

Summary Minutes
City of Sedona
Planning & Zoning Commission Meeting
City Council Chambers, 102 Roadrunner Drive, Sedona, AZ
Tuesday, March 6, 2018 - 5:30 p.m.

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

Chair Losoff 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, Kathy Kinsella, Larry Klein and Gerhard Mayer.

Staff Present: Warren Campbell, Audree Juhlin, Matt Kessler, Cari Meyer, Robert Pickels Jr. and Rob Pollock.

Councilor(s) Present: Mayor Moriarty

3. APPROVAL OF THE FOLLOWING MINUTES:

- a. January 9, 2018 (Retreat)
- b. January 16, 2018 (WS)
- c. January 16, 2018 (R)
- d. February 6, 2018 (WS)

MOTION: Commissioner Klein moved to approve the minutes. Vice Chair Levin seconded the motion **VOTE:** Motion carried seven (7) for and zero (0) opposed.

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

There were no announcements.

4. 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.

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

- a. Discussion/possible action regarding a request to amend an existing Conditional Use Permit for Red Rock Jeep at 301 N State Route 89A (Sacajawea Plaza). The property is zoned General Commercial (C-1) and is located on the west side of State Route 89A, between Jordan Road and Apple Avenue. APN: 401-13-051A Applicant: Red Rock Jeep (Paul Smith) Case Number: PZ17-00020 (CUP)

Presentation: Matt Kessler referenced the vicinity map and identified the location of the subject property in Sacajawea Plaza that has frontage on Jordan Road and SR 89A. He then showed an aerial view of the property and pointed out that it is an interior mall with frontage on SR 89A and a parking lot in the rear with frontage on Jordan Road, and it serves as the staging area for the jeep tour company.

Matt indicated that Sacajawea Plaza sits on one parcel and operates as a commercial shopping center with a few different uses, one of which is Red Rock Jeep Tours. It is zoned General

Commercial, C-1, and Red Rock Jeep Tours has been operating in this location since 2012. They were approved for a Conditional Use Permit with a five-year expiration, which is why we are here.

Matt explained that the applicant is applying to renew the existing Conditional Use Permit to continue the use of the jeep tour office and staging area at Sacajawea Plaza. They are not proposing any change in use or conditions of approval nor any changes in any lighting, site access, signage, etc.

Matt showed the applicant's proposed site plan and indicated that it is the exact same as their 2012 submittal. There is a covered pull-up where they stage the jeeps to load the tour groups, and they exit along the northern parking corridor.

Matt indicated that as outlined in the Staff Report, we believe that they meet the required findings for a Conditional Use Permit. Matt pointed out that they have operated in this location for the past five years without any known issues. This application was mailed to all the review agencies, and we received no comments. Furthermore, no comments were received from the public and when the applicant completed their Participation Plan, they also had no comments from any of the neighbors.

Matt summarized that based on compliance with all the ordinance requirements, staff is recommending approval of the application with conditions and, because of the operation without any incident in the past five years, we are recommending approval without an expiration date but that does not mean that we cannot revisit their Conditional Use Permit. If there are issues in the future, we could still act on those through code enforcement processes and, if necessary, begin the process to revoke the Conditional Use Permit, so approval without an expiration does not limit that ability in the future.

Commission's Questions and Comments:

Commissioner Kinsella referenced a review of the food truck for the same parking plaza and noted that part of that approval included the loss of two spaces. She then asked how that impacts the flow for the jeep company, and Matt identified the location that was approved for Momo's Korean Food Truck. He then explained that staff does not believe there would be any hindrance created with the way the jeeps pull up to stage where their guests wait. The Commissioner asked if that is the same traffic flow that is currently in use, and Matt stated yes; they are not proposing any change.

Commissioner Kinsella asked if it is usual to renew with no expiration versus renewing for another five years, and Audree stated that typically we gauge our level of concern based on the use, compatibility with the surrounding areas, consideration of any code enforcement issues, complaints, unintended consequences, etc., and those considerations influence our time length recommendation to the Commission. In consideration of an extension or continuation of a Conditional Use Permit, we would recommend another timeframe if we experience problems, and in cases where we don't have any issues, concerns or adverse effects, we will recommend no time limit. We feel comfortable with that provision, because we have the Land Development Code that provides for revocation or suspension of a Conditional Use Permit when problems are encountered, and we can even bring the Conditional Use Permit back to the Commission if we have sustained concerns and remove the allowance for that Conditional Use Permit.

