



**SCOTTSDALE PLANNING COMMISSION  
KIVA-CITY HALL  
3939 DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA**

**WEDNESDAY, MAY 27, 2009**

**MEETING MINUTES**

**PRESENT:** Michael D'Andrea, Chairman  
Steven Steinke, Vice Chairman  
Erik Filsinger, Commissioner  
Ed Grant, Commissioner  
Kevin O'Neill, Commissioner  
Jason Ottman, Commissioner  
Michael Schmitt, Commissioner

**STAFF:** Greg Bloemberg  
Brad Carr  
Hank Epstein  
Lusia Galav  
Jesus Murillo  
Connie Padian  
Erin Perrault  
Sherry Scott  
Dan Symer  
Carrie Wilhelme

**CALL TO ORDER**

Chairman D'Andrea called the regular session of the Scottsdale Planning Commission to order at 5:01 p.m.

**ROLL CALL**

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

## **MINUTES REVIEW AND APPROVAL**

1. May 13, 2009 Regular Meeting Minutes including Study Session

Commissioner Grant noted that on page four, second to last paragraph, Ms. Judy Frost was representing the Windy Walk board of directors. Commissioner Ottman pointed out that the 13<sup>th</sup> was Wednesday, not Thursday.

**COMMISSIONER O'NEILL MOVED TO APPROVE THE MAY 13, 2009 PLANNING COMMISSION MINUTES AS AMENDED, INCLUDING THE STUDY SESSION. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

## **EXPEDITED AGENDA**

2. 32-UP-2008 McCormick-Stillman Railroad Park

Request by City of Scottsdale for approval of an amended Municipal Use Master Site Plan for the McCormick-Stillman Railroad Park on a 26.94 +/- acre parcel located at 7301 E. Indian Bend Rd. with Open Space (O-S) zoning.

3. 15-UP-2009 McCormick-Stillman Railroad Park

Request by City of Scottsdale for a Conditional Use Permit for a Specialty Park and Municipal Uses on a 26.94 +/- acre parcel for an existing park, water storage, pump site, and police substation located at 7301 E. Indian Bend Rd. with Open Space (O-S) zoning.

**COMMISSIONER O'NEILL MOVED TO APPROVE 32-UP-2008 AND 15-UP-2009. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

## **REGULAR AGENDA**

4. 3-ZN-2009/1-HP-2009

Request by City of Scottsdale to rezone from Open Space District (O-S) to Open Space District/Historic Property (O-S HP) on .07 +/- acres of the McCormick-Stillman Railroad Park located at 7301 E. Indian Bend Road.

Mr. Meserve reviewed the history of the case, which was initiated by the Historic Preservation Commission in January. The proposal is to place HP overlay on the Roald Amundsen Pullman Car located at the McCormick-Stillman Railroad Park and to include an approximate 10-foot buffer around the car. Criteria requirements that were met include embodying design characteristics of type, period, or method of construction and being associated with significant events.

In response to a question by Commissioner Ottman, Ms. Scott explained that the purpose section of the HP Ordinance states that the purpose is to protect, enhance, and preserve improvements and landscape features of historical resources which represent distinctive elements of the City's cultural, educational, social, economic,

political, architectural, and archeological history. She felt that designation of the Pullman Car would be appropriate if looking at the technical terms of the HP Overlay. Mr. Meserve further explained that although the Pullman Car designation is unique, the HP overlay map amendment mechanism used in Scottsdale is comparable with other historic preservation programs. Commissioner Ottman expressed concern that because the locomotive is a movable object, designation would set precedent for other items such as cars. Mr. Meserve noted that only objects that are immobile, such as those in a museum, are eligible for designation; cars, boats, and planes that are currently operational would not qualify. The Pullman Car was donated to the City of Scottsdale in the '70s and has been in its current location for 35 years.

Commissioner O'Neill commented that he was supportive of the designation; however, he wanted to ensure that giving real estate zoning was the most appropriate method to use in order to reach the intended result of designating the Roald Amundsen Pullman Car. He suggested that the luggage car, tinder car, and locomotive could be considered in conjunction to the Pullman Car. He asked for clarification on the significance of the Pullman Car. Ms. Scott confirmed that the criteria required that the object have historical significance to the City of Scottsdale or to the United States and that it be located in Scottsdale. Mr. Meserve stressed that HP Overlay zoning has an additional step because it requires review by the Historic Preservation Commission in addition to the Planning Commission and City Council. An overlay does not affect the underlying zoning. The Historic Preservation Commission does have interest in additional resources within the Railroad Park; however, because of its significance, the Roald Amundsen Pullman Car should be designated individually.

