

**Summary Minutes  
City of Sedona  
Planning & Zoning Commission Meeting  
City Council Chambers, 102 Roadrunner Drive, Sedona, AZ  
Tuesday, September 20, 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, Eric Brandt, Larry Klein and Gerhard Mayer. Commissioner Avrum Cohen was excused.

**Staff Present:** Warren Campbell, Roxanne Holland, Audree Juhlin, Cari Meyer, Ryan Mortillaro, David Peck, Robert Pickels, Donna Puckett and Mike Raber.

**Councilor(s) Present:** Mayor Sandy Moriarty and Councilor Jon Thompson

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

Mike Raber announced that last Tuesday the City Council authorized a contract with Clarion Associates, LLC to update the Land Development Code, and we are getting started right away. It is expected to be about an 18-month process, and we will keep the Commission in the loop. Chair Losoff stated that the Commission has been saying that we wanted to have the Land Development Code revised, but we said to wait for the Citizens Steering Committee to create the Community Plan, so we are now going to go full force on Land Development Code revisions, and the Commission will be taking a very active role in that process.

Warren Campbell announced that on October 3<sup>rd</sup>, staff will convert to using the Commissioners' City-issued email addresses exclusively and no longer use personal email addresses, so if you need help in accessing those, please let staff know.

**4. APPROVAL OF THE FOLLOWING MINUTES:**

- |                                 |                                  |
|---------------------------------|----------------------------------|
| <b>a. July 19, 2016 (SV)</b>    | <b>b. August 15, 2016 (S)</b>    |
| <b>c. August 16, 2016 (R)</b>   | <b>d. September 1, 2016 (WS)</b> |
| <b>e. September 6, 2016 (R)</b> |                                  |

Donna Puckett explained that as some of the Commissioners may know, we have had varying interpretations regarding the approval of minutes over the years, and she wanted to share the latest interpretation, which we were very pleased with. As with other Commission business, you act as a unit or collective body, not as individual members; therefore, when approving minutes, it is not necessary for individuals to have to look at who was at which meeting. You are acting as the body and if the body approves the minutes, then you may do so and that would be legal and binding.

Donna noted that if anything was misstated, Mr. Pickels can correct her; however, Mr. Pickels added that he couldn't have said it better himself.

Chair Losoff commented that it makes the Commission's job easier when it comes to approving the minutes. He then stated the dates of the minutes listed above and indicated that he would entertain a motion to approve the minutes.

**MOTION: Commissioner Barcus moved to approve. Vice Chair Levin seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. Commissioner Cohen was excused.**

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. **Consideration of an application for the property at 100 Racquet Road. A general description of the area affected includes but is not necessarily limited to the area southeast of the intersection of Racquet Road and Foothills South Drive and is the site of the former Sedona Racquet Club. The subject property is approximately 4.43 acres and is also known as Assessor's Parcel Number 408-11-243A. Applicant: Elevations at Foothills South LLC (Ralph Young) Authorized Agent: SEC, Inc. (Neil Johnson) Case Number: PZ16-00004 (Major CPA, ZC). This application consists of the following components:**
- i. **Discussion/possible action regarding a request for approval of a Major Amendment to the Sedona Community Plan's Future Land Use Map, re-designating approximately 4.43 acres from Public/Semi-public to Single-family Low Density Residential (.5 to 2 dwelling units per acre). Case Number: PZ16-00004 (Major CPA)**
- ii. **Discussion/possible action regarding a request for approval of a Zone Change of approximately 4.43 acres from OP (Office Professional) to RS-18a (Single-family Residential). Case Number: PZ16-00004 (ZC)**

**Presentation, Mike Raber:** Mike explained that this item is an application for both the approval of a Major Amendment to the Sedona Community Plan's Future Land Use Map and a discussion/action item for the approval of a Zone Change. The Commission will be making separate motions on those; however, we will discuss them at the same time.