Chair Losoff stated that for the time he has been on the Commission, we have approved one or two unconditionally at the most. All the others have had a time limit, but as Audree stated, with or without exceptions, it is conditional and if they don't meet the conditions, it can be retracted.

Commissioner Kinsella asked if that process is just as easy either way, so it doesn't change the process if there was some reason to look at revocation, and Audree Juhlin stated that it is the same process.

Commissioner Barcus indicated that a Conditional Use Permit is essentially a contract that Red Rock Western Jeep Tours has with the City to operate under these rules and regulations, and that is strictly with that enterprise, so the Conditional Use Permit doesn't attach to the property. Audree Juhlin clarified that is incorrect; the Conditional Use Permit runs with the land, so the property associated with the Conditional Use Permit is what maintains the ownership of the Conditional Use Permit. A Conditional Use Permit is a use that is allowed in a zoning district, but it is based on conditions, so it is not a new use that is being introduced. It is a use that is allowed, but conditioned.

Comments by Applicant:

President and Owner of Red Rock Western Jeep Tours Paul Smith stated that during the five years that they have been at that location, it has worked very well. They have been able to get traffic away from that congested SR 89A. They run their jeeps through Jordan Road and that works well. It has helped the local area, because they do bring in a lot of people in bus tours, etc., so their proximity to the bus has worked out, and in terms of the location, it has worked for everybody.

Chair Losoff indicated that he initially shared the concerns that Commissioner Kinsella expressed; we approved the food truck in the same area, so it could get a little more congested, but traffic flow should be okay as you turn around. Again, it is a conditional use and if there are traffic problems or issues with the area, we could always revisit it.

Audree Juhlin agreed and reminded the Commission that this Conditional Use Permit has been in place for a while; the unknown is Momo's Korean Food Truck, so if there are any issues, we would tie it back to the food truck, because we've had zero issues with this one. The Chair added that the good news is that it takes traffic off SR 89A and helps alleviate that situation.

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

MOTION: Commissioner Kinsella moved for approval of case number PZ17-00020 (Conditional Use Permit), for Red Rock Western Jeep Tours based on compliance with all the ordinance requirements and satisfaction of the Conditional Use Permit findings and the applicable Land Development Code requirements and the recommended Conditions of Approval. Commissioner Klein seconded the motion. VOTE: Motion carried seven (7) for and zero (0) opposed.

6. Discussion/possible recommendation regarding a request for an Administrative Waiver at 460 Peach Lane to reduce interior and exterior side setbacks. The property is zoned multifamily residential (RM-3) and is located at the northwest corner of Peach Lane and Sunset lane. APN: 401-14-100 Applicant: Verde Valley Habitat for Humanity (Dan Surber) Case Number: ADM18-00001

Presentation: Matt Kessler indicated that he wanted to explain what an Administrative Waiver is and stated that the purpose is to address exceptional circumstances where perhaps waiving or modifying certain regulations would result in an improved development project over a project that followed the regulations. Section 405.03A states that any Administrative Waiver that is applied for in conjunction with a project that requires Development Review does require to be considered by the Commission, and this request is in conjunction with a Development Review application that will be forthcoming.

Matt stated that the Administrative Waiver is similar to the variance; one of the main differences being that it can only be granted for deviations of the Land Development Code up to 25% and over that threshold would be considered a variance, which has a different process.

Matt indicated that there are a set of findings that need to be made for an Administrative Waiver to be approved, and those findings are in the memo in your packet, but those are what need to be analyzed to approve an Administrative Waiver request.

Matt showed a proximity map and identified the subject property that is zoned RM-3 and the surrounding zoning. The Development Review application will request the construction of a triplex and the applicant is Verde Valley Habitat for Humanity, but with the application, they are requesting an Administrative Waiver to reduce the interior and exterior side yard setbacks for the project. As a corner lot, there are both interior and exterior, and he showed an overview of the property versus the RM-3 district development standards. It should give you a pretty good snapshot of what they are asking for and what the lot is like. It is also noteworthy to point out that the minimum lot size for RM-3 is one-half acre, and this lot is just over one-quarter, so it is 52% of the minimum lot size for the RM-3 district. With the required district setbacks of 10 ft. for interior and 15 ft. for exterior, they are requesting a 20% reduction to each of those, which would leave 8 ft. for the interior side and 12 ft. for the exterior side.

