

step forum
september 25, 1973



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INTRODUCTION

SCOTTSDALE TOWN ENRICHMENT PROGRAM

FORUM

SEPTEMBER 25, 1973

INTRODUCTION

In order to continue the desirable lifestyle we, in Scottsdale, have developed it is constantly necessary that we appraise where we are and where we want our city to go in the future.

In the recent passage of the Charter Amendments our citizen-voters established the framework for imaginative, logical and prudent development of our total community and environment. Recognizing this and cognizant of the fact that any plan or endeavor undertaken by the governmental agencies of the city must have the understanding and support of its citizenry to accomplish its assigned tasks, the City Council of Scottsdale has called for a discussion-oriented forum of interested and informed citizens.

Believing that a government is only as successful as its citizens wish and allow it to be, the council is asking for input from a cross-section of its people on the vital questions of how Charter Amendments I and IV can and should be implemented. By utilizing the discussion forum concept, it hopes that it will obtain the greatest possible number of considered opinions from those most vitally affected, you the citizens of Scottsdale.

FORMAT

Explanation of how groups will function

The attendees at this forum will be divided into four discussion groups. Each group will be assigned two topics to consider. With the assistance and guidance of the discussion leader, each group will consider its first assigned topic during the morning portion of the forum. Once the group is satisfied that it has considered and discussed the various aspects and affects of the assigned topic, it may move on to consideration of the second topic.

It is anticipated that each topic will occupy the major portion of a session -- that is, the first topic the morning session and the second, the afternoon. However, should a group decide it needs more time for the first topic it may carry over its discussion into the afternoon session.

At the end of the day, each group reporter will be asked to give a brief report to the entire forum regarding the considerations and findings of his group. Written reports will be compiled and distributed to the participants of the forum so that each will have the complete compilation of the thinking and feelings of the four discussion groups. These reports will be written by staff persons after review by the discussion leader and one elected representative of the discussion group.

To allow for the widest range of interest and information to be expressed in each of the discussion areas and groups, the makeup of each group has been carefully computed. Thus it is important that you remain with the discussion group you are assigned to for both the morning and afternoon sessions. It is requested that no changes in assignments be sought so that the balance establishes in each discussion group may be maintained throughout the full forum.

Group Topic Assignment

	Topic No. 1	Topic No. 2	Topic No. 3	Topic No. 4
Group A	A.M.		P.M.	
Group B		A.M.		P.M.
Group C	A.M.			P.M.
Group D		A.M.	P.M.	

Topics to be Discussed

Topic No. 1 -- Charter Amendment IV

"To require removal of all signs not conforming to the zoning ordinance. Signs not in conformance upon the effective date of this amendment shall have the privilege of amortization as determined by ordinance." (Note: at the present time an ordinance, as specifically called for in this portion of the amendment, is in the process of being drafted for consideration of the city council.)

Topics No. 2, 3, & 4 Sections of Charter Amendment I

ARTICLE 1, SECTION 3, RELATING TO POWERS OF THE CITY BE AMENDED BY ADDING NEW PARAGRAPH G TO READ:

- G. To require all persons, firms, or corporations responsible for new physical development within the City to provide for or furnish, or pay a fee in lieu of providing for or furnishing: (1) public utility easements; (2) water production, storage and transmission; (3) sewage collection, transmission, treatment and disposal; (4) park land and development; (5) school sites; (6) dedication and improvement of public rights of way; (7) bike paths and other necessary transportation; (8) drainage; (9) flood control; and (10) other public facilities necessary to maintain satisfactory levels of service for said new development, as provided by ordinance which shall include definite standards basing the foregoing requirements on the needs of the inhabitants of said new development.

Materials Enclosed

This booklet has been prepared to assist you in the discussions and considerations you will be undertaking during the forum and to provide you with background information relating to all the areas of discussion. A list of related discussion questions also are included. It is requested that you familiarize yourself with these materials prior to the opening of the forum.

AGENDA

STEP FORUM
SAFARI HOTEL CONVENTION CENTER
SEPTEMBER 25, 1973

AGENDA & SCHEDULE

- 9:00 a.m. - Registration
- 9:30 a.m. - Mayor Tims: Welcome
- 9:40 a.m. - Dr. Charles D. Hoyt, Professor of Engineering
Keynote Speaker
- 9:55 a.m. - Discussion Group Instructions
 - Elect Report Reviewer
 - Councilmen as discussion leaders
- 10:00 a.m. - Subgroup Discussions
- 12:00 noon - Lunch
- 1:30 p.m. - Continue Subgroup discussions
- 3:30 p.m. - Brief Subgroup summaries
(each group - 5 minutes)
- 3:50 p.m. - General Session Evaluation

PARTICIPANTS

LIST OF PARTICIPANTS

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TOPIC 1
SIGN AMORTIZATION

TOPIC NO. I

SIGN AMORTIZATION

Background Reading

ARTICLE 1, SECTION 3, RELATING TO POWERS OF THE CITY BE
AMENDED BY ADDING NEW PARAGRAPH J TO READ:

To require removal of all signs not conforming to the
zoning ordinance. Signs not in conformance upon the
effective date of this amendment shall have the
privilege of amortization as determined by ordinance.

SIGN AMORTIZATION

Why Are We Discussing It?

The primary reason we are now discussing how to amortize nonconforming signs is the city election of April 10, 1973 in which the citizens voted 9 to 1 in favor of amortizing nonconforming signs. We are not discussing whether or not to amortize but how to amortize signs. The overwhelming popular vote indicated the community's desire to remove nonconforming signs.

Other reasons why we are discussing the amortization of nonconforming signs include:

- . that the City of Scottsdale has a special interest in preserving its southwestern heritage and its atmosphere as a resort community;
- . that the public welfare is served when the city's economic interests are preserved;
- . that fairness requires that owners of nonconforming signs be given a reasonable opportunity to use their signs and to amortize their investment therein;
- . that the standards under which nonconforming signs are determined were enacted on June 17, 1969, in Scottsdale City Ordinance 455, and by subsequent amendments;
- . that the erection of new billboards in Scottsdale has been prohibited since September 13, 1962.
- . that aesthetic considerations, as well as economic considerations, provide a permissible basis for municipal regulation;
- . that the function of signs in Scottsdale is to identify businesses and residences and not to advertise products or services;

Types of Signs - Legality and Conformance

We have identified five types of signs in terms of legality and conformance with our present sign ordinance. In this case "legal" means the owner has acquired a permit and "illegal" means the owner has not acquired a permit. Conforming means the sign is in compliance with present sign ordinance and nonconformance means the sign is not in compliance with the

sign ordinance. The five types then are:

- (1) legal and conforming
- (2) legal and nonconforming
- (3) illegal and conforming
- (4) illegal and nonconforming
- (5) abandoned

The legal and conforming signs (1), as is apparent, we need not concern ourselves with. The illegal and conforming (3) means the owner simply needs to acquire a permit. This can be handled by so advising the owner. On both the illegal and nonconforming (4) and on abandoned signs (5) there is sufficient authority in the present sign ordinance to remove them.

