



**SCOTTSDALE DEVELOPMENT REVIEW BOARD
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

THURSDAY, OCTOBER 15, 2009

MEETING MINUTES

PRESENT: Suzanne Klapp, Council Member
Michael Edwards, Vice Chairman
Steven Steinke, Planning Commission Member
David Brantner, Development Member
Chris Jones, Design Member
David Ortega, Design Member
Eric Gerster, Development Member

STAFF: Brad Carr
Bryan Cluff
Bob Hults
Keith Neiderer
Joe Padilla
Meredith Tessier
Steve Venker

CALL TO ORDER

Councilwoman Klapp called the meeting of the Scottsdale Development Review Board to order at 1:14 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

OPENING STATEMENT

Councilwoman Klapp read the opening statement that describes the role of the Development Review Board and the procedures used in conducting this meeting. She made special note of the focus on quality building and design.

MINUTES

1. Approval of October 4, 2009 Development Review Board Study Session Minutes
2. Approval of October 4, 2009 Development Review Board Meeting Minutes

COMMISSIONER STEINKE MOVED TO APPROVE THE OCTOBER 4, 2009 DEVELOPMENT REVIEW BOARD MEETING MINUTES INCLUDING THE STUDY SESSION. SECONDED BY BOARD MEMBER BRANTNER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0). VICE-CHAIRMAN EDWARDS ABSTAINED.

CONSENT AGENDA

3. 60-DR-2008 NewPath Networks (H 130-02)

Ms. Carol Zonis spoke in favor of any installations that would improve cellular service in the McDowell Mountain Ranch area.

Ms. Lori McCammon, representing an independent group of McDowell Mountain Ranch homeowners, requested that several sites in the McDowell Mountain Ranch area be delayed because the community has received conflicting information. Community members would appreciate the opportunity to review and discuss accurate information.

Mr. Venker suggested that items four through ten be moved to the regular agenda so specific concerns can be discussed.

4. 74-DR-2008 NewPath Networks, LLC (H321-03) 10497 E. McDowell Mtn. Ranch Rd.
5. 75-DR-2008 NewPath Networks, LLC (H322-01) 10609 E. Paradise Lane
6. 79-DR-2008 NewPath Networks, LLC (H142-02) E. Gelding Dr. & N. 107th Pl.
7. 80-DR-2008 NewPath Networks, LLC (H137-02) E. Texas Sage Ln. & N. 105th St.
8. 81-DR-2008 NewPath Networks, LLC (H134-02) E. McDowell Mtn. Ranch Rd. & N. 102nd Pl.
9. 82-DR-2008 NewPath Networks, LLC (H124-02) 10797 E. Bell Rd.
10. 116-DR-2009 NewPath Networks (H570-01) N. 102nd St. South of E. Pine Valley Rd.
11. 88-DR-2009 NewPath Networks (K690-01) E. Parkview Ln. & N. Miller Rd.

12. 115-DR-2009 NewPath Networks (K692-01) E. Mountain View Rd. & N. 128th St.

Mr. Tim Jasinski spoke in opposition to the currently proposed site location. NewPath initially proposed locating the site on the City-owned property next to his house but has since moved the location to the right-of-way adjacent to his driveway without notifying homeowners. He noted that NewPath also neglected to contact him with information regarding safety.

Mr. Carr explained that the parcel originally proposed is a City-owned parcel that at one time housed underground tanks. NewPath decided to install in the right-of-way rather than be subject to a separate license agreement that would be required if locating on City property.

Ms. Lagarde suggested that the installation could be shifted to the west away from Mr. Jasinski's property. Mr. Carr indicated that the location would be depended on City access to their property. Mr. Jasinski was agreeable to NewPath moving the site as far to the west of his property as possible.

13. 117-DR-2009 NewPath Networks (H454-01) 8278 E. Smokehouse Trail
14. 118-DR-2009 NewPath Networks (H448-01) 34543 N. 84th St.

Councilwoman Klapp noted that the Applicant requested a continuance.

15. 122-DR-2009 NewPath Networks (H091-01) 22637 N. Church Rd.
16. 128-DR-2009 NewPath Networks (K711-01) 28202 N. 114th St.