Matt then displayed the applicant's site plan that showed the proposed building footprint for the triplex and pointed out the lines showing the property setbacks that are required by the RM-3 district regulations, plus the portions of the building footprints that would need the Administrative Waiver since they are within the setback areas. He pointed out Sunset Lane indicating that would be the front yard, then identified the interior side setback where a 2 ft. reduction is requested and the exterior side along Peach Lane where a 3 ft. reduction is requested. Both wall spans are about 35 ft., so the square footage of the buildings that would be in the setback areas would be 75 ft. and 105 sq. ft.

Matt indicated that as a brief overview of some of the other considerations highlighted in the memo, the property is undersized and considered a legal, non-conforming lot for that reason. It is 48% smaller than the minimum lot size required for the district and, as an undersized lot, the required setbacks for the district would have a greater impact on the buildable area because much more of the smaller lot would be in the setback area.

Matt stated that another consideration is that this is a corner lot, which has an exterior side setback of 15 ft. and if this was an interior lot, it would have two interior side setbacks of 10 ft. each, so there is an additional 5 ft. on one side and, if this was an interior lot, it would comply with the setback regulations for the district and they would not need an Administrative Waiver.

Matt explained that as part of the Administrative Waiver process, we are required to notify neighbors within 100 ft., and we did receive four written letters of opposition that are included in the packet. Some of the issues raised in the letters included, but were not limited to, the affect to neighbor's property values, the number of units being proposed, the visual impacts and the access. Matt then showed a picture of the subject property and the four properties directly behind the subject property that represented the opposition, not necessarily to either side of it.

Matt indicated that in the next steps of the Administrative Waiver process, the Director will make a determination regarding the findings of the request and either approve or deny that request and, at that point, there is a 15-day period where any party can appeal the Director's determination and that would be taken to the Board of Adjustment. If an appeal is submitted, staff would begin scheduling the Board of Adjustment hearing and with or without an appeal, after the waiver request is complete and any necessary changes are made to the plans, we would move forward with the Development Review application and schedule a Planning and Zoning Commission public hearing.

There is no motion expected today, but staff is looking for the Commission's input and a recommendation regarding this request.

Commission's Questions and Comments:

Chair Losoff asked what is across the street on the other side of Jordan Road, and Matt indicated that he believes it is a vacant lot, but there are single-family homes across Sunset Lane.

Commissioner Kinsella asked if it is correct that the property owners objecting are not on the sides where the setbacks would be adjusted, and Matt indicated that is correct. He again pointed out the location of the neighbors that submitted an opposition and the encroachments that would be on the interior and exterior sides.

Commissioner Mayer asked how that would work with the new Land Development Code. We talked about lot sizes, which are smaller and have a flexible interpretation of the zoning and setbacks. Robert Pickels Jr. indicated that would have no relevance to this case.

Chair Losoff opened a public comment period at this time.

Ron Martinez, Sedona, AZ: Mr. Martinez indicated that he wanted to speak in favor of this project and to give you a little bit of history. Approximately three years ago, citizens of Sedona donated this property on Peach Lane to Habitat for Humanity, and they have been putting it in their queue in an attempt to develop it for approximately a year. Secondary to that, we all know the recent survey came out indicating that housing is one of the major issues that our community is encountering right now. As a result, Habitat came forward with something they called the "blitz build". Around the country in June of every year, they are building houses for their new homeowners in seven days. When that came forward and Dan Surber so graciously agreed to develop this plan, he donated that, and we have now put together some committees. One is for PR, one for fundraising, and he is heading up the construction committee. Just in his committee alone, they plan on the end of July this year to build these three units in two weeks. He has over 40 subcontractors and materials people that are going to be a part of this and are donating some of their time and money. We have six general contractors involved in his committee, five of which are from Sedona and another one that builds here a lot, and they are donating their time in an effort to generate this enthusiasm, which they have already seen in the community, to come together to put this project together knowing that we need workforce housing in our community to house the people that service all. He would encourage you to consider this, and he was glad to hear that those offsets are not on the sides where the people are that have the objections, but just to consider this. We have a number of steps to go through before it is approved, but there is really a lot of groundswell affecting building in our community and in developing this project.

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

Commission's Summary Discussion:

Commissioner Mayer asked if those are rentals or ownership and Ron Martinez stated ownership. The Commissioner then asked if they are affordable, and Robert Pickels Jr. explained that staff is just looking for direction on the setback issue only.

