

**Summary Minutes
City of Sedona
Planning & Zoning Commission Meeting
City Council Chambers, 102 Roadrunner Drive, Sedona, AZ
Tuesday, September 6, 2016 - 5:30 p.m.**

1. VERIFICATION OF NOTICE

Chair Losoff verified that the meeting was properly noticed.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

The Chair called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and requested roll call.

Roll Call:

Planning & Zoning Commissioners Present: Chair Marty Losoff, Vice Chair Kathy Levin and Commissioners Randy Barcus, Avrum Cohen and Gerhard Mayer. Commissioner Eric Brandt was unexcused and Commissioner Larry Klein was excused.

Staff Present: Warren Campbell, Roxanne Holland, Audree Juhlin, Cari Meyer and Donna Puckett

3. ANNOUNCEMENTS & SUMMARY OF CURRENT EVENTS BY COMMISSIONERS & STAFF

There were no announcements.

4. APPROVAL OF THE FOLLOWING MINUTES:

- a. May 17, 2016 (R)
- b. June 7, 2016 (R)
- c. July 19, 2016 (SV)

Chair Losoff indicated that he would entertain individual motions to approve the minutes listed.

MOTION: *Vice Chair Levin so moved. Commissioner Barcus seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed. Commissioner Brandt was unexcused and Commissioner Klein was excused.*

MOTION: *Commissioner Barcus so moved. Vice Chair Levin seconded the motion. VOTE: Motion carried four (4) for, zero (0) opposed and one (1) abstention. Commissioner Brandt was unexcused and Commissioner Klein was excused.*

MOTION: *Commissioner Barcus so moved. Chair Losoff and Commissioners Cohen and Mayer indicated they abstained; therefore, the Chair indicated the minutes of July 19th would be placed on the next agenda.*

5. PUBLIC FORUM: (This is the time for the public to comment on matters not listed on the agenda. The Commission may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)

Chair Losoff opened the public forum and, having no requests to speak, closed the public forum.

6. CONSIDERATION OF THE FOLLOWING ITEMS THROUGH PUBLIC HEARING PROCEDURES:

- a. Discussion/possible action regarding a request for a Conditional Use Permit to operate an open air business (including outdoor entertainment) at 2575 State Route 89A (Vino di Sedona). A general description of the area affected includes but is not necessarily

limited to the area southwest of the intersection of State Route 89A and Andante Drive. The subject property is approximately 0.52 acres and C-2 (General Commercial). The subject property is also known as Assessor's Parcel Number 408-24-017. Applicant: Vino di Sedona/Wes and Rebecca Schemmer Case Number: PZ16-00005 (CUP)

Cari Meyer stated that this is a request for a Conditional Use Permit for what is considered to be an open-air business. It is for outdoor events and entertainment at an existing restaurant and wine bar. The Land Development Code allows restaurants to have outdoor seating, but anything more than outdoor dining requires a Conditional Use Permit. This specific business has been in operation for about two years, and there have been other similar businesses in the past, but as previously pointed out by Vice Chair Levin on Thursday, there have been some other businesses at the site in the past.

Cari indicated that this application does not change any occupancy numbers, which are limited by zoning requirements, such as parking, Building and Fire Codes, and occupancy as far as safe exiting, etc., so they have included their entire outdoor area, but they would not be able to use all of that until they meet all other regulations. They just would not have to come back to the Commission to get their permit amended if they are successful in meeting those requirements.

Cari noted that they have had a number of Temporary Use Permits approved for outdoor use on a one-time basis for each event, and this permit would allow them to have those events on a regular basis without having to come to the City each time. They also would not be subject to the limitations of a temporary use event, which is four times for the business and four times for additional fundraising events. This permit would allow them to have more regular events and to have music outside on a day-to-day basis.

Cari stated that during the work session on Thursday, the Chair had requested an expanded aerial, which was provided prior to the meeting. The business in question is the one on S.R. 89A and the patio is on the east side of the building with the hotel building behind it, and then the blue line to the left is just a distance measurement showing that it is over 200 ft. to the nearest residential properties. Staff checked with Code Enforcement and they received one complaint about 1½ years ago regarding some events, but they haven't received any complaints recently, and the business would still be subject to the same sound limitations as other commercial properties; this permit wouldn't change that.