The signs, then, that this forum is concerned with are the legal and nonconforming (2) signs. These are the ones that need to be amortized. These are the ones the Council is seeking community thinking and feeling on how to amortize.

Type of Signs - Construction

The following sign types are descriptive of construction of that sign:

- (1) Billboard Sign
- (2) Essential structural components of a building which function as signs
- (3) Nonessential structural components of a building which function as signs
- (4) Neon tubing; exposed bulbs; animation signs
- (5) Off Premise Sign
- (6) On Premise Free Standing

The Use of Amortization

Amortization is a legal method which a city can use to eliminate nonconforming uses -- uses which were lawfully established and maintained at one time but which no longer conform to the zoning ordinance. The city uses amortization under its police powers, for the purpose of creating a complete and effective implementation of its zoning ordinances.

As used in zoning, amortization has a meaning different from that associated with it in accounting. In accounting, the property owner voluntarily takes cognizance of the limited life of his property by annually setting aside some percentage of its original cost which is to be used for the purchase of a replacement. It is in the owner's interest to amortize, since the amount amortized can serve as a tax deduction.

In zoning, amortization is not a process voluntarily engaged in: a governing body seeks to force the property owner to recognize that his nonconforming structure has attained the end of its financial life and that the original cost has been recouped. In theory, then, the owner of nonconforming property should have nothing about which to complain if he has written off his structure -- or could have written off his structure -- and if his books indeed do balance. So the governing body enacts an amortization schedule, and after a certain period of time -- or, depending upon the sophistication of the ordinance, after several periods of time based upon the type of structure involved -- all nonconforming structures are presumed by the legislative body to have been amortized. At the end of the amortization period, the structure either must be removed or must be brought into conformance with all necessary laws. It is clear, however, that owners of nonconforming structures are not happy to be required to conform with a zoning ordinance which hitherto had not applied to them.

A zoning ordinance is prospective in effect. It regulates all future uses of property, and a reasonable zoning ordinance is recognized not to be a taking of property when it restricts the possible range of uses available to a property owner. In its landmark decision in Village of Euclid vs. Ambler Realty Company, the United States Supreme Court held that the right to impose zoning regulations indeed did exist under the police power and by analogy to the law of nuisances.¹

An amortization ordinance also is prospective in effect since it affects the right to use the property in the future. It is retrospective in the sense that it deals with previously established property rights: it regulates, through forced termination or modification, uses and structures which were created in the past but which do not conform to a more recent set of zoning regulations. It is not so well recognized that amortization is not an unconstitutional taking of property or denial of due process.

¹ 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926).

This question of constitutionality was addressed by a California appellate court in City of Los Angeles vs. Gage.² Gage operated a nonconforming plumbing supply business out of a conforming building and had been given five years in which to amortize his investment. The court said that it was in the public interest to end nonconforming uses rather than to allow them to continue indefinitely. And, the court had this to say about regulation in general:

"Exercise of the police power frequently impairs rights in property because the exercise of those rights is detrimental to the public interest. Every zoning ordinance effects some impairment of vested rights either by restricting prospective uses or by prohibiting the continuation of existing uses, because it affects property already owned by individuals at the time of its enactment. In essence there is no distinction between requiring the discontinuance of a nonconforming use within a reasonable period and provisions which deny the right to add to or extend buildings devoted to an existing nonconforming use, which deny the right to resume a nonconforming use after a period of nonuse, which deny the right to extend or enlarge an existing nonconforming use, which deny the right to substitute new buildings for those devoted to an existing nonconforming use -- all of which have been held to be valid exercises of the police power."

Clearly the owner of a nonconforming structure or use has a property right -- what he would call a "vested right." This right develops around an interest in property and expectations which arise because of such an interest; the right is protected by the Fifth Amendment as well as by provisions in many state constitutions -- all of which prohibit a taking of property without compensation.

However, the existence of this right is not sufficient to annihilate the obligation of a city to exercise its police power; thus is drawn the distinction between a police power taking and a taking under eminent domain. It is the taking under eminent domain which must be compensated, and this is a taking by the city for its own use, e.g., for a park or for a new municipal center. A police power taking, such as the razing of a building on the verge of collapse, does not require compensation, and the problem becomes one of balancing the extent of the property right against the need of the city to regulate, i.e., balancing the private loss against the public gain. This calculation always presents difficulties, since frequently a monetary figure can be ascribed to the private loss but not to the public gain.

² 127 Cal. App. 2d 442, 274 P. 2d 34 (1954)

It is clear, however, that the fact that the public gain cannot be quantified does not mean that it is of slight importance or that it is always less than the private loss.

And, two other facts also must be remembered about amortization. First, the termination of a nonconforming use under an amortization ordinance is not immediate. A constitutionally permissible amortization period is used which serves as notice to the owner of the nonconforming use and which allows him to plan to terminate his use and to make all necessary arrangements for removal or modification. This gives the owners a basis for arranging his expectations.

Second, amortization goes only to the amount of investment in the use of structure and not to its revenue-generating capacity. For example, although billboards and similar off-premise advertising signs are amortized quickly by their owners, they remain powerful money-makers even after full depreciation. Properly, this is not a consideration which should influence city-planners when they devise their amortization schedules, but the argument should be expected in any litigation which might be produced as a result of an amortization program. The Supreme Court of Maryland, in the case of Grant vs. Mayor and City Council of Baltimore, responded to this argument by saying:³

A corporation that has regularly, year by year, acted in its financial affairs, under the oath of its authorized officers (and penalty of perjury), on the premise that the full useful life of its billboards is five years is handicapped seriously in arguing persuasively that legislative reliance on that same premise has done it a constitutional wrong-- has taken from it substantial property without compensation -- by banning the further use of those billboards.

The use of amortization in zoning is not of recent origin. In 1929, the Supreme Court of Louisiana held that property use within the French Quarter of New Orleans could be controlled through the use of a city zoning ordinance requiring the liquidation within one year of all businesses in a residential area. Language in the Gage case, decided in 1954, treats amortization as an established practice in city planning and zoning regulation and emphasizes the importance of the gradual -- but fair -- elimination of all nonconforming uses.