Commissioner Brandt stated that he is in favor of the Waiver. Looking at the adjoining property to the north, it is set back to the west on its lot and looks like it is built out, whereas, the proposal is built towards the east, so that minimizes the reduction of the setback to that northerly property. To the south is the parking lot, so there are no problems there and there is plenty of room for the street. To the properties to the west, he doesn't see how this affects them. He did see that they prefer to have parking in the access from the street suburban-style, but it is a benefit to have the front yard open space to the street and the parking in the rear. In this zone that is not Residential, it is Multi-family, there is a variety of housing shapes as we can see from what is existing, and he would encourage the administration to go ahead and do the 25% allowance.

Vice Chair Levin indicated that she is in favor of the Administrative Waiver and the project itself.

Commissioner Klein indicated that the fact that the minimum lot size is .5 acres and the existing lot size is .26 acres and that is not something we are considering tonight, the only thing we are looking at is the waiver issue in terms of setbacks, or is that considered part of this? Audree Juhlin explained that you are looking at the waiver for the setbacks, but in doing so, one of the things she is looking at

is that it is considered a legal, non-conforming lot because the size doesn't meet the minimum requirements, and the non-conforming section does provide for considerations.

Commissioner Kinsella stated that she didn't have concerns with this application; it is fine.

Audree Juhlin asked Commissioner Klein if he had a thumbs up or down, and the Commissioner stated that he doesn't know why it happened, but when he printed the materials, he presumed that everything printed, and then Donna called late yesterday afternoon and said there was a problem and if he couldn't print the materials, you had a packet, so he assumed that he had everything. Then, this morning he realized this didn't print and neither did the next item on the procedure changes, so he didn't feel comfortable commenting on this, since he didn't have a chance to look at it, but based on what he has heard tonight, it seems like the application is fine.

Chair Losoff stated that his only concern, but it is good to get Habitat doing what they are doing, and he thinks it may start something going throughout the City, but we do have several letters from people who live adjacent to the property and they are all negative. We are hearing tonight that there is no impact on views or neighbors, etc., yet two of the neighbors directly adjacent to the property say they have significant impact, so help him understand. He is talking about James Dydo and William and Claudia Luyties. Audree Juhlin explained that this is based on the two setbacks' encroachment; we are not getting into heights, building design, etc., so we want to look at the impact of those encroachments at this point. The Chair agreed and indicated that they are not necessarily referring directly to that impact, but they are saying that as a result of the setback adjustment, it would impact those factors. Audree indicated that she would let the Chair draw that conclusion as to whether or not he agrees based on the location of their properties. The Chair commented that he guessed staff didn't feel that was reasonable; however, Audree explained that staff is not through with the evaluation. We are waiting to hear from the Commission tonight, and then everything will be taken into consideration, including what the Commission has said, what the citizens have said and what the Code provides for.

Chair Losoff asked if the applicant would like to comment.

Applicant's Comments:

Dan Surber, Architect, Sedona, AZ: Mr. Surber stated that it is an RM-3 zone and they meet the density, lot coverage, floor area ratio and height requirements. They basically are adding 5 ft. to the length of the building, which in essence the building is there regardless. They are adding 3 ft. on one side and 2 ft. on the other side but meeting all design standards. RM-3 is 20 units per acre and in the calculations, you could get five units on here, and they are at three. They are meeting height standards, so whatever did go there, they are meeting all standards of the code and just adding five feet to the view corridor. Part of the benefits to this was in looking at the community benefits in providing housing, and the partnerships with non-profit/private people that have come forward, so he thinks it is a win-win and he hopes the Commission considers it.

Chair Losoff asked if Mr. Surber has talked with the few residents that responded, and Mr. Surber stated no and explained that part of the citizen outreach was a letter that also had his information on there, and he got no responses.

Commission's Summary Discussion:

The Chair asked if there were any Commissioners opposed to this concept and there was no response. Chair Losoff then stated that the Commission didn't want to send the wrong message to Habitat; we want to make it encouraging for them to come out, so hopefully, this will clear some of the path for them.

7. Discussion/possible action regarding proposed changes to the Planning and Zoning Commission's Operating Rules and Procedures.

Chair Losoff explained that the Commission had discussed this item before and sent it on to the Council. The Council had some recommendations, so it is coming back to the Commission for further review.