Mr. Meserve took the opportunity to thank Mr. Bob Adler for his efforts in getting the Roald Amundsen Pullman Car placed on the National Register.

In response to a question by Vice-Chairman Steinke, Mr. Meserve confirmed that the Ordinance requires that an HP Overlay map amendment have a legal description and a fixed location.

Chairman D'Andrea asked what impact designation would have on the property versus the Car itself. Ms. Scott confirmed that the overlay district attaches to both the land and the structure; no building, permanent sign, or structure shall be erected, demolished, or moved without going through the process as detailed in the HP Overlay.

Chairman D'Andrea felt that HP Overlay zoning would be positive because it provides assurance that the Roald Amundsen Pullman Car will stay in the City of Scottsdale.

**COMMISSIONER GRANT MOVED TO APPROVE 3-ZN-2009/1-HP-2009, THE ROALD AMUNDSEN PULLMAN CAR HP OVERLAY ZONING. SECONDED BY COMMISSIONER SCHMITT, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ONE (1). COMMISSIONER OTTMAN DISSENTED.**

5. 2-ZN-2009 Main Street Rezoning

Request by applicant to rezone from Multiple-Family Residential District/Downtown Overlay (R-5/DO) to Central Business District/Downtown Overlay (C-2/DO) on a 13,039+/-square foot parcel located at 6915 and 6921 E. Main Street.

Mr. Carr presented the site plan and context aerial, explaining that the parking lot parcel to the east would be included as part of the rezoning. The two parcels are currently zoned R-5 DO and are surrounded by C-2 DO zoning. The project will include ground-level galleries, a living unit, 3,000 square feet of open space, and a three-car garage in addition to the three required parking spaces.

Mr. Gawf reviewed the request, emphasizing that the mixed use was consistent with the draft Downtown Plan update. Because of the burden placed on small businesses, he requested that stipulation one be modified to allow any significant changes be reviewed by the Development Review Board instead of being required to go through the Planning Commission, City Council process.

Commissioner O'Neill agreed that the process could be arduous for small developments, but felt that it was important to ensure that the development remained mixed use. Mr. Gawf noted that the owner was willing to stipulate to mixed use. He suggested that policies and procedures relating to small developments be included in the discussion of the Downtown Plan implementation.

In response to a question by Commissioner Ottman, Ms. Galav explained that there is not a working set of criteria in place that determines what would be considered a significant change triggering a review; the Zoning Administrator makes a determination of whether or not conceptual site plan changes are significant.

Vice-Chairman Steinke applauded the fact that both the Applicant and staff had acknowledged the draft Downtown Plan as part of the process. He felt that adjusting conceptual site plan process to accommodate a project would be set precedent. The stipulation allows a lot of latitude as it is currently written and there is no reason to make a change to allow DRB review.

Commissioner Grant commented that the project would be an asset to the Downtown. He agreed that changing the stipulation was unnecessary because the Zoning Administrator would require review only if changes were very significant.

Commissioner Schmitt commented that a conceptual site plan conveys the intent of the architect and the Zoning Administrator will make a fair determination of whether the intent of the plan is being executed.

In response to questions by Commissioner Schmitt, Mr. Gawf explained that the parking lot is owned by Mr. Murphy and is being included in the rezoning at the request of staff in order to unify the entire area under one zoning. He explained that the PUD Ordinance was not considered primarily because of the burden it places on small projects.

Chairman D'Andrea noted understanding of the reason behind the requested change in the stipulation and the need for flexibility for small projects; however, changing the

stipulation would be precedent setting. Because the development is being zoned commercial, the stipulation is reasonable and the Zoning Administrator will make a fair evaluation of any forthcoming changes.

**COMMISSIONER FILSINGER MOVED TO APPROVE 2-ZN-2009, MAIN STREET REZONING. COMMISSIONER O'NEILL SECONDED THE MOTION.**

In response to a question by Commissioner O'Neill, Mr. Gawf clarified that no changes to the site plan are anticipated. The stipulation request was strictly based on consideration of procedure.