Mike stated that staff received the application to allow for the residential redevelopment of the former Sedona Racquet Club site within the Foothills South Subdivision. The Racquet Club has been abandoned for several years and by state law, Major Community Plan Amendments are considered once a year at the same time. This application was the only one received this year, so following the Commission's recommendation, this will go to the City Council next month. The site is currently designated as Public/Semi-Public on the Community Plan's Future Land Use Map.

Mike Raber then referenced an excerpt from the map and indicated that the proposed Major Amendment would redesignate the site to Single Family, Low-Density Residential, which was shown in yellow surrounding the Public/Semi-Public area shown in blue. This is the same designation as the rest of the Foothills South Subdivision, and the Major Amendment is required when there is a proposed change from Public/Semi-Public to Residential, which is stated in our Community Plan's criteria for a Major Amendment.

Mike pointed out that on the Zoning Map, the site is shown as Office Professional and this designation was established with the adoption of the City's Land Development Code based on the previous zoning established by Yavapai County. To be consistent with the proposed Community Plan change, this site would be rezoned to RS-18a, which is a Single Family Residential Low Density designation in the Land Development Code. That designation is also the same as the rest of the Foothills South Subdivision in this area.

Mike indicated that the current proposal is similar to a Community Plan Amendment and Zone Change that was approved in 2001 and 2002 for the adjacent four acres to the south of the Racquet Club. At that time, the area had a Public/Semi-Public designation, so this whole eight-plus acre area was designated Public/Semi-Public and Office Professional. That area to the south is now Unit 4 of the Foothills South Subdivision.

Mike stated that several Foothills South residents and homeowners' association board members formed an LLC and submitted the current application to address concerns regarding the land use compatibility of that remaining Office Professional zoning with the residential area. The existing OP zone allows for a number of non-residential uses that might not be appropriate or consistent with the residential character of the area.

Mike indicated that the applicant's Citizen Participation Plan and report were included in the packet, along with review agency and public comments. The comments are most applicable to the future subdivision review process, and that would be the next step in the approval process, but it is not part of this application. The Major Amendment and Zone Change would allow the applicant to move forward with the subdivision. We also received a letter of support from the Foothills South Owners Association and that has been distributed to you tonight.

Mike stated that staff recommends approval of both the Community Plan Amendment and Zone Change. During staff's review of the previous plan amendment that was done several years ago, it was noted that the Community Plan supports lowest densities next to forestlands, which we have here and had adjacent to the previous proposal; the change was consistent with the Foothills South Subdivision, and the original Public/Semi-Public and Office Professional designations were intended for the original Racquet Club and not for the other uses that could be allowed in that OP zone, which was a concern of the homeowners' association as well. Changing the zoning to RS-18a, Low Density Single Family Residential, brings the area into closer conformance with the rest of the Subdivision, and the current request is consistent with the previous zone change and compatible with the Community Plan's general policy to maintain the lowest densities near the National Forest, as well as Plan policies regarding where it is most appropriate to locate commercial uses.

Mike added that in this case, amending the current Community Plan designation and zoning to be consistent with the surrounding area and land uses is considered a community benefit, as it is consistent with the applicable policies in the Community Plan. Therefore, there are broader policies that this is consistent with and staff feels this is a much better and more compatible land use with the area than what is there now.

Mike stated that on August 16<sup>th</sup> the Planning & Zoning Commission conducted a work session on this proposal, and we didn't have significant concerns expressed. Sample motions have been included in the Staff Report for your consideration, and you will first take action on the Community Plan Amendment and then on the Zone Change request.

Chair Losoff asked if the applicant was going to make a presentation and Mike indicated that the applicant is present, but he is not aware of a presentation. The Chair then asked if the Commissioners had any questions.

Commissioner Klein stated that he thinks it is pretty straightforward and gives a good idea of what we would want to accomplish, because you wouldn't want something built that is commercial or offices in the middle of the subdivision, so he can understand why the homeowners' association wants to have the change made.