Presentation: Audree Juhlin explained that on January 9th, the City Council considered the recommended changes to the Commission's Operating Rules and Procedures, and she was home with the flu, so Warren stepped in and presented without any history or background on this item, and he did a great job. She watched from the bed, so she has some knowledge of what took place, but her understanding is that several Councilors had a couple of ideas that they wanted to pass by the Commission before taking action on the Rules and Procedures. They directed staff to come back to you and run these ideas by you, and then shoot it back up the flagpole for their final approval.

Audree indicated that she is going to go Article by Article and Section by Section of the Rules and Procedures to give you an overview of what they are asking you to consider and an idea of what that would look like in a final form.

Chair Losoff mentioned that Commissioner Barcus has to leave at 6:30 p.m., so if he leaves it has nothing to do with our discussion.

Article 1:

Section 1.2, Sub-Sections 1.2.1 and 1.2.2 - Audree indicated that the first change was related to Section 1.2. As you recall, attendance was a topic of the Commission's discussion. The Council asked to remove the word "successive", and then put a timeframe in which this provision would apply, so then it would be failure to attend three unexcused meetings in what timeframe. She inserted 12 months or per term, but that is something that the Commission needs to decide on removal of that word and if you want to insert a timeframe.

Audree added that the other change in that Section would be to add "or" at the end of Section 1.2.1 and delete, "A Member may also be removed at any time for inefficiency. . .".

Audree then asked how the Commission felt about removing the word "successive". Vice Chair Levin and Commissioner Kinsella verbalized that it was no problem, and the Chair stated the consensus of no problem, so Audree stated that was a go.

Audree referenced the timeframe and asked if they agree on having some parameter in which this would apply, and the Chair pointed out that the Commission is now having two meetings a month, so that is 24 meetings a year, so three meetings out of 24 is reasonable. Commissioner Kinsella stated that she would rather go with a year than a term; that seems like a very long period of time and Vice Chair Levin agreed.

Commissioner Barcus stated that the focus is on unexcused meetings, not excused meetings and Vice Chair Levin agreed. Chair Losoff indicated that a person could have 12 excused absences and according to this that is okay. Audree clarified that it may be okay; it would depend on the effect it had on the Commission's ability to conduct business. The Chair stated that in the corporate world, they don't distinguish routine, excused and unexcused; it is s just X number of absences, but he doesn't have any particular feeling on it. Commissioner Klein stated that we are only talking about unexcused and the Chair asked if they also want to say excused. Multiple Commissioners stated no.

Audree then asked if they are saying three unexcused meetings in a 12-month period, and Chair Losoff indicated that the Commissioners were nodding their heads in agreement. Commissioner Klein pointed out that if you started talking about three excused, what if you are sick on three occasions? The Chair indicated that the other side of the argument is if you are very sick, you could be off for a whole year. Commissioner Mayer asked if the inefficiency comes in if you are sick for a year.

The Chair summarized that the Commission is agreeing with three unexcused meetings in a 12-month period.

Audree asked if the Commission is okay with the way it is worded under item number two, "A Member may also be removed at any time for inefficiency, neglect or malfeasance." Audree explained that inefficiency, neglect or malfeasance would stay; it was just removing that introduction and "or" would be inserted.

Commissioner Barcus stated that it seems like it focuses the inefficiency on unexcused meetings and that is inappropriate. Inefficiency is separate from unexcused meetings and he would not change it. He would want 1.2.1 to talk about unexcused absences and 1.2.2 to talk about inefficiency, neglect of duty or malfeasance without connection to unexcused. The implication by the recommendation of putting in the "or" is that it is carrying on this unexcused and is confusing. He thinks it is not deliberate; it is accidental, and he would prefer to see two separate sections dealing with two separate issues.

Audree stated that with that direction, if the Commission agrees, she can separate that out. Commissioner Kinsella pointed out that it is separated. There is a semi-colon there, which grammatically indicates that it is a separate idea being considered and not linked to the first. She then asked if that meets the concern and Vice Chair Levin stated no. Commissioner Barcus stated not sufficiently. He agrees a semi-colon is important and has specific meaning, but it makes it more ambiguous than it needs to be, and it would make common sense to keep them separated.

Chair Losoff indicated that it seemed pretty simple; you may be terminated or asked to leave for unexcused absences or neglect to duty, malfeasance, so he doesn't see the two connected. There is a semi-colon, so it is like a separate sentence. Vice Chair Levin suggested making a separate sentence, and the Chair stated fine, but it doesn't make sense to get hung up on a colon or an "or".

