



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

**THURSDAY, JUNE 10, 2009**

**MEETING MINUTES**

**PRESENT:** Michael D'Andrea, Chairman  
Steven Steinke, Vice Chairman  
Michael Schmitt, Commissioner (arrived 5:13)  
Kevin O'Neill, Commissioner  
Ed Grant, Commissioner  
Jason Ottman, Commissioner

**ABSENT:** Erik Filsinger, Commissioner

**STAFF:** Tim Curtis  
Sherry Scott  
Erin Perrault  
Connie Padian  
Brad Carr  
Louisa Garbo  
Edmond Lamperez

**CALL TO ORDER**

Chairman D'Andrea called the regular session of the Scottsdale Planning Commission to order at 5:03 p.m.

Mr. Curtis noted that there were no updates unrelated to the agenda.

**ROLL CALL**

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

**MINUTES REVIEW AND APPROVAL**

1. May 27, 2009 Regular Meeting Minutes including Study Session

**VICE-CHAIRMAN STEINKE MOVED TO APPROVE THE MAY 27, 2009 PLANNING COMMISSION MINUTES INCLUDING THE STUDY SESSION. SECONDED BY COMMISSIONER O'NEILL, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FIVE (5) TO ZERO (0). COMMISSIONER SCHMITT NOT YET PRESENT.**

**EXPEDITED AGENDA**

2. 12-UP-1984#2 707 Automotive

Request by applicant for an amendment to an existing Conditional Use Permit for automotive sales, leasing, and rental to allow for automotive repair on a 42,850 +/- square foot parcel located at 707 N. Scottsdale Road with Highway Commercial District (C-3) zoning.

3. 11-UP-2009 Hangar 5 LLC

Request by applicant for a Conditional Use Permit for an off-airport heliport on a 1+/- acre parcel located at 16114 N. 81<sup>st</sup> Street with Industrial Park District (I-1) zoning.

Vice-Chairman Steinke noted appreciation for the fact that the FAA approval was obtained prior to being heard for a use permit.

4. 13-UP-2009 Lexis Preparatory School

Request by applicant for a Conditional Use Permit for a private and charter school on a 1.2+/- acre parcel located at 16117 N. 76<sup>th</sup> Street with Industrial Park District (I-1) zoning.

Vice-Chairman Steinke commented that as the Airpark Area Plan moves forward it will be important to gain input on traditional uses in the area.

5. 1-UP-2009 Howl at the Moon

Request by applicant for an amendment to an existing Conditional Use Permit for Live Entertainment on a 8,712 +/-square foot parcel located at 7419 E. Indian Plaza Drive with Highway Commercial, Parking District, Downtown Overlay (C-3/P3/DO) zoning.

6. 16-UP-2009 Howl at the Moon

Request by applicant for a Conditional Use Permit for a bar on a 82,712+/- square foot parcel located at 7419 E. Indian Plaza Drive with Highway Commercial, Parking District, Downtown Overlay (C-3/P3/DO) zoning.

Mr. Jude Nau, general manager of the Best Western Sundial, requested that as part of the application, the City adopt a resolution to restrict parking on Minnezona Avenue between 73<sup>rd</sup> Street and 74<sup>th</sup> Street. He explained the problems being experienced particularly on Friday and Saturday nights between 10 p.m. and 2 a.m. He suggested parking solutions including resident-only permit parking or time-restrictive parking.

In response to a question by Chairman D'Andrea, Mr. Carr confirmed that the Applicant met all of the parking requirements and would not have a direct impact on the problems being experienced by the neighborhood. Chairman D'Andrea suggested that the issue might be more appropriately addressed by code enforcement and the police department.

Vice-Chairman Steinke commented on the use of the term "smoking patio" in the application. He suggested that on future applications where smoking patios are to be referenced that a stipulation be included clarifying that the area must meet state requirements.

**COMMISSIONER GRANT MOVED TO APPROVE 12-UP-1984#2, 707 AUTOMOTIVE, IT MEETS THE USE PERMIT REQUIREMENTS; 11-UP-2009, HANGAR 5 LLC, IT MEETS THE USE PERMIT REQUIREMENTS; 13-UP-2009, LEXIS PREPARATORY SCHOOL, IT MEETS THE USE PERMIT REQUIREMENTS; 1-UP-1998#3, HOWL AT THE MOON, IT MEETS THE USE PERMIT REQUIREMENTS; AND 16-UP-2009, HOWL AT THE MOON, IT MEETS THE USE PERMIT REQUIREMENTS. SECONDED BY VICE-CHAIRMAN STEINKE, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).**

### **REGULAR AGENDA**

7. Discussion and possible action on the appointment of two Planning Commission Subcommittees, consisting of two members each, for the Airpark Area Plan and for the Southern Area Community Plan.