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

6. 7-AB-2007 Troon Highlands Estates

Request by applicant for approval to abandon: 1) those portions of N. 119<sup>th</sup> Way, E. Casitas Del Rio Drive, E. La Posada Circle, N. 118<sup>th</sup> Way, and E. Calle de Valle Drive, located within the Troon Highlands Estates subdivision, with Single-Family Residential District, Hillside District (R1-18/HD) zoning; 2) to abandon the varying thirty (30) to fifty (50) feet of E. Paraiso Drive right-of-way located between N. 122<sup>nd</sup> Street and N. 124<sup>th</sup> Street; 3) to abandon the 15-foot N. 122<sup>nd</sup> Street half-street right-of-way extending 125 feet south from the N. 122<sup>nd</sup> Street and E. Paraiso Drive intersection: and 4) to abandon the 20-foot N. 124<sup>th</sup> Street right of-way extending 40 feet south from the N. 124<sup>th</sup> Street and E. Paraiso Drive intersection with Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning.

Mr. Murillo reviewed the request and the key items for consideration. He noted that the McDowell Sonoran access report indicates a need for access from a minor collector or greater; the streets that meet criteria according to the Transportation Master Plan are 128<sup>th</sup> Street going north/south and Happy Valley Road going east/west. Vehicular access into the Preserve is being proposed along East Ranch Gate Road which turns into Happy Valley Road, south onto 128<sup>th</sup> Street, and east onto Paraiso Drive. Pedestrian access will be available through Tom's Thumb Trail, designated trails available within Troon Highlands Estates and along the frontage of Estates at Miramonte. A map depicting previous abandonments in the area showed several roadways and public utility easements that are available for access in the Preserve. The Preservation Department is supportive of the proposal because they feel that the gate would block any off-road access to unauthorized vehicles. The Preservation Department has itself proposed placing a gate east of the proposed area. As part of an approval the Applicant would be required to replat the subdivision to include those portions of East Paraiso Drive into their subdivision, and a document must be signed and notarized indicating that Troon Highlands Estates will be responsible for maintenance of the abandoned portions.

Commissioner Filsinger felt there were two important issues to consider: The impacts the proposed abandonment would have on the Preserve and the impacts it would have on the neighborhood and the surrounding neighborhoods. He agreed that the majority of what staff presented regarding the Preserve was accurate and that the proposal would make Preserve management easier. Philosophically, he felt

that access should be kept open because the Preserve belongs to the citizens and in addition to being preserved should be available for education and public use. Layering the outside of the Preserve with gated communities sends a negative message to the public. He noted that information from County Assessor records indicate that the parcel surrounding El Paraiso east of the project is part of the Preserve. He confirmed that in recent years there has been an increase in traffic and dangerous activities in the neighborhood, which is an issue that needs to be addressed. Neighboring communities have expressed concern about possible increased traffic in their neighborhoods if the request is approved.

Commissioner Filsinger felt there was an overriding public concern about keeping public roads public and private roads private. He asked the Commission and staff to consider providing a gate to close off the Preserve to motor vehicle traffic at 124<sup>th</sup> Street as an alternative solution. Another solution would be if the Applicant would agree to keep the gate open for daytime access.

Mr. Ken Dirks, Applicant, stressed that the primary concern was with safety and traffic. The neighborhood has seen a significant increase in traffic since the opening of the trailhead and with the pending 300-car parking lot, they fear traffic will continue to increase. Permitting the proposed gate will force traffic to use the preferred route.

Mr. Luke Taylor was supportive of the abandonments and the gate. He felt that a gate would provide security for the neighborhood and would diminish traffic. He highlighted the problems that have been seen with speeding cars and skateboarders.

Mr. Shawn Murphy spoke in support of the abandonments and the gates. He noted that he was not originally in support of the plan; however, increased use of the Preserve has brought not only traffic safety issues but also nuisance problems in the more secluded areas. He noted that the community has considered the suggestion of placing a gate at 124<sup>th</sup> Street in the past but rejected the idea because it would create a situation where people would park at the end of the street and start hiking from that point. The plan has been carefully thought out and would resolve more problems than would be created.

Mr. Glenn Bassett, representing the Troon Highland Estates HOA, spoke in favor of the request. He echoed concerns about traffic and safety. He would be supportive of opening the gate during the day if it were closed during the early evenings so that residents could enjoy being outside.

Mr. Matt Kalina felt granting the abandonments and allowing a gate to be installed would limit access to those people who use the Preserve but do not live in the area. No overwhelming evidence exists that closure would result in a larger public good.