Mr. Joel Cohen spoke in opposition to the proposed location. Because the Desert Crown III community already has a cellular tower within their property in close proximity to homes, he suggested that the NewPath installation be relocated to either 118th Street and Dynamite or on 114th Street near the City water pumping station. He commented that the community has had difficulty getting information from the carrier currently located within the community.

Mr. Niederer offered to assist Mr. Cohen in finding the correct contact person at Verizon to obtain information the community desires regarding the existing cellular installation.

17. 129-DR-2009 NewPath Networks (H260-01) 10639 E. Dynamite Blvd.
18. 131-DR-2009 NewPath Networks (H127-01) 15812 N. Hayden Rd.

BOARD MEMBER BRANTNER MOVED TO MOVE ITEMS 74-DR-2008, 75-DR-2008, 80-DR-2008, 81-DR-2008, 116-DR-2009, AND 115-DR-2009 TO THE REGULAR AGENDA. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

BOARD MEMBER BRANTNER MOVED TO CONTINUE 118-DR-2009, NEWPATH NETWORKS (H448-01) 34543 N. 84TH ST., TO THE NOVEMBER 5, 2009 MEETING. SECONDED BY VICE-CHAIRMAN EDWARDS, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

BOARD MEMBER BRANTNER MOVED TO APPROVE 60-DR-2008, NEWPATH NETWORKS (H130-02) 16198 N. MCDOWELL MTN., RANCH RD.; 79-DR-2008, NEWPATH NETWORKS, LLC (H142-02); 82-DR-2008, NEWPATH NETWORKD, LLC (H124-02) 10797 E. BELL RD.; 88-DR-2009, NEWPATH NETWORKS (K690-01) E. PARKVIEW LN. & N. MILLER RD.; 117-DR-2009, NEWPATH NETWORKS (H454-01) 8278 E. SMOKEHOUSE TRAIL; 122-DR-2009, NEWPATH NETWORKS (H091-01) 22637 N. CHURCH RD.; 128-DR-2009, NEWPATH NETWORKS (K711-01) 28202 N. 114TH ST.; 129-DR-2009, NEWPATH NETWORKS (H260-01) 10639 E. DYNAMITE BLVD.; AND 131-DR-2009, NEWPATH NETWORKS (H127-01) 15812 N. HAYDEN RD. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

4. 74-DR-2008 NewPath Networks, LLC (H321-03) 10497 E. McDowell Mtn. Ranch Rd.

Mr. Niederer reviewed the request, noting that the initial request for location on the signal pole at the southeast corner was changed due to neighborhood concern about obstruction of the nearby bronze deer structure. Ground equipment is proposed in a four-foot screen cage because the signal poles do not provide adequate interior space to house equipment.

Ms. McCammon asked if the equipment enclosure could be placed in a less obtrusive location or use a faux saguaro instead of locating on the light pole.

Ms. Lagarde reiterated the fact that NewPath works with the community to find the most appropriate solutions. However, the City has given direction that where available existing verticality is to be used. NewPath would not be in favor of a faux saguaro at this location because it would affect the calculations. If possible the ground equipment can be vaulted.

Ms. Lagarde noted that NewPath was in contact with the McDowell Mountain Ranch Homeowners Association and because of conflicting interests within the community they have chosen to take a neutral position.

Board Member Gerster agreed that existing verticality should be used in this location rather than a faux saguaro. He asked if it would be possible to create a screen wall that would hide the ground equipment. Ms. Lagarde noted that the equipment is screened with a mesh box and that if needed NewPath is willing to provide additional landscaping.

In response to a suggestion by Board Member Jones, Ms. Lagarde agreed that the equipment enclosure could be moved closer to the other equipment boxes on the same corner and landscaping provided.

Board Member Ortega noted that the biggest visual problem with utility boxes is the silver and white stoplight control boxes. All utility boxes should be painted to fit within the context of their surroundings. He warned that vaulting ground equipment could present service reliability issues, which is an important consideration because many people have eliminated landlines and rely solely on their cellular phones; equipment should be housed in a reliable, sustainable structure.