Vice Chair Levin indicated that her question was answered in advance of the meeting, and Commissioner Mayer stated that it is a part of history that is gone; he was a member of the Racquet Club at the time, and it was a thriving socializing location, but it went down the tubes. He doesn't have any questions, because it is going to go through the permitting, but he does

have one concern, which probably has nothing to do with the rezoning, but it is the drop from Racquet Road down to the property; it is quite substantial, but that will be something for the engineers to work on.

Chair Losoff indicated that it is kind of bittersweet and sad that the Racquet Club has been closed for a while, so he is not sad to see that go away as a tennis player, but as a tennis player, he is also glad, because when he does play, it brought them some good tennis players, so that was good news, sad news.

*Chair Losoff opened the public comment period at this time.*

**Jim McCabe, Sedona, AZ:** Mr. McCabe indicated that he is a resident of Foothills, one the board of directors, on the ACC, and he is the past Chairman of the ACC, and he wanted to clarify one thing. The CC&Rs in Foothills have a 30 ft. setback; he saw a 15 ft. setback, whereas, the CC&Rs clearly state it is a 30 ft. setback.

**Mark Saxelby, Sedona, AZ:** Mr. Saxelby stated that he lives in Foothills South and his purpose tonight is to ask you to standby on approving this zoning change recommendation. It is his sad duty to report to you that Elevations has been as dishonest and deceiving to you as they have been to the homeowners. From the beginning, the board got involved with this and it went through all the legal proceedings, and they were never told that 33% of the board members are part of the LLC until it was all said and done, after spending several hundred thousand dollars in legal fees. There were promises made in October of 2015 regarding what was going to happen to their property, for example, they were told it had to be demolished by court decree by September of 2016. Now, we are being told two or three different stories.

We cannot get a current financial accounting on the money spent and what was recovered, but what brings him here tonight is what they submitted to you in their application package is boldface misrepresentations on what you were told. He will give you an example. On a letter dated July 13, 2016 in paragraph 4, it says, "Foothills South HOA has formed a committee comprised entirely of residents working closely with the owners of Elevations." There is no such committee; it doesn't exist. It was never formed. He has talked to several board members and many homeowners, and they don't know what they are talking about. There are two names listed there, and it almost represents that those are homeowners, but those are LLC members. Those aren't homeowners, so it kind of represents that it is a homeowners' committee; it is not, that is the LLC.

In the letter dated August 1, 2016, they state that 20 individuals attended the meeting including several board members of the HOA. Eighteen attendees identified themselves as residents and two as being associated with Foothills South. A couple of issues with that – two of those in attendance were members of the LLC, and then it refers to the attached sign-in sheets, and they represent that to be from the open house that was at 1600 hours or 4:00 p.m. and that is false, because he didn't get there until 6:00 p.m. and his name was on there, and there were numerous people that arrived after he did, so the number 20 is completely misrepresented. He has a solution to all of this, but you need to hold this in abeyance until they get some solutions and some things. One, Elevations Foothills south . . .

Chair Losoff interrupted to state that the three minutes were up, so if he has some recommendations, he can give them to staff. The Chair then added that it is awkward sometimes, but we do stay with that three minutes or it is not fair for others.

**Harry Christie, Sedona, AZ:** Mr. Christie stated that he is a resident of Foothills South and that several things are wrong with the application by this LLC. You already heard about the 30 ft. setback, and he thinks the drawing they were displaying showed 12 ft. side setbacks. In addition to that, they are currently in violation of 5.2 of the CC&Rs that states that a lot must be

20,000 sq. ft. minimum. In the drawing he saw, there are roughly nine lots and only one of those lots complied with that 20,000 sq. ft. We have had meetings on this, and they have agreed to talk about it and make amendments, changes, etc., but they haven't happened. A couple of other residents have expressed concern about the road that they have in there, and it is exiting into Phase 4 on a small road. The complaint is that road should go onto Racquet Road and not disturb other residential areas, so he would like to have you consider possibly giving them time to work some of these things out. If you can't do that, if it is all a package tonight as to go or no go, then he would ask you to forego this application.