Ms. Rochelle Gatt lives in the neighborhood north of Highland Estates and spoke in opposition to the request. She expressed concern about traffic backing up at the gate entrance and creating additional traffic on 119<sup>th</sup> Way, which is a very narrow street. She presented a petition signed by seven of the eight homeowners to the north of 119<sup>th</sup> Way.

Mr. Dirks agreed that the gate could be opened in the morning to allow access. To avoid backup of traffic in the early mornings, contractors could be given the gate

code. He argued that access to the Preserve would not be blocked because Ranch Gate and 128<sup>th</sup> Street would remain available.

In response to a question by Commissioner O'Neill, Mr. Cafarella explained that the parking garage would be built for less than 250 and would initially only accommodate 100 vehicles. Lost Dog Trailhead had an estimated 39,000 users last year. It is assumed that the recently opened Gateway will become the access point of choice because of the amenities that are offered.

In response to a question by Commissioner Ottman, Mr. Murillo explained that traffic mitigation had not been part of the consideration. The two small subdivisions to the north indicated that they would be interested in gating their communities as well. The Applicants said that if 119<sup>th</sup> Street were gated they would still want to gate their community. Commissioner Ottman expressed concern about the 119<sup>th</sup> Way access point meeting turnaround and stacking requirements.

Mr. Phil Kercher from the Transportation Department clarified that although a neighborhood traffic mitigation program is available, the neighborhood did not apply for mitigation and would more than likely not meet the strict criteria. He noted that the basic standard requirement for queuing distance is 75 feet.

In response to questions by Vice-Chairman Steinke, Mr. Cafarella highlighted problems that have been seen by the community in addition to traffic dangers. The areas indicated on the planned access area map were originally approved in 1993 and updated in 1999. The study determined the areas that would be the least damaging and intrusive to the area, which continues to be recommended. Vice-Chairman Steinke acknowledged that Mr. Cafarella responded to several of his questions prior to the meeting.

Chairman D'Andrea inquired whether the intention of the gate installation was to detour traffic to a secondary Preserve entrance. Mr. Cafarella reviewed the original access points, noting that Ranch Gate Road will remain the preferred access point from the west. He stressed the importance of preventing access off of El Paraiso, adding that if the request were to be denied, the City would need to front the cost of blocking access points along that street.

In response to a question by Commissioner O'Neill, Mr. Kercher reviewed basic criteria to qualify for traffic calming measures. He explained that the City does not consider installing a gate a traffic calming measure. He noted that once communities are gated, the police department no longer conducts patrols.

Mr. Shawn Murphy commented that the use of signage would not control problems because many people choose to disregard signs. He discussed problems that he has encountered with people partying in the area and head-on collisions caused because one area of Paraiso has blind areas in both directions. He felt that in order to protect the Preserve a level of control needs to be attained.

Commissioner Schmitt commented that it is unfair to make subdivisions solve a problem that is the responsibility of the City. Behavior patterns and traffic patterns are projected to be established within a three-year time period, at which time the gates would be unnecessary. He was not in favor of supporting gating a community

and privatizing public streets when another means of access to the Preserve has not yet been fully developed.

Commissioner Ottman expressed concern about opening a trailhead without ensuring that proper access is available.

Commissioner Filsinger suggested that the City put a gate near El Paraiso, which he felt would alleviate concerns about traffic through the neighborhood. Mr. Dirk argued that a gate would block access to Mr. Murphy's home.

**COMMISSIONER GRANT MOVED TO DENY 7-AB-2007, TROON HIGHLANDS ESTATES ABANDONMENT. COMMISSIONER SCHMITT SECONDED THE MOTION.**

Commissioner O'Neill noted that he was in the unusual position of being unsure of his position on the case. He did not feel that any of the proposed solutions would be appropriate. Ms. Scott indicated that he was not permitted to abstain from the vote based on an inability to make a decision. Commissioner O'Neill indicated that he would be supportive of a continuance but would be opposed to denial.

Mr. Dirks indicated a preference for continuance.

**COMMISSIONER GRANT WITHDREW HIS MOTION.**

**COMMISSIONER GRANT MOVED TO CONTINUE CASE 7-AB-2007, TROON HIGHLANDS ESTATES ABANDONMENT.**

Commissioner Filsinger inquired what would be accomplished by granting a continuance. Commissioner Grant suggested that the Applicant work with the Transportation Department to explore alternate solutions.