³ 212 Md. 301, 129 A.2d 363 (1957)

One test of reasonableness was established by the New York Court of Appeals, the highest court in that state. In applying an amortization provision to a junkyard located in a residential area, the court indicated that "reasonableness" in such circumstances is determined by the nature of the surrounding neighborhood, by the value and condition of improvements on the premises, by proximity to areas for relocation, by the cost of relocation, by other reasonable costs which reflect the kind and amount of damages which the property owners might sustain, and by the ability of the property owners to continue the operation of their business.⁴

In a Missouri court case involving nonconforming billboards the Court there emphasized the difference between general zoning ordinances and ordinances which regulate billboards and noted that the latter, when otherwise valid, are enforceable in praesenti as well as in futuro.⁵ This is the same distinction which is commonly drawn between the amortization of a principal use and the amortization of an accessory use.

The Maryland court's opinion in the Grant case is one of the most respected discussions of the need for amortization in a sign control program. The zoning ordinance involved in that litigation required the removal within five years of all outdoor advertising structures located in residential districts. The billboard companies complained that their businesses would be injured because their coverage would be inadequate; the landowners upon whose property the billboards were located protested about the lease revenue which they would lose. The court correctly dismissed these arguments with the recognition of the fact that the original cost of the signs had been recovered, and it detailed how the City Council had acted reasonably in making its determination. The ordinance's preamble, containing the Council's legislative findings, was quoted; the legislative history of the ordinance, which included expert and lay testimony and endorsement by forty civic associations was recounted; and some reliance was placed on the ever-increasing number of governing bodies which were finding reasonable amortization to be the only effective response to the apparently immortal nonconforming use.

⁴ Harbison vs. Buffalo, 4 N.Y. 2d 553, 176 N.Y.S. 2d 598, 152 N.E. 2d 42 (1958)

⁵ University City vs. Diveley Auto Body Company, 417 S.W. 2d 107 (Mo. 1967)

Billboards also have fared poorly in California. In the first case involving Monterey County, the court held an amortization provision reasonable as applied to the sign owners since they had offered no evidence that a five-year amortization period was unreasonable.⁶ In the second case, the California Supreme Court held that a one-year amortization period was valid as applied to nonconforming billboards which had been amortized fully under the amortization regulations of the Internal Revenue Service.⁷ Moreover, the sign owners were not allowed compensation for the cost of removing the nonconforming billboards.

In addition to the legal aspects of sign amortization, there also are practical ones. Consideration must be given to the questions of fairness and the need for identification that occur when a new business, that must conform to the specific sign requirements, locates next to an established business with a nonconforming sign. It is possible that the old, nonconforming sign may attract more customers than the new conforming one merely because of its size and location.

Methods of Amortization

The first basic determination in amortizing signs is HOW FAST IS FAIR? How fast may the city fairly require conformance or removal of signs? Some of the considerations as to what is a fair amortization period include:

- (1) Money Oriented - Has the owner recovered his investment?
- (2) Time Oriented - Usually sets a "reasonable" time (i.e. five years) from time of erection for removal or conformance.
- (3) Public Nuisance - How strong is the public's interest served by removal or conformance of signage?

Most nonconforming signs in Scottsdale are more than five years old; and many have recovered their capital investment. As a result, should the above considerations be applied, most nonconforming signs are fully amortized. If that should be the case, or where that is the case, extending the role of fairness a city ordinance should allow for a "grace period." This grace period would allow time for owner notice and time for removal or changes to be in conformance. In these cases the council needs to determine what is a reasonable "grace period."

⁶ National Advertising Co. vs. County of Monterey, 211 Cal. App. 2d 375, 27 Cal. Rptr. 136 (1962)

⁷ National Advertising Co. vs. County of Monterey, 1 Cal. App. 3d 875, 464 P.2d 33, 88 Cal. Rptr. 577 (1970)

Application of Amortization

The second major determination in amortizing signs is WHAT IS A FAIR APPLICATION? Should the amortization apply to all nonconforming signs? Should there be a priority? Are some signs more of a nuisance and therefore, need to be removed or brought into conformance at a faster period of time?

DISCUSSION OUTLINE
FOR
SIGN AMORTIZATION

The following questions are for your consideration prior to the Forum and will be the basis for the group discussion:

- (1) Are some signs more of a nuisance and therefore, should these be the priority for removal or brought into conformance?
- (2) If we do assign priority for removal or bringing into conformance what should that priority from first to last be? (Refer to Matrix)
- (3) Should all nonconforming signs be removed or brought into conformance at the same time?
- (4) What should be the single criteria for amortization or in what order should the following considerations be the determinations for amortization:
 - (a) age
 - (b) investment recovered
 - (c) nuisance
- (5) Should we give a "grace" period to owners of non-conforming signs whose signs have been amortized? If so, how long a grace period? Should the grace period vary with type of signs?
- (6) When the sign is an essential part of the building or the total building is a sign (i.e. Jack in the Box, Whataburger) how should they be dealt with? How long should such buildings be given to conform?
- (7) Which strategies would be most effective in getting nonconforming sign owners to remove or bring their signs into conformity? publicity? written notices? going after all the same types of signs at the same time? citizen committees? lawsuits?

CHART 1

The chart below is provided as a suggested working tool for determining the length of time of amortization of signs:

[illegible]

DEFINITIONS

SIGN: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization, and further not including any item of merchandise normally displayed within a show window of a merchant.

The term "sign" shall mean and include any display of any letter, numeral, figure, emblem, picture, outline, character, spectable delineation, announcement or anything in part or in combination by any means whereby the same are made visible to the eye and for the purpose of attracting attention outdoors to make anything known, whether such display be made on, attached to or as part of any other structure, surface or thing, including but not limited to, the ground or any rock, tree, or other natural object, which display is visible beyond the boundaries of the lot or parcel of property on or over which the same is made.

NOTE: Under this definition, a building may serve as a sign if it calls attention to itself through the use of special structural features -- which may be either essential or non-essential -- which have become associated with the merchandise or services offered in the building. Accordingly, although the primary function of the building itself is not to serve as a sign, the primary function of the structural feature as used is that of a sign.

ABANDONED SIGN: An abandoned sign is a sign which identifies a business which no longer exists or which has moved, and/or improperly maintained.

BILLBOARD SIGN: A billboard sign is an off-premise advertising sign characterized by changing copy.

ESSENTIAL, STRUCTURAL COMPONENT OF BUILDING SIGNS: Are signs which are an essential part of the building structure and could not be removed without altering the building structure.

NONESSENTIAL, STRUCTURAL COMPONENT OF BUILDING SIGNS: Are signs which are mounted on, painted on or in some way a part of the building structure.