Audree indicated that a simple solution would be to keep in item number two, "A Member may also be removed" and that separates item 2 from item 1. Vice Chair Levin agreed, and the Chair indicated that to him it is wordsmithing, but if it makes everybody happy, okay. Commissioner Brandt and Vice Chair Levin indicated they agreed.

Commissioner Klein stated that looking at the Operating Rules & Procedures, Section 1.3 says, "Removal by City Council may be without the necessity of a hearing or notice, and such action may be final." He then stated that is confusing and asked if that means the City Council doesn't have to have a hearing of any kind to remove someone and how that process occurs. Does it require a majority vote?

Chair Losoff indicated that prior to answering, that is not the issue and we have already been through that; the only thing we are talking about today are the changes being made in red. We went through that last time. Robert Pickels Jr. then responded that the language is from the enabling ordinance. The Chair added that he was asked that by a member of the Council and he reminded the Councilor that we are not employees, so due process does not necessarily exist. We are appointed by the Council and can be unappointed.

Article 3:

Section 3.3 - Audree stated that the next change is regarding the Chair and the recommendation is to delete Section 3.3 in its entirety. Commissioner Brandt asked why, and Robert Pickels Jr. indicated that his recollection was that there was discussion as to whether or not there would ever be a need for that kind of activity outside some further direction from Council. Warren Campbell added that it also had to do with Article 8 where it says a committee of not more than three members may be created by the Chair, so the suggestion was that it was covered in Article 8.

Article 5:

Section 5.2 - Audree indicated that regarding the Director in Section 5.2, the Commission was asked to consider deleting the words "and purchases". The thought was that expenditures and purchases are essentially the same thing, so you do not need "purchases". Commissioner Brandt and Vice Chair Levin stated, "Next" without objection.

Article 6:

Section 6.1 - Audree explained that the suggestion is to consider deleting “. . . and attend its meetings as necessary” and adding, “Legal Counsel shall attend unless excused by the Director”. Vice Chair Levin stated fine, and Robert Pickels Jr. jokingly added that change gives Audree full authority over him.

Article 9:

Section 9.11 - Audree indicated the suggestion is to delete the language “A regular meeting may be canceled”, and add “The Director, in consultation with the Chair, may cancel the meeting . . .” Vice Chair Levin and Commissioner Brandt verbalized that was fine, and there were no objections.

Article 10:

Section 10.4 - Audree asked that the Commission consider adding the language to the end of 10.4 “unless otherwise specified”, so it would say, “Official actions shall be accomplished only by an affirmative vote of a majority of members present unless otherwise specified”. The Chair asked what “otherwise specified” would be, and Robert Pickels Jr. stated that would be as required by statute to have other than a majority vote. Warren Campbell added that there were some other areas that had a little different process laid out, and by saying it this way, it allows it to be whatever process is enumerated in that particular section.

Vice Chair Levin noted that a couple of sections were missed.

The Chair indicated that he didn't have a problem, unless we could specify by just two people that vote for something . . ., Robert Pickels Jr. interjected that unless you have direction to do otherwise, it is a majority vote. The Chair indicated that was alright, and then Audree confirmed that the Commission was alright with that change.

Article 9 (continued):

Section 9.12 - Audree noted that there was no slide this Section, but the recommendation is to consider deleting the language that says, “. . . by an affirmative vote of a majority of Members present”. It would be reworded as follows: “The Commission may table an agenda item until a later date to enable additional testimony to be heard, a site visit, or for other good cause”, and the remainder would be deleted.

Commissioner Klein stated that doesn't make sense, if you are deleting “. . . by an affirmative vote of a majority of the Members present”, how does the Commission determine that they can table an agenda item if it is not by a majority of the members? Robert Pickels Jr. indicated that he doesn't disagree, and he is struggling to remember why that was included, unless we wanted to give the Chair the authority to do that.

Chair Losoff asked if the Commission could leave it in, and Audree stated yes. The Chair then stated that a lot of heads are shaking, so we will leave it in; however, Vice Chair Levin stated that it speaks to the Commission as a whole – the Commission may . . . Commissioner Kinsella agreed, but indicated that a process is needed to make that determination. Vice Chair Levin pointed out that is inherent in the way we do our business. Robert Pickels Jr. then stated that his recommendation would be to leave it in.