*Having no additional requests to speak, Chair Losoff closed the public comment period.*

The Chair asked staff if there were any comments on what the Commission heard, and Mike Raber stated that the first and third speakers talked about things that would have to do with a future subdivision, and that is not what is before the Commission tonight. The second speaker, he can't respond to. Chair Losoff then indicated that the 30 ft. setback and the elevations are not something for us to discuss for the rezoning or Major Amendment, but when it comes to looking at the actual subdivision . . . Mike interjected that even then, it will have to conform to our ordinances and zoning.

The Chair then asked how the Commission relates to the CC&Rs and if the Commission has any authority or interaction with CC&Rs; that is not in our jurisdiction, right, that is totally up to them? Robert Pickels explained that when the residents and members have challenges with the CC&Rs that is a civil issue and they have other remedies available to them. The Chair stated right; he just wanted to be sure he got that on the record.

Vice Chair Levin indicated that ostensibly if the Plan Amendment and the rezoning took place tonight, and then at some later date a subdivision proposal was brought forward and the LLC and balance of the homeowners in Foothills South have not agreed to the CC&Rs setbacks, the LLC has the absolute right to go forward and expect that the City would approve a subdivision with smaller setbacks and any other issues that may have been identified. She then asked if that is correct and Robert Pickets stated that was right.

The Chair then summarized that we stay out of it and referenced the letter from Bonnie Golub, President of the Foothills South Homeowners' Association, to ask staff if that is the LLC. Mike Raber stated no, that is the owners' association. Chair Losoff then indicated that Ms. Golub might want to read the letter into the record.

**Bonnie Gustav Golub, Sedona, AZ:** Ms. Golub stated that she is a resident of the Foothills South Subdivision, which is an HOA. She then read the following letter addressed to Mr. Michael Raber:

"Dear Mr. Raber,

My name is Bonnie L. Gustav Golub and I am the current President of the Foothills South Owner's Association. While many of our membership have expressed their interest and intention of participating in the public hearing under your management, others will be travelling, or away from Sedona for the hearing on the 20<sup>th</sup>.

In an effort to express the voices of so many constituents I think that I can generalize the following points:

Our association through its Board of Directors has worked since December, 2014 to remedy the issues of having a defunct and derelict tennis and exercise club in our midst, whose owner wanted to force the development of the property as a high density assisted-living facility.

It was with the endorsement of the membership that we became a respondent in the bankruptcy process to ensure that the property could not be developed in any way that violated our existing CC&Rs through the actions of the bankruptcy court system.

Our success in the bankruptcy court included the recognition of our CC&Rs and Bylaws and the restrictions they represent to how the property can be developed. We applied our CC&Rs and Bylaws to the development of a plan for the property that was consistent with the balance of our HOA. We continued to seek a developer to meet the stringent demands of the plan that was approved, and included the requirement of down-zoning the property from Office Professional to low-density housing. In the end, it was members of our own community who stepped up to the plate and created Elevations LLC to accomplish this important task.

I hope that it is clear that a single-line letter to support what is being requested is not sufficient to support the plan before the City of Sedona Community Plan and Planning and Zoning. The plan before you is our plan, what our community wants to see on the property – a set of residences that meet the conditions of the balance of Foothills South.

We hope that you will concur with the wisdom that we applied to the solution to a property that had been a problem within Foothills South HOA for a considerable period of time. We feel that this is best for the City of Sedona as well.”

Ms. Golub then added that it is signed with her name.