NONCONFORMING SIGN: A nonconforming sign is a sign which is not allowed under the provisions of the current sign ordinance, but which was erected legally under the authority of the City of Scottsdale or the political subdivision then having control and regulation over the erection of signs.

OFF-PREMISE SIGN: An off-premise sign is a structure which bears a sign which is not appurtenant to the use of the property where the sign is located, or a product sold or a service offered upon the property where the sign is located, and which does not identify the place of business where the

sign is located as a purveyor of the merchandise or services advertised upon the sign.

ON PREMISE FREE STANDING SIGN: An on premise sign is a structure which is located on the property it is identifying. It may be identifying a product sold or service offered upon that property.

The Fruits of Environmental Planning

In a democratic society it is a delicate mechanism which distinguishes harmonious growth from hit-and-miss exploitation. Until a few years ago, commercial interests regarded human values and environmental considerations as low priority items. Developers seeking paths of least resistance ravaged the countryside degrading the promise of free enterprise to the scramble of "every man for himself." The great force of technology has followed opportunistic paths causing the public to be victims of its unplanned consequences. In the 1950's and 60's many communities blindly exploited their environments and called their abuses progress. In contrast to the thoughtless errors of the past, municipalities and private enterprises are beginning to turn over a new leaf. While watching cities choke on their own unplanned growth it becomes obvious that private economic wealth depends wholly on maintaining the general health of one's community.

Architectural and planning considerations, for the first time, are being considered as necessary ingredients for commercial success. New communities are demonstrating that it is immensely profitable to do things a better way and many older communities are following suit with remedial action.

Cities can no longer be allowed to just happen. The process of random addition operative across the country cannot be considered growth. No reasonable businessman would consider building a complex machine or individual building without a thorough set of plans as to intent, purpose, and details for implementation and cost control. Yet our most complex invention, the modern city, is not only built without guidelines, it is built by a myriad of forces, for the most part each ignorant of the other's activities.

Because democratic society cannot plan by decree, improvements are attained only as the general level of education raises the standards. The present look of cities is the accumulation of individual and unrelated actions. Whether one designs a street sign or a transportation system, in effect, one designs the community of which it is a part. The function of the architect/planner is to foster this organic relationship between individual parts and the resultant community.

A city's most clearly visual aspect is the *street scene*; the external form which we experience daily. To improve the *street scene* many cities have created design review boards and are enacting stringent sign ordinances.

The public's distrust of official intervention is being replaced by a sense of urgency to discipline private develop-

ment with comprehensive regional criteria. Recently the city of Scottsdale, Arizona, put a series of charter amendments up for public vote. Included were formal procedures for approving site plans as well as design review of all structures other than single family residences. Also included was a provision for amortizing large nonconforming signs. As an indication of public concern, the amendments were passed by a plurality of seven to one.

The individual citizen has found himself in the unaccustomed position of power. The same activist participation which produced Ralph Nader and the consumerism movement is now applying pressure for better urban planning.

The decade of the 70's is becoming the most design conscious in U.S. history, with businessmen turning to architects and planners to take advantage of the new environmental orientation of the marketplace. The results are beginning to appear in most towns and cities.

It is beyond argument that the overall level of community planning and architectural design is generally improving, but if one accepts the fact that environmental quality is a matter of survival, then we are moving too slowly. Technology and the computer can help but we desperately need action. In place of action we too often have the jargon of the planner coupled with so-called systems research, and an elaborate dialogue between urbanologists, economists, sociologists, politicians and the American people.

As a prerequisite to democratic planning we must establish goals which accurately reflect the needs and desires of the greatest number of people. By way of citizen participation, intuition, routine research and computer analysis, we endeavor to cause beneficial effects in the interdependent fabric of economic, social, physical and other complex ingredients of urban life.

The following ten objectives are fundamental needs of urbanized peoples everywhere and should be implemented with all possible haste:

1. to treat the *street scene* with the greatest care, affording the gaiety of variety and the blend of harmony;
2. to soften all man-made structures with life regenerating grass and foliage;
3. to use signs as a means of identification, not as competitive bombardment of the senses;
4. to invest in structures which provide not only for physical survival but for spiritual dignity;
5. to screen utilitarian functions in the urban setting much the way nature envelops complex anatomy in a protective skin;
6. to learn from nature the subtle blend of color, making special use of the earth-tone palette and avoiding glaring surfaces of white and silver;

7. to use shade and shadow, not only for reducing energy losses but to add charm and comfort to physical circumstances;

8. to plan circulation systems as form generating features of community life rather than utilitarian evils;

9. to understand that ecology is not an academic issue but a common sense arrangement of everyday elements which can maximize or minimize the quality of community life;

10. to provide the basic ingredients of clean air, clean water and sunlight by way of meaningful open space, parks and non-polluting devices for all industrial systems.

The *street scene* is a good place to start because we experience it everyday and the change would be a dramatic improvement which could be accomplished quite quickly. Oversized signs, caricature buildings, overhead poles and wires, brutal structures and parking lots unsoftened by planting are all mistakes which require only the urging of public determination to improve. Unlike pollution control devices, rapid transit and the construction of new cities, cleaning up visual pollution is a relatively simple affair. But nothing is easy without the power of public demand.

We must guard against the passive notion that "environment is everything but me." Environmental issues should not be thought of as luxuries or matters of choice. They're not. Environmental planning is the basic ingredient of health, safety and welfare and must be treated with urgent action.

EFFECTIVE DESIGN

For the most part the illustrations are a comparison between Scottsdale, Arizona, and its neighboring communities. Scottsdale municipal government is recognized for its environmental responsibility and technical innovation in community services.

Top to bottom:

Planted medians with shade trees not only beautify the overall *street scene* but help to reduce the expanse of pavement to a more human scale.