Commission's Comments and Questions:

Commissioner Cohen asked if at no time there would be more than 65 people total at the restaurant, and Cari explained that is what their current Occupancy Permit allows, but it could be increased if they meet certain Building, Fire and Zoning Code regulations. The Commissioner then asked how it gets increased, and Cari explained that they would need to apply for an amended Occupancy Permit and show how they are meeting those conditions. The Building and Fire Codes are about exiting and ensuring a certain number of people can exit safely, and once you go above a certain number, you need a secondary exit, plus there are lighting requirements, so there would be inspections for that. Commissioner Cohen asked if they go beyond 65 people they have to come back, and Cari explained that they would not have to come back to the Commission; they would have to come back to the Community Development Department to have their Occupancy Permit amended. The Commissioner then commented that he wondered if it is worth all of this trouble for 65 people at a time, but that is not his business.

Commissioner Cohen stated that the Commission is being asked to approve a Conditional Use Permit and occupancy on the site would never exceed 65 people at any one time, unless they came back to the Development Department and asked of a revision, and Cari indicated that is right, but they wouldn't come back to the Commission. Staff's recommendation is for a three-year Conditional Use Permit, which is a little shorter than staff might typically recommend,

because we are unsure of the potential for increased occupancy and what that number would be, so they can take the next year and that will give staff time to determine if that additional number of people would have a greater impact than anticipated.

Commissioner Cohen indicated that it is a pretty large patio and asked why we are looking at a Conditional Use Permit for only 20 people. Cari repeated the explanation that it is what the Building and Fire Codes currently allow, and again indicated that they included their entire patio area, so if they are successful in meeting all of those codes, they wouldn't have to come back to the Commission to have Conditional Use Permit amended. Commissioner Cohen then stated that an important part to that would be the Fire Department, and Cari agreed and added the Building Department and Planning as well.

Commissioner Barcus indicated that he is not sure he understood what was stated. We would be approving or not approving a Conditional Use Permit, and the Conditional Use Permit won't be amended – just the occupancy will be amendable in this three-year period. Cari stated yes, but there is always the caveat that if there are issues with Code Enforcement, etc., there is always the opportunity to work with the owner and applicant to address any problems, and if there were problems that couldn't be addressed, there is the possibility that staff would bring it back to the Commission before those three years for review, etc.

Vice Chair Levin indicated that she thought Commissioner Cohen implied that the Conditional Use Permit was tied to a certain occupancy number, and it is not. Cari agreed and indicated that it is tied to the area. The Vice Chair then stated that it is tied to the Sedona Fire District, which gives rise to occupancy and fire suppression qualifications and requirements that need to be satisfied, but the Conditions of Approval say nothing about the number of people. Commissioner Cohen then referenced the top one; however, Vice Chair Levin clarified that she was talking about Conditions of Approval.

Chair Losoff added that we talked about this at the work session, and we are not looking to modify the operations of the business in terms of numbers, parking, traffic, seating, etc., and basically, the applicant is just asking to extend some of their activities to the outdoor patio, which is not allowed by the current regulations. That is all they are requesting; if they are going to ask to expand seating, the number of participants, parking spaces, etc., that is a whole new ballgame. He then asked staff if that is correct, and Audree Juhlin stated no, not necessarily, and explained that the Conditional Use Permit is an allowance that runs with the land, so you are really considering something that is a use outside of its typical zoning allowance. For this zoning district, restaurants and their uses have to be contained inside, except the exception for an outdoor dining area. For them to have a use other than dining and food service outside of the building, they have to get a Conditional Use Permit, and that is really what we are talking about. Is it appropriate or not to have other uses besides food service outside? It is really not tied to the occupancy or those other factors, because that is handled at the zoning level, with their existing zoning. The Commission is really looking at if this use is a conditionally allowable use; do you find that what you see in front of you now is acceptable to have as outdoor activities? It is really not anything about the Fire, Building or Zoning Codes; it is about a conditional use.

Commissioner Cohen then stated that his puzzlement is with such a large patio, why they aren't asking for more than 20 people outside; it is the same process. Audree Juhlin stated that they had asked, but they have ran into a few issues with the Zoning, Fire and Building Codes that have to be addressed before we can grant that increase in occupancy.