Article 11:

Section 11.2 - Audree explained that the item for consideration is to add the following language, “In consultation with the Chair, the Director will determine if the item is appropriate for Commission discussion”, and then deleting, “The Chair and the Director shall determine if the item is appropriate for Commission discussion”, so it is just rewording that sentence. Audree then asked if the Commission was okay with the rewording of that sentence, and the Chair asked if a member wants something on the agenda, it is the Chair and Director? Commissioner Brandt stated that is the way it would go anyway, so it is just stating the obvious. Next.

Article 14:

Section 14.1 - Audree indicated that the question is to consider deleting the following language that starts with Arizona Open Meeting Law to delete "City Council Rules of Procedure and Policies, . . .", and in place of that add, ". . . the general Commission handbook, and the Planning and Zoning Commission's Handbook . . ." The reason for this recommendation is that there are some parts of the City Council's Rules and Procedures that are not applicable to the Commission, and if we go in this direction, she is going to be revising the Commission's Handbook to ensure anything applicable in the City Council's Rules and Procedures are then added to the Commission's Handbook, if they are not already in there.

Section 14.2 and 14.3 – Audree explained that staff had recommending deleting "Conflict of Interest" and "Conflict of Office", but the Council is asking you to not delete them and include them in the Rules and Procedures. Warren explained that the thought was that a previous citation included that when it cited the Arizona State Statutes, but the Council felt it was important to keep it very specifically called out, and Robert Pickels Jr. agreed.

Commissioner Klein indicated that he was confused. Looking at Exhibit A, 14.2 has nothing to do with Conflict of Interest. Audree Juhlin stated that Article 14 is Conduct of Members and the Commissioner agreed but added that Section 14.2 says that members shall not appear to speak before the City Council on Commission matters, unless explicitly invited by the Council or directed by a majority vote of members to do so. Warren Campbell stated that is Section 14.6 and Audree commented that the Commissioner's printing problems may have carried over to the document; however, the Commissioner stated that is what staff provided him and, after looking at all of these red changes, if you look at Exhibit A, Operating Rules and Procedures, that is what he is looking at. . . The Commissioner then determined that it was okay, and Audree agreed that some of the numbering in Exhibit A is incorrect, so she will fix those once we are done with this.

Audree asked the Commissioners if they were okay with that change. Vice Chair Levin stated fine and there was no objection.

Note: Commissioner Barcus left the meeting at approximately this time.

Section 14.5 – Audree asked the Commission to consider adding "on matters that are before or could come before the Commission" and deleting "Commission matters unless explicitly invited by the Council or directed by a majority vote of the Members." This would be rewritten to say, "Members shall not appear to speak before the City Council on matters that are before or could come before the Commission."

Commissioner Kinsella stated that this means that under no circumstances could the Council ask a Commissioner to opine, and the Chair asked for the rationale. It has happened twice, so wouldn't we want to give the Council the ability to ask one of us ahead of time? Robert Pickels Jr. stated that without having the benefit of a discussion by this body, he fails to see the benefit. Warren explained that he thinks it is suggesting that unless specifically invited to speak on an item that is before you or will be coming before you, the Council is not looking for you to speak on those items at a hearing; however, Commissioner Kinsella stated that is not what it says. It said that before, and now it is saying that even if the Council wanted some direction, this doesn't allow for that.

Audree Juhlin indicated that trying to understand the intent, she can see a little clarification added to the Section to say individual members – not the Commission, so if you as an individual member of the Commission wanted to speak before the Council, you shouldn't do so unless it is part of a bigger Commission body.

Commissioner Mayer asked if a member is invited by the City Council to speak, shouldn't that be discussed within the Commission first to allow that. Robert Pickels Jr. stated that was his point, and he is surprised to hear that there may have been a couple of circumstances where that invitation was extended by the Council. Chair Losoff stated that in two instances, he happened to be in the audience

and there was kind of a contentious project, and he was asked to try to explain something, which was awkward. Robert Pickels Jr. indicated that he can't envision circumstances where he thinks it would be appropriate for that to occur without having some direction from the Commission authorizing some message to be carried from this body to the Council.

Commissioner Kinsella stated that this language doesn't allow for that authorization. That's the problem; there is no provision, it just blanketly says never. Robert Pickels Jr. agreed but explained that it is not likely for that to occur, so he doesn't know that it needs to be in there. Commissioner Mayer stated that he would have it in there.