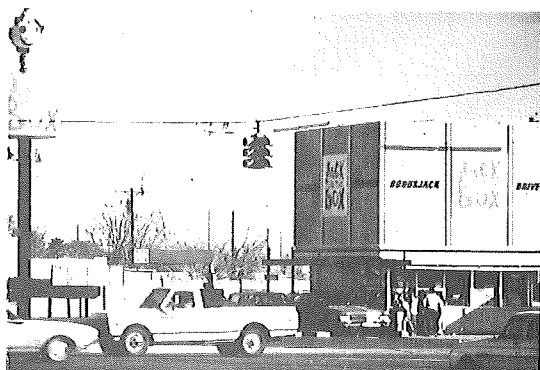
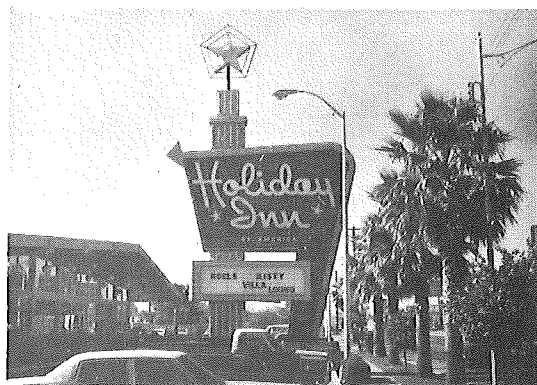
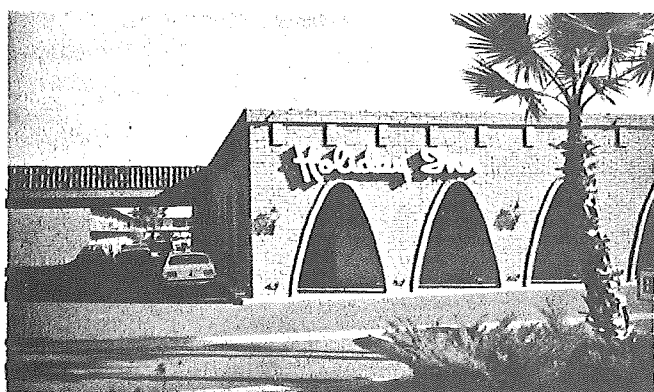
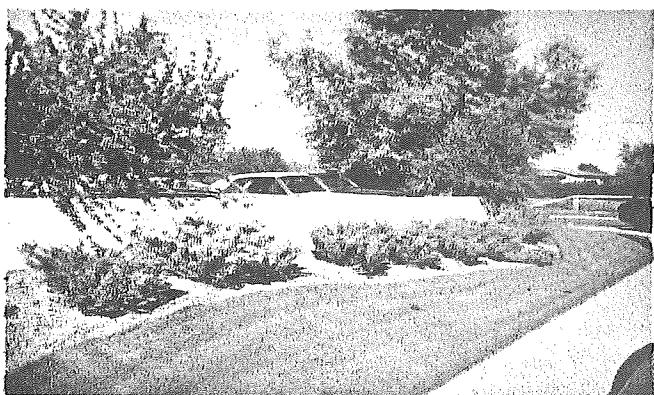
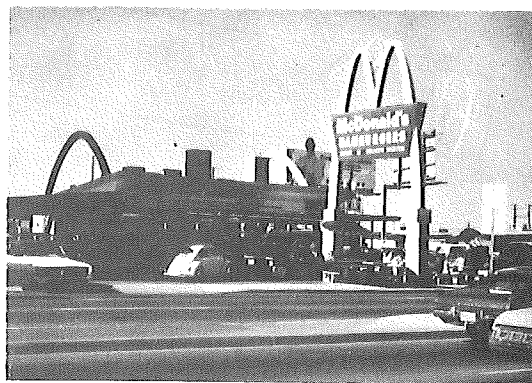
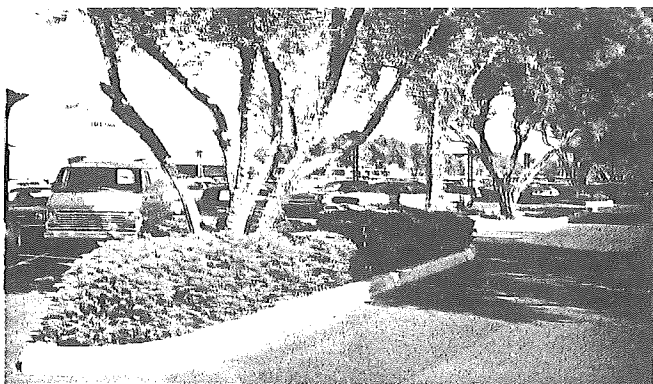
Shopping center parking lots create an eyesore which is easy to overcome. It takes surprisingly few large trees to remove the asphalt jungle-look common to most major commercial centers.

Where parking lots abut sidewalks, low walls and earth berms afford pleasing protection.

In the past, oversized signs and billboards were thought of in terms of advertising advantages. Today they are recognized as an insult to the individual and a critical blow to the economic growth of the cities they deface. For this reason commercial establishments, especially motels, banks and gas stations are using low-profile signs which afford distinctive identification.

The economics are simple. Small signs represent a fraction of the cost of the oversized counterparts. The money saved can go into low walls and planting creating an image-building device along with the necessary identification.

While it is perfectly reasonable for franchise operations to promote a consistent identity, it should never be by way of caricature. Enormous dinosaurs and plaster cowboys twenty feet tall are historical abuses. Caricature is being replaced with distinction. ●



TOPIC 2
DEDICATIONS

TOPIC NO. 2

"Requiring dedications or fees related to park
land and development (4) and school sites (5)."

TOPIC NO. 2

INTRODUCTION:

Since its incorporation, the City of Scottsdale has implemented the general policy of requiring new development to pay its own way. More restrictive controls have been adopted and implemented each year and new areas of cost have been identified and added to the list of development costs which developers have been required to provide.

This section of reading material discusses the costs of parkland and development and school sites for new development. This report discusses present requirements related to parks and schools and explains how they were developed. Discussion might center on whether any items should be adjusted or whether some other method for requiring developers participation should be considered.

CURRENT REQUIREMENTS

Under existing regulations only those developments within a Planned Community District (PCD) must furnish adequate and reasonable sites for school sites and parkland

Re: School Sites

In Scottsdale a PCD's land for the school sites is donated to the Scottsdale School District, with the district required to finance the construction, capital outlay, maintenance and staffing costs. In order for a PCD application to be approved by the city's planning commission it must be accompanied by a letter from the school district to the developer accepting and approving the school, sites-location, size and number.

Re: Parkland

In a similar fashion, a letter of site approval must be received from the city parks commission regarding any parkland in a proposed PCD. The parks commission must agree that adequate open space is available for park development within the PCD boundaries and that the land will be dedicated to the city for recreational usage. Each PCD has a unique recreational demand that must be met. This depends upon its projected population makeup -- families, senior citizens, young people, et cetera. Therefore, each PCD's requirements must be evaluated separately by criteria jointly established by the PCD applicant and the parks commission.

Once the parks commission has approved the amount of parkland to be dedicated and its location, the planning commission stipulates that the PCD applicant will pay the initial \$4,000 needed for turf, grading and sprinkler system with the city assuming any additional costs required to develop the park site.