Applicant's Presentation:

Wes Schemmer stated that he and his wife, Rebecca, are the owners of Vino di Sedona and to clarify, he understands the Commissioner's point-of-view, but the property has a very old patio that was small and confined, and the Fire Marshal was concerned that if 65 people all got put on that one patio, could they get out, and that is why the outdoor limit is currently 20 people; it

is about safety, and he completely agrees. Again, they were saying that with the application for this permit, nothing is changing in that respect and nothing is changing about doing special events. Since he and his wife took over a little over 1½ years ago, they have entirely changed what the business had been. He understands that it had a bad reputation in the past, but it has run pretty smoothly during the last 1½ years. They don't plan on doing any more special activities than they are doing now, and they don't plan to exceed capacity. The Fire Marshal asked them to put in another exit into the old patio for safety reasons and he agrees that it should be there, so they are in the midst of taking quotes and getting it done. He doesn't see their capacity increasing much from where it is now, because they have a limitation of parking, so that is where they are at and he hopes that clarifies it for you in terms of what they are asking for. They want to have music outdoors and support the community in doing some special events, but again, nothing beyond capacity, no farmer's markets, no crazy shows, none of that kind of stuff. They have no interest in doing those kinds of things.

Chair Losoff opened the public comment period.

Ed Nelson, representing the Andante Inn, Sedona, AZ: Indicated that they own the entire piece of property surrounding this business, and he is neither for nor against the applicant's motion. Matter of fact, they want to be good neighbors and they appreciate their business being there. He is mainly here just to protect their interests. As you know they came last month and have a project of their own, and the subject of parking was a potential issue, and they think they have enough parking for their current restaurant, the Golden Goose; the conference room, and their hotel. There was a suggestion that they may need additional parking, and he does know that people who patronize the applicant's business overflow into their parking. The applicants do their best, and they have had a discussion to direct them to park on public streets, etc., but naturally people park where they prefer, so he is just here to protect their interest of having enough parking for their project, and that is about it.

Having no additional requests to speak, the Chair closed the public forum.

Commission's Summary Discussion:

Chair Losoff asked staff to respond to the issue of overflow parking and Audree Juhlin indicated that in a community like Sedona, it is not uncommon for people to just park where they are having dinner and going to stay, and if that is the only place that has a parking space, that is where people are going to park. It is a habit that we see all the time and try to manage the best we can. We work with the businesses to help mitigate some of those issues, but right now they do have enough parking on their site, and they meet our codes. Chair Losoff agreed and indicated that especially when there are special events, you see signs for no parking unless you are a patron of their business, etc., so ideally, the two landowners or tenants can work together; if not, the City could referee sometimes or develop some understanding, but hopefully it won't be a big issue, although it is always a problem throughout the City. Audree Juhlin acknowledged that parking is an issue in Sedona, and then the Chair added that it is just how we manage it, and hopefully, you can talk to one another and minimize any problems.

Cari pointed out that there is a condition that the applicant is responsible for making sure that their patrons know where they can legally park, and this does not give them permission to park illegally on someone else's property. There is some street parking available in the area.

MOTION: Vice Chair Levin moved for approval of case number PZ16-00005 (Conditional Use Permit), Vino di Sedona, based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements and the Conditions of Approval as outlined in the Staff Report. Commissioner Cohen seconded the motion.

Commissioner Cohen asked if the parking situation and neighbor's concern will be part of the consideration when they come back to ask for an increase in numbers on the site, and staff

stated yes, parking would be one of the zoning requirements they would have to meet. The Commissioner then stated that this is a very good thing for Sedona, because what the hotel and restaurant are doing, with the Barking Frog across the street and other things, it is turning this into a very important area of the City for businesses and tourism.

Chair Losoff repeated that parking is always an issue, and then he read the same Condition of Approval # 9 that Cari referenced previously, and indicated that if violations are reported, then we can enforce the issue.

Commissioner Barcus referenced the recommended motion and indicated that it did not include a three-year time table; however, Cari stated that it is Condition #2 that says the Conditional Use Permit shall be valid for a period of three years, and the Commissioner then noted that "consistent with the Staff Report" is covered.

VOTE: Motion carried five (5) for and zero (0) opposed. Commissioner Brandt was unexcused and Commissioner Klein was excused.

Commissioner Cohen commended staff for a well prepared and thorough packet.