Chair Losoff asked how many are in the HOA and Ms. Golub asked if the Chair meant how many properties are in the HOA; not all are built, but there are 206 properties. The Chair then asked if it represents the entire . . . Ms. Golub interjected the entire HOA; nine of which are part of this property that is being discussed.

#### **Commission's Comments:**

Commissioner Barcus indicated that he had no concerns and Commissioner Mayer stated that he has concerns; that is all he can say. There seems to be some discontent between the LLC and the property owners. It is murky; it is not clear and that is all he can say.

Chair Losoff explained that as a Commission our role today is looking at the Community Plan Amendment and the rezoning. What goes on within the subdivision, once it is developed is something we are out of in terms of the homeowners and the developers, but he understands the concerns.

Commissioner Brandt indicated that we are not talking about the actual subdivision; we are just talking about the zoning and the Community Plan Amendment, and as far as those two things are concerned, it seems consistent with the surrounding properties, so he has no concerns.

Vice Chair Levin stated that she had no concerns and Commissioner Klein stated that he agreed with what Commissioner Brandt stated. Chair Losoff indicated that sometimes on these projects, it is nice to get into the nitty-gritty like the subdivision requirements, etc., but that is for another day, and when it comes in, we have to use our standards. He is sure we will have some recommendations when that time comes.

***MOTION: Vice Chair Levin moved to recommend to the Sedona City Council approval of the proposed Major Community Plan Amendment as set forth in case number PZ16-00004, Major Community Plan Amendment, from Public/Semi-Public to Single Family Low Density. Commissioner Barcus seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. Commissioner Cohen was excused.***

**MOTION: Commissioner Barcus moved to recommend to the Sedona City Council approval of the proposed rezoning as set forth in case number PZ16-00004 Zone Change from Office Professional to RS-18a, Single Family Residential, based on compliance with Land Development Code requirements, conformance with the requirements for approval of a zone change and consistency and conformance with the Community Plan, and subject to all applicable ordinance requirements. Commissioner Brandt seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. Commissioner Cohen was excused.**

Chair Losoff asked staff about the next step and Mike Raber stated that it will go on to the City Council on October 26<sup>th</sup> for their consideration for approval. The Chair then thanked staff and the applicant, because a lot of work went into making the proposal and, as clear as it was, it made the Commission's job easier, so he thanked staff for another job well done.

**b. Discussion/possible action regarding proposed Minor Amendments to the Sedona Community Plan. The Minor Amendments include clarification, housekeeping changes and updates to the document. Applicant: City of Sedona Case Number: PZ16-00007 (Minor CPA)**

Mike Raber explained that since we adopted the new Plan, we identified several Minor Amendments involving clarification, housekeeping and the update items that were listed and summarized in the Staff Report. The more significant item is on pages 27 and 28 where we reorganized those pages under two new headings; there is no other change to the text of the Plan. The two new headings are Planned Areas and Community Focus Areas, and then Lodging Area Limits. Those two areas were reorganized so it was clear, with the Lodging Area Limits, what the discussion was relative to the maps on that page. On the other one with the Planned Areas and Community Focus Areas, we made it clear what part of that original paragraph should be under that heading. That is the most significant of the group; otherwise, he is available for questions.

Chair Losoff asked if staff is looking at this just as housekeeping, and Mike stated mostly housekeeping, but the one that we just went through was more for clarification, and then we have a series of updates where we have inserted in the Plan document the new CFA Plans, so it is no longer a fuzzy boundary and we have a clear map for each one. That is the extent of the changes, so we included recommended motions in the Staff Report, and this would also go to the City Council as a Minor Amendment with the Commission's recommendation.

*Chair Losoff opened the public comment period and, having no requests to speak, closed the public comment period.*

**Commission's Comments:**

Commissioner Brandt asked if this is exactly the same as what the Commission saw at the work session, and Mike Raber stated yes. Commissioner Brandt then indicated that he had no comments.