DISCUSSION OUTLINE
FOR
SCHOOL AND PARKLAND DEDICATIONS

The following questions are for your consideration prior to the forum and will be the basis for the group discussions:

Re: Schools

1. How would this increased cost to the developer be distributed among the new residents?
2. Should smaller size developments (less than PCD) be required to contribute land or money for the increased burden it places on local schools, etc.
3. Should the School District reimburse the developer or the city for school sites?
4. Should the Council continue to require developers to present letters accepting school and park sites from the school and park boards.
5. Should we change the size of school sites or parks from those presently acquired?

Re: Parkland

1. Should there be an established minimum of parkland acreage donated/dedicated to the city by the developers?
2. If so, what ratio should be used -- acres of land per thousand population?
3. If the \$4000 per acre charged for basic park construction is not adequate for sprinklers, turf and landscaping should the developer be required to pay an increased cost?
4. Should smaller developments (less than PCD) be required to contribute land or money for the increased burden it places on local parkland?
5. Should new development also pay for facilities and equipment on new parkland?

TOPIC 3
DEDICATIONS

TOPIC NO. 3

"Requiring dedications or fees related to public utility easements (1); water production, storage and transmission (2); sewage collection, transmission, treatment and disposal (3); public rights of way (6); bike paths and other necessary transportation (7); drainage (8); and flood control (9)."

TOPIC NO. 3

"Requiring dedications or fees for

- public utility easements
- water production, storage and transmission
- sewage collection, transmission, treatment and disposal
- right of way
- bike paths and other necessary transportation
- drainage
- flood control"

Introduction

The above mentioned requirements make up the bulk of the dedication and fee requirements for new development in Scottsdale. Existing city ordinances and zoning stipulations in these areas have been in effect for several years and have been revised and updated.

State Senate Bill 1026, adopted by the 31st Legislature, gives municipalities authority to require public utility easements in subdivisions. This is further clarified in Scottsdale's subdivision ordinance which make many of the requirements.

Current Standards for Public Utility Easements

Developers are required by the subdivision ordinance to provide utility easements in accordance with the master plan which has been developed and adopted by the city or by the affected utility company.

Easements for utilities conform to standards of various utility companies and range from 200 feet wide transmission line easements to 60 foot sewer trunk line easements to small four foot overhead power line easements along the sides of streets or in side yards for underground service lines.

The subdivision ordinance requires easements be provided when: alleys are provided; along side lot lines; guy and anchor lines are needed; a stream or important surface drainage course abuts or crosses the tract; no alleys exist along back property lines. All improvements constructed in the easements are the responsibility of the developer or the improvement district.

There are a number of specific requirements relating to construction of improvements in the easements including underground utilities except those of greater than 3,000 KVA capacity or 12,000 v or when subsurface soil conditions do not permit such underground construction: fire hydrants, street lights, and water and sewer services.

Current Standards for Water Production Storage and Transmission

The Council has recently adopted the water development ordinance which required developers to provide water services required by their development. The developers may pay the city on the basis of the estimated cost for constructing wells, storage and transmission facilities or he may construct and turn over to the city those facilities. On the basis that a well costs about \$100,000 and serves 1,000 homes the cost of wells is about \$100 per home. Storage costs about 22 cents per gallon. The design criteria for fire protection requires 400 gallons of storage per home. Cost of storage is about \$88 per home. The cost of booster pumps, transmission lines, well pumps and motors and other hardware costs another roughly \$200 per home. \$400 is charged for each residential meter connected to the water system.

The cost of these water supply facilities for larger meters are prorated on the basis of the capacity of the larger meters required to serve them. As much as \$16,000 may be charged for a four inch meter. These fees range from \$400 for a dwelling unit requiring a 5/8" water meter to \$28,000 for a 8" meter. The fees are set aside by the city in a utility revenue fund and can be used only for capital improvements for the water system.

Where the city's water system already provides and stores a sufficient supply for further connections, the developer must pay the fee to utilize these facilities rather than constructing his own.

When the developer desires to, he may establish an improvement district to construct the system when he elects to construct his own according to the ordinance.

The developer is responsible for installing all pipelines necessary to serve his development. However, the city may elect to participate by assuming the cost of oversizing any pipeline for utilizing the oversized line in subsequent developments. This cost is recovered from the succeeding developers.

When a dwelling unit or other water user desires to establish service, he pays a connection fee which covers the city's installation costs and becomes part of the general water and sewer revenue funds.

Both the water development charge and the connection fee are designed to place the burden of new developments upon those benefiting from the development rather than existing water users.

CURRENT STANDARDS FOR SEWAGE COLLECTION, TRANSMISSION, TREATMENT AND DISPOSAL

Sewers have been a controversial subject in Scottsdale. Many of the early developments were constructed with private disposal systems. The city outgrew its early disposal plant and created a good deal of public concern. After connection to the multi-city plant in 1966 sewer services were extended to most of the developed subdivisions in the community through the use of improvement district proceedings. Much of the cost of the improvements were assessed against property owners. At the same time new developments were required to extend and hook up to the sewage system. It is the current policy to encourage connection to the sewage system and to require connection whenever the cost of sewers does not exceed three times the cost of private systems.

The Council's policy has been to require developers to pay a connection fee in order to connect new developments into the existing sewer system. The sewer service connection charge is \$8.00 times the square root of the area involved for residential and \$10.00 times the square root of the area involved for commercial generators. These costs are the approximate cost of constructing a sewer main along one side of the property. Where costly pavement cuts must be made to connect into the existing sewer a reduction of the connection fee may be authorized by the City Engineer. Where the sewer must be extended past sewerable property the connection fee may be reduced since the work makes sewers available to other users who will pay connection charges. Connection fees are accumulated in the Sewer Revenue Fund and are used to pay for trunk extensions, or to participate with developers to enlarge or deepen lines so that they can be extended to serve future developments.

The sewer connection fee is designed to require developers to pay only the cost of the collection system. The cost of the transmission and treatment plant portions of the sewerage system was paid for by revenue bonds and has been constructed with additional capacity for use of the growing city. Additions to the plant will be required in about 1978 and a sewer trunk from the Salt River north parallel to Hayden Road will be required in about 1990. Enlargement of the outfall in the Salt River from Scottsdale to 91st Avenue plant will probably not be required until after the year 2000. The cost of these improvements will generally not be recovered from new developments.

When it is necessary for a user to extend a city sewer main into the public right of way and the sewer is designed to serve more than the user's property, the city may participate in the cost of the extension. When a developer extends a sewer main to serve his development the city may participate by reducing the connection fee in proportion to the developer's cost in constructing the connection.

When the city desires a sewer main larger or deeper than needed by the developer, it may participate in the costs. And when it is deemed necessary to propose a sewer main to provide for future tap-ins, the city participation will be no greater than the estimated revenue to be derived from future connection fees.