7. FUTURE MEETING DATES AND AGENDA ITEMS

- a. Thursday, September 15, 2016; 3:30 pm (Work Session)**
- b. Tuesday, September 20, 2016; 5:30 pm (Public Hearing)**
- c. Thursday, September 29, 2016; 3:30 pm (Work Session)**
- d. Tuesday, October 4, 2016; 5:30 pm (Public Hearing)**

Cari noted that Donna sent out an email earlier today, and staff has heard from everyone here except Commissioner Mayer. She then asked about his availability and the Commissioner seemed to indicate that he would be available. Cari then summarized that the 15th is canceled. On September 20th, there are two public hearings for Community Plan Amendments – one for the Major Amendment for the Elevations at Foothills South, the former Racquet Club, and then the Minor Amendments to the text of the Community Plan. Commissioner Cohen is excused from that meeting and everybody else should be there. For September 29th, the work session will focus on the Schnebly CFA, and Commissioner Brandt is excused from that work session, but everybody else has indicated that they will be there. For October 4th, we are scheduling the Schnebly CFA for action; however, if the Commission isn't ready, it could be continued. The 4th will also have amendments to Article 15 of the Land Development Code for the Historic Preservation Ordinance, which the Historic Preservation Commission has been working on for a while; a Conditional Use Permit for a replacement wireless facility at Orchards Inn in Uptown, and an amendment to the approved colors and materials for the warehouse on Sinagua Drive that was approved by the Commission in June. We know that Commissioners Brandt and Cohen are excused, and Vice Chair Levin will smell like a campfire, but she will be available with everybody else, so there should be five Commissioners for that hearing.

Chair Losoff expressed concern about the heavy agenda and ask about moving something to earlier; however, Cari explained that they are all public hearings that need to happen. The Chair then expressed his concern about the Schnebly CFA on agendas one right after one another and indicated that he is not sure that public hearing should be scheduled. He then asked what the hurry is, and Audree Juhlin explained that we are on a scheduled timeframe established with the City Council, and staff would like to stick with that as closely as possible. In the past CFAs, we have fallen significantly behind and it also is hard to get on the Council's agenda, but if we need more time, we can continue it for as many meetings as possible with the Commission, so just because it is a public hearing, you could have more public hearings, but in case you are ready to move forward, you could at any time.

The Chair then asked about changing the Land Development Code or warehouse to the 20th, and Cari stated no, because the earlier noticing deadlines are past. Commissioner Mayer noted that

those shouldn't take very long and Warren Campbell agreed that three of the four items should not be too in-depth. HPC has worked for over a year on their amendments and we will go through those fairly quickly, and the other two are fairly straightforward. Commissioner Mayer then commented that the Schnebly Hill CFA is fairly complex, and Cari explained that is why it is the only thing on the 29th.

Discussion of possibly moving items to the 20th continued until the Chair suggested moving up the agenda item to reformat the Commission's meeting schedule, so the Commission could make some decisions as to how they are going to conduct business in the future. Staff spent a lot of time last week and today on a 20-minute item, and we have things coming up in the next week or two, so maybe there is a way to consolidate and make the staff time easier.

Commissioner Mayer then asked how many entities are going to be at the work session on the Schnebly CFA, and Audree Juhlin indicated that she didn't know how many people, but the number of property owners involved is a small handful, and it is really a CFA that has been driven by the property owners, so there is support from them. They came to the City saying that they wanted to do this. Chair Losoff then reminded the Commissioner that this is for agenda item subjects without a detailed discussion, but he could talk with staff ahead of time. Audree Juhlin added that if more CFA agenda items are needed, that is not a problem.

Warren Campbell mentioned the possibility of adding Article 15 back on as a work session item to ensure a minimal amount of time is needed on the 4th; however, Audree explained that she is hesitant to support that, because the focus needs to be on the CFA. Vice Chair Levin stated to leave it the way it is and the Chair agreed.

8. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Planning and Zoning Commission may hold an Executive Session that is not open to the public for the following purposes:

- a. **To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. **Return to open session. Discussion/possible action on executive session items.**

There was no Executive Session held.

9. ADJOURNMENT

Chair Losoff called for adjournment at 6:02 p.m., without objection.

I certify that the above is a true and correct summary of the meeting of the Planning & Zoning Commission held on September 6, 2016.

Donna A. S. Puckett, Administrative Assistant

Date