caldwell Dr. provides the only ingress and egress to and from any home on Golf Links Drive, Golf View Lane, and Hole-in-One Drive. The Church traffic overwhelms this single street when it has any large gathering.
- The Church is a large, very wealthy concern with over 2500 members and is growing rapidly. It owns millions of dollars worth of land and buildings, pays no property taxes, and has no debt. The Church organization can easily afford the professional services of the required Architects, Engineers, and Lawyers to achieve its goals.

At the February 15, 2012 meeting the Church and its representatives seemed to imply we should organize in some similar manner. It is doubtful we could do such a thing, nor should we have to do so.

Our neighborhood consists of 77 lots, 70 homes, and approximately 140 residents. Most of the residents are older, retired, and live on some form of fixed income.

Collectively we enjoy living in Prescott, the surrounding area and its amenities, golfing, and decent life style in a quiet, secure neighborhood.

We and many of our neighbors travel, some extensively, and are gone from home a good deal of the time. We do not wish to spend our time at home continuously defending our property values and life quality from degradation resulting from construction planned by the Church.

The aggregate 2011 Property tax paid by the Golf Links Subdivision residents is \$117,621.

A few of our neighbors drive very little if at all. If there are to be future public meetings concerning the Church plans we respectfully request they be held at the Church rather than City Hall, at a time different than dinner time, to allow all who desire to attend a reasonable opportunity to do so.

The Heights Church is simply too large for a small neighborhood as it is, and its plan for unfettered growth should not be approved by the City of Prescott.

Thank you for your consideration.

Respectfully submitted,

Douglas J. and Wendy L. Ruckel
5627 Hole-in-One Dr.
Prescott, AZ

Handwritten signatures of Douglas J. Ruckel and Wendy L. Ruckel in cursive script.