CURRENT STANDARDS FOR PUBLIC RIGHTS OF WAY

State laws and local ordinances provide authority to require dedication of public rights of way. Generally, any construction on land that will increase traffic may be subject to right of way dedication requirements.

Developers are required to provide curbs, gutters, sidewalks and paving construction by the Subdivision Ordinance where a number of lots are improved or sold together or by the Highway Development ordinance where individual lots are being developed. Improvements must be designed by a registered engineer, must conform to adopted city standards, be approved by the City Engineer, constructed by a licensed contractor in conformance with the city specifications, accepted by the City Engineer.

The maximum improvements required (except in developments of 100 acres or more) are: 22 feet of asphalt paving; one curb and gutter; eight feet of sidewalk; one street light with underground wiring for each 120 feet of frontage; 20 feet of alley paving, one verticle curb along a median island or traffic separator the length of the perimeter of the development storm drains, irrigation, and flood control plus any other improvements required by the ordinance.

These improvements are the responsibility of the developer or the improvement district, if one has been formed. If the city believes the cost of such improvements is more than property owners in a similar situation has had to pay or if more than ordinary improvements are needed, the city may contribute to the costs.

CURRENT STANDARDS FOR BIKE PATHS

Recent interest in construction of bike facilities has resulted in requirements for bike paths in some of our larger developments.

A long range planning team is preparing a master plan for bicycle and pedestrian circulation with particular emphasis on the undeveloped areas north of Shea. Developers will be required to construct eight foot concrete bicycle paths along routes shown on the plan.

Stipulations in PCD's will require bikepaths as well as paseos, and walkways to correspond to existing and proposed facilities of a similar nature in the city.

In particular, because of the nature of their use, bike paths must be designed to conform to those in neighboring areas. Since architects and PCD developers work with the city planning department throughout the initial planning stages, the city has an opportunity to suggest bike path alternatives if the need arises.

The stipulations relating to bike path requirements applies only to PCD applications; at the present time no individual developer is required to meet them unless he is planning a Planned Community District.

CURRENT STANDARDS FOR DRAINAGE

In recent years the City of Scottsdale has been hurt by major floods. Extensive damage has occurred. Since that time, the city has instigated more restrictive storm drainage policies. Prior to the approval of any subdivision within the city the developer is required to submit to the City Engineer a drainage study of the proposed development prepared by a registered engineer to show how the development will handle water that falls on the property and flows through the property. As a result of the storm drain study the developer may be required to provide storm drain facilities as approved by the City Engineer which may include underground storm drains, sufficient drainage ditches and culvert crossings of major streets to provide for dry access to carry the 100 year storm runoff. The city also requires developer to construct drainage systems in the right of way so that all streets in a subdivision are open with a wet crossing during the 10 year event.

The drainage policy limits accumulation of water in any street beyond the point of where the water would flow on the street to the top of the curbs. Excessive flows must be carried in separate easements. The minimum sized easement (right of way) is limited to 10 feet.

The city is considering requiring future developments to provide detention basins which can be discharged into the drainage system following a peak flow of water. Such detention basins increase the build up of ground water, reduce size and expense of storm drains and may be provided by careful grading of lots or by construction of lakes, depressed parks or other storage areas.

The drainage policy will alleviate the flooding problems and reduce the concentration of water flowing into some previously developed areas.

CURRENT STANDARDS FOR FLOOD CONTROL

The City of Scottsdale's policy of establishing good flood control procedures and extracting from new developments needed facilities to provide adequate drainage flow should be reinforced by sections of Charter Amendment I.

An existing City ordinance designates the Indian Bend Wash channel as a floodway within the City boundaries. This ordinance allows the Maricopa County Flood Control District to stipulate fifty year frequency flood flowlines for developments, setting aside a minimum area for flood control. The City's engineering and building inspection divisions are empowered to prevent issuance of building permits for construction within these limits.

Any applicant wishing to receive a building permit must furnish evidence to the Maricopa County Flood Control District that the proposed improvements will not create a substantial hazard to the capacities of Indian Bend Wash. An additional restriction prohibits dumping of any materials in the channel. The charter amendment provides the City with the means for regulating and enforcing the ordinance.

Currently the only City ordinance pertaining to the drainage programs only applies to right of way encroachments in a designated right of way or water course. Under the charter amendment it will now be possible for the City to prevent the issuance of building permits to developers who do not meet Scottsdale's drainage criteria.

A right of way or watercourse is obtained by deed, conveyance, agreement, easement, dedication or usage. It is reserved for the general public for street, highway, alley, public utility, or pedestrian walkway purposes. The right of way also provides adequate drainage facilities for the community.

Scottsdale now can require developers to construct drainage systems in the right of way so that all streets are open during a ten year storm. Emergency access also will be provided for all areas during a 100-year storm. Adequate drainage facilities will allow major streets to remain open during a 100-year storm, with homes protected from flooding and from flows generated from such a storm.

The drainage policy will alleviate the concentration of water in any street beyond the point of where the water would flow through the street to the top of the curbs. The minimum sized easement (right of way) is limited to ten feet.

The City requires all future developments of more than 160 acres to provide detention basins which can be discharged into the drainage system following a peak flow of water. Developers are required to supply a drainage study based on Arizona Highways Department standard of the development, outlining the necessary tributary areas.

Property which develops along the Indian Bend Wash or adjacent to other major floodways must comply with the Indian Bend Wash or adjacent to other major floodways must comply with the Indian Bend Wash Ordinance. This requires that areas in the flood plain may only be filled and developed if the capacity of the fifty year storm is preserved. Developers have typically met this requirement by excavating portions of the main channel and using the excavated material to construct fill for the development and granting the City easements or out right dedication of the channel. Where the channel can be grass-lined, its capacity is considerably increased. This the amount of developable land may be increased by turfing the channel and dedicating the turfed channel to the City or making some other provisions for maintenance of the turf.

Generally the Council has been willing to permit increase in the density of developable land in order to give developers incentive to construct the Indian Bend Green Belt Wash Floodway. As the pieces of the floodway puzzle are fitted together we will have a six-mile-long, grass-surfaced, green belt recreation facility which will also be available for flood control. Developers are extending this capability into some of the smaller channels which feed into Indian Bend Wash.

DISCUSSION OUTLINE
FOR
TOPIC 3

The following questions are for your consideration prior to the Forum and will be the basis for the group discussions:

Re: Public Utility Easements

1. Public utility easements are required by the city. Should more stringent requirements be made on utilities, such as undergrounding electrical lines in the easement?
2. Should the city continue to require dedication of easements as a condition of development?