Commissioner Schmitt indicated an interest in finding a solution that would continue to allow public access to the trail.

Vice-Chairman Steinke noted that the application is for a gated community and the trail access is a separate issue. The City has already planned a gate and timelines should be determined regarding the City's plans for Preserve access. Alternatives should be explored during the continuance period and if nothing is determined the Commission should consider the application for a gated community. He commented that the neighborhood has been patient, waiting ten years for a solution.

Chairman D'Andrea suggested exploring a phasing plan in diagrammatic fashion. Graphically depicting the traffic flows at key points that have been discussed would help the Commission to better understand where the real issues lie.

Ms. Galav recommended continuing to a date determined. Discussion was held regarding the most appropriate date to determine for the item to return.

**COMMISSIONER GRANT AMENDED HIS MOTION TO CONTINUE CASE 7-AB-2007, TROON HIGHLANDS ESTATES ABANDONMENT, TO THE JULY 8, 2009 PLANNING COMMISSION MEETING. SECONDED BY COMMISSIONER**

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

7. 276-PA-2009 Text Amendment for Health and Fitness Studios

Request to initiate a zoning text amendment to Article III (Definitions; General) for health Studio and Fitness Studio; review the Use Permit requirement for Health Studios in Article V (District Regulations, various zoning districts); and to consider changing the "gymnasium" use in the I-1 District to fitness studio.

Mr. Bloemberg noted that an initiation would allow for consideration of amending the definitions of health studio and fitness studio and explore the possibility of creating a single term. He reviewed the primary goals and objectives of an initiation and stressed that the hope is to relax, not eliminate, the use permit requirement.

Commissioner O'Neill commented that it would be important to be as broad as possible when creating a definition, including facilities such as rock gyms, batting cages, golf training facilities, et cetera.

Commissioner Ottman agreed, noting that efforts should be made to create an ordinance that will assist businesses in being successful.

Chairman D'Andrea agreed that it would be beneficial allow many different uses to fit into the health and fitness category.

**COMMISSIONER O'NEILL MOVED TO RECOMMEND INITIATION OF 276-PA-2009, TEXT AMENDMENT FOR HEALTH AND FITNESS STUDIOS. SECONDED BY VICE-CHAIRMAN STEINKE, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

8. 283-PA-2009 Text Amendment to Temporary Fencing and Signage

Request to initiate a zoning text amendment to section and sub-sections 7.706 and sections of Article VIII Sign Requirements of the City of Scottsdale Zoning Ordinance (455).

Mr. Symer reviewed the history of the temporary fencing and signage text. The original text amendment was made because of the variety of fencing and signage that was being used and the lack of maintenance. During the process it was the opinion of the City Council, Planning Commission, and the Community that allowing lifestyle images on fencing was undesirable. Currently, solid color fencing and contractor signage can be staff approved.

Chairman D'Andrea explained that he requested consideration of initiation of a text amendment that would allow lifestyle images because it was important to the development community to have the opportunity to provide clean, safe, high-quality temporary fencing that would serve both the developer and the community. Allowing the Development Review Board to review the quality would ensure fencing is contextually appropriate.

Vice-Chairman Steinke recalled being involved with the original temporary fencing and signage discussion. The intent at that time was to gain control of the type of fencing and materials used in a way that would be manageable by Code Enforcement. Introducing lifestyle graphics to the language could potentially be in direct conflict with the City sign ordinances, creating new issues with permitting in addition to creating an additional burden for the Development Review Board.

Commissioner Schmitt observed that the issue of lifestyle graphics on temporary fencing was similar to the discussion regarding the screen graphics discussed in correlation to the Scottsdale Quarter project, which was focused on ensuring that the graphics were not advertisements. He noted that he would be supportive of permitting upgraded temporary fencing provided the graphics were not a billboard for the project.

In response to a question by Commissioner Ottman, Ms. Galav noted that the original process took approximately 18 months to complete. An amendment would require open houses and preparation of text, which would take until at least the fall of 2009 to complete.

Commissioner Filsinger inquired why staff did not recommend initiation. Ms. Galav reiterated that the open houses that were conducted during the original text amendment indicated opposition by City Council, Planning Commission, and the public to the use of lifestyle graphics.

There was no motion made for initiation.

### **ADJOURNMENT**

With no further business to discuss, the regular session of the Planning Commission adjourned at 7:59 p.m.

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