Vice Chair Levin stated that not on the proposed amendments, but she wanted to repeat her interest in having substitute pages and copies of the adopted CFAs, when it is convenient for staff; then, everything will be married together in a current reference document. She has no questions. Mike Raber asked if there was something different that the Vice Chair would have wanted with this and Vice Chair Levin stated no and restated her interest in having the changes inserted into their copies of the Plan, and they should have copies of the adopted CFAs. Mike indicated that staff could do that.

Chair Losoff indicated that he would entertain a motion.

**MOTION: Commissioner Klein moved to recommend to the City Council approval of case number PZ16-00007, Minor Community Plan Amendment, in order to provide**

**clarification, housekeeping changes and updates to the Sedona Community Plan. Commissioner Brandt seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. Commissioner Cohen was excused.**

Chair Losoff thanked Mike Raber for another good job and indicated that the work session certainly helped for any questions. Mike Raber expressed thanks also to Cari, because she did a lot of work on this.

- 7. FUTURE MEETING DATES AND AGENDA ITEMS**
- a. Thursday, September 29, 2016; 3:30 pm (Work Session)**
  - b. Tuesday, October 4, 2016; 5:30 pm (Public Hearing)**
  - c. Thursday, October 13, 2016; 3:30 pm (Work Session)**
  - d. Tuesday, October 18, 2016; 5:30 pm (Public Hearing)**

Warren Campbell stated that on September 29<sup>th</sup>, there will be a full agenda beginning at 2:00 p.m. with a site visit to the Schnebly CFA, and we will return for the work session by 3:30 p.m. That document was provided about a week ago, so we are hoping you have read that and we gave you adequate time to prepare. We anticipate that it could take two to four hours to discuss this document, so please come prepared.

Chair Losoff commented that we have the site visit on Thursday and the hearing on the following Tuesday, but if we are not satisfied, there is no urgency to have it done a few days later, so if we have questions, we can take the time.

Warren then stated that there would be two items on October 4<sup>th</sup>, one would be a discussion on some amendments to Article 15, Section 303 and the HPC Operating Rules and Procedures that the HPC has forwarded to P&Z. They shouldn't be too involved, but address several things that address efficiency in their processes, and then we would address the Schnebly CFA and if everyone is comfortable, we would be seeking an action, but if not, we are looking to take significant time to work through that, so it could be several hours; however, if we are not ready, we could continue it to another hearing.

Warren explained that we may be getting close to a quorum issue, so he wanted to confirm that Vice Chair Levin will be returning from the Canyon and may be a bit late; however, Vice Chair Levin stated that she would try to be on time. Chair Losoff indicated that Commissioner Cohen would be present, and Warren then confirmed that we would have five Commissioners present. Commissioner Mayer asked about food, and Warren stated that staff would take care of food if we run into the dinner hours.

Warren stated that on October 13<sup>th</sup>, we would have a work session on the Ranger Station Park, a public hearing on the Garnello changes to the warehouse, and a public hearing on the Orchards Conditional Use Permit to place some communications antennas on top of their building.

Vice Chair Levin asked what is being brought forward on the Ranger Station and Warren explained that it is the initial documents showing two options for the layout of the Ranger Station Park based on the Master Plan.

Warren then indicated that currently there are no items for October 18<sup>th</sup>, but we do have a lingering discussion on the P&Z Rules & Procedures. Chair Losoff requested that we do that if we can.

Audree Juhlin added that the Commissioners, who will not be present for the September 29<sup>th</sup> work session when we discuss the Schnebly CFA, should get with staff in advance to get caught up so we don't have to rehash on October 4<sup>th</sup> and can continue the forward momentum. Chair Losoff then suggested that the Economic Development person also be introduced to the Commission on October 18<sup>th</sup>.

**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.

*No Executive Session was held.*

**9. ADJOURNMENT**

Chair Losoff called for adjournment at 6:12 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 20, 2016.

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Donna A. S. Puckett, Administrative Assistant

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Date