Re: Water Production Storage and Transmission

1. The water is designed to recover the city's cost of providing water production, storage and transmission facilities. Should this fee be maintained at the current cost level or should it cover more or less than the city's cost?
2. Should developers required to install hydrants be reimbursed costs more than \$1.50 per front foot?

Re: Sewage Collection, Transmission, Treatment and Disposal

1. Should the city continue to charge homeowners \$2.50 per month if they fail to connect to an accessible public sewer system after one year or should other steps be taken to insure the connection is made.
2. Should the sewer co-nection fee recover the costs of transmission, outfall and treatment facilities?
3. Should the city continue to allow developers to construct private septic tanks when a public system is not readily available or should the city require the developer to install a sewer system with its own treatment system?
4. Should new developments pay for refuse containers?

Re: Dedications of Public Rights of Way

1. Should the city continue to require dedication of streets as a condition of development.
2. In a Planned Community District the developer may be required to dedicate an entire street and bicycle path system including main arterials. Should the city look towards future dedications of mass transit corridors, waterways, motorcycle paths or other innovative

transportation systems?

Re: Bike Paths

1. Should the city require dedication of bike paths?
2. Should bike paths be constructed in the community. Are they necessary transportation?
3. Should there be an established minimum for miles of bike paths? (For example: the State Department recommends one mile of bikeways for every 1,141 residents.

Re: Drainage

1. Should Scottsdale continue its present drainage policy or would a specific ordinance better meet its needs?

Re: Flood Control

1. Should the city have regulations that more explicitly designate its flood control functions? Should ordinances spell out requirements, design methods, and design criteria?
2. Is it a responsibility of the city to determine appropriate flood flowlines and capacities or should it be done by the County Flood Control District?
3. An alternative flood control system considered for Scottsdale would be to require each property owner to hold the normal rainfall on his property in order to reduce runoff to drainage systems. Should this system be more generally applied?
4. Should development of Indian Bend Wash Greenbelt Floodway continue?

CHART 3

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Public Utility Easement * Conforms to requirement of the public utility companies except as noted in Section 305 - Subdivision ordinance. * Section 305 - Sub-division Ordinance: a. Four feet for aerial overhead where alleys are provided. b. Six feet for distribution line, each side lot line. * For Guy & Anchor - One foot wide -- each side of lot line or two feet wide on one side + 35 feet from rear lot line.	

CHART 4

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Water Production & Storage (1) New Systems: * Installation of own facility by developer + paying city connection fee + dedicate facility to city upon completion. * Connection Fees - based on meter size when city installs water meter only - Ex: 5/8 inch - \$ 55 3/4 inch - 75 1 inch - 110 (Increases proportionately to 6 inch -- \$2,100) When city taps water line only based on line size ex: 3 inch - \$ 40 4 inch - 50 6 inch - 85 8 inch - 125 (2) Increased demand on current supply * Pay water development fee, meter cost & installation fee Residential development fee -- \$400 per unit Commercial development fee based on meter size ex: 5/8 inch - \$ 400 3/4 inch - 668 1 inch - 1000 (Increasing proportionately to 8 inch -- \$28,000) Installation (connection) fee - based on meter size ex: 5/8 inch - \$135 3/4 inch - 160 1 inch - 210 (Increasing proportionately to 6 inch -- \$4,000)	

CHART 5

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Sewage Collections, Transmissions and Disposal * All sewer extension and tap-in construction done by developer; outlined in Ordinance No. 626 Fees -- Single family \$8 multiplied by square root of sewerable area [(lot area) in square feet]. Minimum fee -- \$672 (includes all mobile homes). Multi-family \$8 multiplied by square root of sewerable area (in square feet) multiplied by the square root of relative density. Industrial & Commercial \$10 multiplied by square root of the sewerable area (in square feet). (Note: Monthly sewerage transmission fees are paid by householders) (Note: Existing ordinances do not refer to treatment and disposal).	

CHART 6

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Public Rights of Way <u>Minimum Dedication:</u> Arterial * 110 feet or 130 feet (depending on intended usage) Major * 130 feet Collector * Minor - 60 feet Major - 80 feet Local * 50 feet Cul de Sac * 45 foot radius Alleys * Residential -- 16 ft. Commercial -- 20 ft. <u>Maximum Improvements:</u> (Excluding developments of more than 100 acres which may have larger requirements). * Twenty-two feet of asphalt paving, curb and gutter Eight feet of side- walk One street for each 120 feet of frontage Median island or traffic separator	

CHART 7

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Bike Paths and Other Necessary Transportation * No dedication requirements, only stipulations PCD	

CHART 8

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Drainage * Drainage right of way must be dedicated to the city. * Street design with 10 foot minimum allowing for 10-year flood runoff. * PCD's must provide detention basin for easy discharge into drainage system.	

CHART 9

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Flood * No dedication required, only site and design approval necessary with stipulations for flood control.	

TOPIC 4
DEDICATIONS

TOPIC NO. 4

"Requiring dedications or fees for public facilities (10)."

TOPIC NO. 4

REQUIRING DEDICATIONS FOR PUBLIC FACILITIES

INTRODUCTION

As has been indicated in the introductory remarks for Topic No. 2 the city's policies and practices have been to require new development to pay its own way, and we have continued to identify new development cost areas. The item of public facilities such as fire stations, police stations, maintenance yard et cetera have not been taken into account in the past.

CURRENT REQUIREMENTS

There are no present requirements for developers to provide for public facilities.

DISCUSSION OUTLINE
FOR
REQUIRING DEDICATIONS FOR PUBLIC FACILITIES

The following questions are for your consideration prior to the forum and will be the basis for the group discussions:

1. Should the city require new development to pay the costs of new public facilities such as branch libraries, fire substations, et cetera?
2. If so, which public facilities should be provided?
3. Should both large and small developments contribute toward the cost of new facilities?

CHART 10

The chart below is provided as a suggested working tool for noting alternative standards for requiring dedications or fees:

CURRENT STANDARDS	ALTERNATIVES
Re: Public Facilities * No present requirements	

ACKNOWLEDGEMENTS

Cover Photograph -- Courtesy of Landis
Aerial Surveys, Phoenix

"Effective Design"; Insight: May/June '73
Continental Reports, Inc., Englewood,
Colorado

CHART 2

The chart below is provided as a suggested working tool for noting alternative standards for dedications and fees.

CURRENT STANDARDS	ALTERNATIVES
Re: Parkland & Development * Requires unspecified amount of parkland to be dedicated to city + \$4,000 to be spent on landscaping. * No equipping or facilities required.	
Re: Schools * Land donation for site with approval of school district. * No other requirements.	