Mr. Hadder clarified that the stoplight control boxes are not available in alternate colors because the bright colors protect the equipment from the summer heat. The Planning Department has been working with the Traffic Department for several years to find a solution to the problem of unsightly utility boxes.

BOARD MEMBER ORTEGA MOVED TO APPROVE 74-DR-2008, NEWPATH NETWORKS, LLC (H321-03) 10497 E. MCDOWELL MTN. RANCH RD. BOARD MEMBER BRANTNER SECONDED THE MOTION.

Board Member Gerster asked that a stipulation be included requiring the ground equipment to be moved. Board Member Ortega noted that the ability to shift the location of ground equipment is a standard stipulation. Mr. Niederer noted that further review indicated several ground conflicts that would prevent the mechanical equipment from being moved.

THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

5. 75-DR-2008 NewPath Networks, LLC (H322-01) 10609 E. Paradise Lane

Mr. Niederer reviewed the request which was for location on an existing light pole at the corner of Morning Star and Paradise Lane near a community park and single family homes. He confirmed that the McDowell Mountain Ranch community association requested that a faux saguaro be located to the southeast quadrant of the cul-de-sac, away from existing homes. NewPath has indicated that a faux saguaro would not provide the height necessary for that location. An alternate option would be to relocate the streetlight pole to the opposite side of the cul-de-sac; however, relocation would require analysis from the streets and street lighting division. Mechanical equipment will be located within the streetlight pole and any additional carriers' equipment would be located in a four-foot faux cactus

Ms. McCammon requested that the item be continued to the November meeting so the community can consider the accurate location because the community members were told the location had been changed to meet the HOA's request.

In response to a question by Board Member Jones, Ms. Lagarde explained that when necessary the four-foot cactus would house additional mechanical equipment that would be required in the event of four to six carriers.

Ms. Lagarde noted that NewPath would be agreeable to moving the light pole or installing a stealth canister, but is unable to use the faux cactus because of height requirements for this location.

Mr. Neiderer explained that the four-foot faux cactus has not been seen by the Board previously because it will be part of future applications as an alternative to vaulting when additional carriers are added.

Board Member Jones commented that he would be in favor of moving the streetlight. If it cannot be moved he would not be in favor of installing an additional pole or a faux saguaro because existing verticality is available.

Board Member Gerster suggested that the installation be placed near the park because it would be out of the right-of-way and away from homes. Ms. Lagarde noted that the community did not want the installation on community property. Neighbors to the north objected to using the streetlight pole in the park parking lot.

BOARD MEMBER BRANTNER MOVED TO APPROVE 75-DR-2008, NEWPATH NETWORKS, LLC (H322-01) 10609 E. PARADISE LANE, WITH A STRONG RECOMMENDATION THAT THE STREETLIGHT BE RELOCATED TO THE END OF THE CUL-DE-SAC. VICE-CHAIRMAN EDWARDS SECONDED THE MOTION.

Board Member Ortega expressed concern about suggesting streetlight relocation before lighting studies are conducted. Moving the streetlight could adversely affect other members of the community. Existing verticality should be used where it is currently. Mr. Niederer strongly doubted that the Streets Department would allow the streetlight to be moved. He was concerned that the Board was creating noticing conflicts.

Board Member Gerster argued that it is possible that the streetlight was placed in the current location because of its proximity to the electrical box. The motion was intended to suggest that the Traffic Department determine the location that will be most beneficial for the community.

THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ONE (1). BOARD MEMBER ORTEGA DISSENTED.

7. 80-DR-2008 NewPath Networks, LLC (H137-02) E. Texas Sage Ln. & N. 105th St.

Mr. Niederer reviewed the request, noting an error in the site location on the map. He noted that the original location and device were changed as a result of neighborhood concerns.

Ms. McCammon noted that the community was not given the proper site coordinates. She commented that even though her community association was taking a neutral position they were negotiating with NewPath and in some cases inaccurate information was being distributed to the community.

Board Member Jones felt using the existing streetlight would be more appropriate for the neighborhood than installing a faux cactus. Mr. Niederer noted that the item was posted as a faux cactus and changing to the streetlight would require renotification.