Ms. Perrault reviewed timelines for the three active community area plans, noting that the Downtown Area Plan has been approved by City Council. Public release of both the Southern Scottsdale and Airpark area draft plans is scheduled for August. Planning Commission working sessions for both the Southern Scottsdale and the Airpark area plans will be scheduled between September and December. It is anticipated that the timeline might be adjusted pending the appointment of the City Council task force for the Southern Scottsdale Area plan. Open houses will be scheduled in the Southern Scottsdale area and road shows will be presented to well organized groups in both the Southern Scottsdale and Airpark areas. Another opportunity for Commissioner involvement will be available in connection with the 2011 General Plan update, which will begin in the fall of 2009.

Ms. Perrault noted that although an opportunity is available for the Planning Commission to appoint a subcommittee for each area plan, consideration of open meeting laws could have a potential detrimental impact on Commission involvement.

Discussion ensued regarding the legalities involved in forming subcommittees and the ways in which communication between Planning Commission members would be affected.

In response to questions by Commissioner O'Neill, Ms. Padian recalled that former Commissioner Schwartz's involvement with the Downtown Plan was informal. Individual Planning Commission members can be involved as private citizens with open houses, et cetera, without formal appointment.

Commissioner Schmitt commented that his preference would be to encourage individual Commissioners to attend area plan meetings at their own discretion and report informally to the Commission as they felt it was appropriate.

Commissioner O'Neill expressed interest in being copied on all correspondence, including staff meetings. Ms. Padian indicated that staff had not anticipated that level of involvement; it was assumed that workshops and open houses would be an opportune time for Commissioners to have discussions with staff. Because staff meets in some capacity regarding the area plans every day, Commissioner involvement in each meeting could be difficult.

Commissioner Grant clarified that his original intent was to provide an opportunity for Planning Commission to offer input by designating someone to participate in the process, not necessarily to interject the Commission into the project. Ms. Scott reiterated the ramifications involved with a formal subcommittee appointment. Ms. Padian reminded Commissioners that they are welcome to attend all open houses and road shows; staff will post the possibility of a quorum when appropriate.

Commissioner Steinke recalled quorum issues involved with attending meetings during the Downtown area plan. He felt that the formation of a subcommittee was not necessary and preferred the idea of allowing individual Commissioners to attend meetings informally.

In response to a question by Commissioner Grant, Ms. Scott confirmed that individual Commissioners are permitted to identify themselves as Planning Commission members when participating in public meetings; however, they cannot speak for the Commission as a whole. If multiple Commissioners are present, care should be exercised to avoid giving the appearance that Planning Commission business is being conducted.

Chairman D'Andrea felt the best option would be to keep Commissioner attendance of public meetings on an informal basis. Formation of a subcommittee would create quorum issues as well as create potential for perceived voting pattern issues, if the members voice opposing opinions.

In response to a question by Commissioner Ottman, Ms. Scott clarified that other than avoiding the appearance of impropriety, it is perfectly acceptable for more than four Commission members to attend any meeting as long as a notice of possible quorum is posted. Recent changes to the open meeting law Statue clarify that an open meeting law violation does not occur when a member of a

public body discusses an issue at a venue other than a meeting subject to the open meeting law, provided the opinion or discussion is not directed to another member of the public body and there is no plan to engage in collective deliberation.

Ms. Padian explained that because there is a workload associated with posting a possible quorum, it would be best to post only for those meetings where a quorum is anticipated. Staff takes it upon themselves to assume a possible quorum for certain meetings; however, it is best if Commissioners notify staff if they anticipate attendance. Road shows for groups such as the Rotary Club require invitation because staff will be doing a presentation at one of their regular meetings.

Commissioner O'Neill expressed interest in scheduling a work study meeting prior to the public release of the plans. Ms. Perrault noted that the plans could be presented during a work study meeting prior to the anticipated August public release date and the Commission would not be required to take public comment at that time. The plans would be released to the City Council simultaneously at the time of the first work study.

Chairman D'Andrea congratulated staff on a job well done with the PUD, Downtown Plan, and R-17 update, which were approved on June 9<sup>th</sup> by City Council.

### **ADJOURNMENT**

With no further business to discuss, the regular session of the Planning Commission adjourned at 5:52 p.m.

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