Ms. McCammon noted that her community group was in favor of the faux saguaro. The community's concern is with the conflicting information.

Commissioner Steinke stressed the importance of providing the community with accurate information. Ms. Lagarde argued that accurate information is contained within the submittals that are posted on the website well in advance of the hearings.

BOARD MEMBER BRANTNER MOVED TO APPROVE 80-DR-2008, NEWPATH NETWORKS, LLC (H137-02) E. TEXAS SAGE LN. & N. 105TH ST., WITH THE STIPULATION THAT THE EQUIPMENT BE INSTALLED ON THE EXISTING STREETLIGHT AT THE ORIGINAL LOCATION AND THAT STAFF CAN DO A STAFF APPROVAL AT THE LOCATION ON THE SOUTHWEST CORNER OF THE INTERSECTION. BOARD MEMBER JONES SECONDED THE MOTION.

Mr. Padilla recommended continuing the item to allow time to notify the community of potential location and device changes.

BOARD MEMBER BRANTNER MODIFIED HIS MOTION TO CONTINUE 80-DR-2008, NEWPATH NETWORKS, LLC (H137-02) E. TEXAS SAGE LN. & N. 105TH ST., TO THE NEXT DEVELOPMENT REVIEW BOARD MEETING AND/OR IF THE APPLICATION IS PREPARED PRIOR TO THAT DATE STAFF HAS AUTHORITY TO APPROVE THE APPLICATION. SECONDED BY BOARD MEMBER JONES, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ONE (1). BOARD MEMBER GERSTER DISSENTED.

8. 81-DR-2008 NewPath Networks, LLC (H134-02) E. McDowell Mtn. Ranch Rd. & N. 102nd Pl.

Mr. Niederer reviewed the proposal for a wireless node to be located on a traffic signal at the southeast corner of McDowell Mountain Ranch and 102nd Place. A six-foot tall antenna will be installed for the first two carriers with the capability of adding additional flush mounted antennas underneath the luminary arm. Ground equipment for up to six carriers can be contained within the associated ground equipment box.

Ms. McCammon expressed concern about the aesthetics of the device and potential health issues because of its proximity to a school. She requested that the ground equipment be located inside a faux cactus or concealed with landscaping. Ms. Lagarde agreed that the ground equipment could be located within a faux saguaro. Mr. Garcia noted that individual radios are approximately 36 inches high and the four-foot faux saguaros would be capable of concealing equipment for two carriers. Ms. Lagarde said a barrel cactus option is available and can be presented to the Board during a study session.

In response to a question by Board Member Jones, Mr. Garcia explained that in certain locations, including flood zones, retaining walls are required to block water runoff. Where a Saguaro installation is used a wall is not necessary.

Board Member Ortega suggested that a generic stipulation be created to allow retroactive installation of the smaller saguaros to house ground equipment as an enhancement for previously approved cases.

BOARD MEMBER ORTEGA MOVED TO APPROVE 81-DR-2008 WITH A STIPULATION TO ALLOW THE SMALL SAGUARO GROUND EQUIPMENT CONCEALMENT. SECONDED BY BOARD MEMBER BRANTNER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

10. 116-DR-2009 NewPath Networks (H570-01) N. 102nd St. South of E. Pine Valley Rd.

Mr. Niederer noted that the initial request was to utilize the existing street light pole. The adjacent property owner objected to installing on the streetlight in front of his home. It was agreed to use an alternative concealment canister device located towards the dead-end portion of 102nd Street.

Mr. Ray Napoletano spoke representing homeowners in the cul-de-sac around 102nd Street. He noted that the community requested that NewPath consider an alternate site outside of the neighborhood, possibly on nearby Scottsdale School District property. NewPath indicated that negotiating with the School District would take too long. He asked that the neighborhood be provided with information regarding potential effect of construction on the community.

Mr. Brian Sawyer, homeowner adjacent to the originally proposed streetlight, requested that the item be continued in order to provide an opportunity for further location negotiation. He suggested that ball field lighting near the school would be a viable option.

Mr. Garcia explained that negotiating with the School District would be the same process as negotiating with an HOA or any other organization. He clarified that ball field lighting was not positioned properly to serve the interests of 102nd Street.

Board Member Brantner reiterated the importance of utilizing existing verticality where possible.

BOARD MEMBER BRANTNER MOVED TO CONTINUE 116-DR-2009, NEWPATH NETWORKS (H570-01) N. 102ND ST. SOUTH OF E. PINE VALLEY RD., SO THE APPLICANT CAN SUBMIT AN AMENDED APPLICATION FOR LOCATION ON THE EXISTING STREETLIGHT, WITH THE STIPULATION THAT STAFF HAS THE ABILITY TO APPROVE THE APPLICATION. BOARD MEMBER ORTEGA SECONDED THE MOTION.

Board Member Ortega felt the existing light pole would be the most appropriate location. He stressed the importance of not being duplicitous, primarily because of potential precedent that could be set for future wireless installers.

Commissioner Steinke agreed that the existing verticality should be used wherever possible. He suggested that the public be better educated on the differences between private property, City owned property, and right-of-way.

THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

12. 115-DR-2009 NewPath Networks (K692-01) E. Mountain View Rd. & N. 128th St.

Mr. Carr noted that the faux cactus installation would house all equipment with the exception of the battery vault and the disconnect switch. Ms. Lagarde recalled the earlier speaker and agreed to a stipulation to move the installation as far to the west as possible.

BOARD MEMBER BRANTNER MOVED TO APROVE 115-DR-2009, NEWPATH NETWORKS (K692-01) E. MOUNTAIN VIEW RD. & N. 128TH ST. WITH A STIPULATION THAT THE FAUX CACTUS BE MOVED AS FAR TO THE WEST AS POSSIBLE. SECONDED BY VICE-CHAIRMAN EDWARDS, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

19. 57-DR- 2009 NewPath Networks (H087-01) 10032 E. Pinnacle Peak Rd.

Councilwoman Klapp noted a request for continuance to the November 5th meeting.

BOARD MEMBER BRANTNER MOVED TO CONTINUE 57-DR-2009, NEWPATH NETWORKS (H087-01) 10032 E. PINNACLE PEAK RD., TO THE NOVEMBER 5, 2009 DEVELOPMETN REVIEW BOARD MEETING. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

20. 98-DR-2009 RnR Restaurant

Mr. Carr reviewed the case history, recalling previous Board Member comments. He reviewed the elevations, which were revised based on Board comments as well as comments of members of the Old Town Merchants Association. Comments from the Old Town Merchants Association resulted in a more rustic character.

Ms. Lois Fitch represented the Old Town Merchants Association. She complimented the Applicant on their willingness to listen and work together to meet the needs and concerns of the Downtown Merchants.

In response to a question by Board Member Jones, Mr. Cox explained that column enhancement would be approximately 18 to 20 inch diameter Douglas fir.

Mr. Berry noted that the owners of the businesses to the east have had their concerns addressed and are now in support of the project.

Board Member Ortega suggested that the wooden columns terminate at the handrail of the second story patio. As proposed the pillars have too much height variation and would obstruct the balcony. He suggested alternate verbiage ideas for the City of Scottsdale narrative on Second Street. He mentioned that although the signage has been incorporated as part of the elevations it is subject to Ordinance regulations.

Mr. Berry concurred with the suggestion of stopping the wooden pillars at the handrail. He hoped that staff would take into account that the Development Review Board directed the addition of signage as part of the design and elevations.

BOARD MEMBER BRANTNER MOVED TO APPROVE 98-DR-2009, RnR RESTAURANT, WITH THE STIPULATION THAT THE COLUMNS BE TERMINATED AT THE BALCONY HANDRAIL, THAT THE VERBIAGE ON THE SECOND STREET NARRATIVE BE RECONSIDERED, AND THAT STAFF GIVE THE RnR SIGNAGE FAVORABLE CONSIDERATION. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

Board Member Brantner suggested that staff look at the property on the northwest corner of Mountain View and Scottsdale Road that was just repainted without City approval.

ADJOURNMENT

With no further business to discuss, the regular session of the Development Review Board adjourned at 3:17 p.m.

Respectfully submitted,
A/V Tronics, Inc. DBA AVTranz.