Vice Chair Levin indicated that during the Community Plan update, he may have been designated to make reports to Council. The Chair pointed out that was the Community Plan; this is specific projects. Vice Chair Levin agreed, but noted that we are not talking about content. We are just talking about a single Commissioner representing the Commission to the Council, and that did occur with the consent of the Commission. Audree Juhlin suggested adding language to say that, and the Chair indicated that we would leave it in and see if the Council has a strong feeling about it.

Audree Juhlin asked if the Chair wanted staff to bring forward the discussion we are having tonight in relationship to approval by the Commission before a Commission Member would speak. Commissioner Mayer stated that is appropriate. Robert Pickels Jr. indicated that he doesn't imagine this going back to Council for discussion again. They sent it to the Commission and his suggestion at the time was this is the Commission's Rules & Procedures. The Council has to rubber stamp them and agree, but these are yours and they should defer to the Commission's wishes on how to construct these rules. It should go back to them as a consent item to approve or disapprove.

Audree then asked the Commission how they wanted to handle this section, and Commissioner Kinsella stated that she would like to see some further clarifying language and make a provision that if the Council requests it, the Commission could appoint someone to speak . . . Chair Losoff interrupted to say, "Let's strike out that sentence."

Commissioner Klein stated that he is too confused about the numbering and where this goes, etc., to comment. Vice Chair Levin indicated that she would reword it to say, "Members shall appear to speak before the City Council on matters that are before or could come before the Commission with the Commission's consent shall appear to speak before."

Commissioner Brandt stated no comment and Commissioner Mayer agreed with Vice Chair Levin.

Section 14.6 – Audree Juhlin indicated that the following item was recommended to be removed by staff, and Commission was asked to consider keeping it in. "Representation by member: No member shall represent an applicant or an appellant before the Commission or the Council on matters related to Commission business." The reason staff supported the removal was that it was included in the handbook, so we didn't feel it was necessary here. There are other items regarding Commissioner conduct that are not included in the Rules and Procedures, so staff's recommendation was to keep them in one place, but we have no issue in keeping this in this location.

Chair Losoff stated that is Planning 101, we shouldn't do that; however, Vice Chair Levin noted that this language suggests that the Council wanted it kept in and Audree agreed. There is no issue with leaving it in; there is no harm. Vice Chair Levin then stated fine.

Article 16:

Section 16.5 – Audree asked the Commission to consider deleting the phrase "passed on" and adding, "other official actions approving or denying". So it would read, "Resolutions or other official actions approving or denying an agenda item."

Vice Chair Levin and Commissioner Kinsella indicated they needed what comes before that and more context for that. Warren Campbell stated that Article 16 is titled, "Instruments of Commission Action",

and it then states the instruments by which the Commission shall officially report its work include . . ., this one originally said, “Resolutions passed on agenda items approved”, and the proposal is “Resolutions or other official actions approving or denying an agenda item.” It was expanding and clarifying that it is a number of official actions. Audree Juhlin then pointed out that it is provided in Exhibit A of the Staff Report.

Chair Losoff noted that with the exception of attendance, there hasn't been any substantive changes and the only thing we have disagreed with is the one about attending meetings; however, Audree indicated there have been a couple of others where you wanted to include something that was struck.

Commissioner Kinsella stated that looking at the full as is document, that is not how Section 16.5 is worded; it starts with “Agenda items approved”. Audree explained that this was the language that the Commission was forwarding to the City Council, so it has been reworded. It is now further rewording what had been recommended by the Commission. The Commissioner then asked if leaving out Sections 16.1-4, as a standalone clause, it would say, “The instruments by which the Commission shall officially report its work include resolutions or other official actions approving or denying an agenda item.” Warren Campbell stated that is correct.

Article 17:

Audree Juhlin stated that it currently says, “These Rules and Procedures may be amended”, and the Council's recommendation is to add, “The Commission may recommend to City Council amendments to these Operating . . .” She then reviewed the remaining suggestions and indicated that the final statement would then be, “The Commission may recommend to City Council amendments to these Operating Rules and Procedures at any regular or special meeting by a majority vote of its Members. If following presentation discussion of proposed amendments to these Operating Rules and Procedures, the Commission declines to make an affirmative recommendation to City Council, the Director may nonetheless forward those amendments to the City Council for consideration. Recommended amendments are subject to final approval by the City Council.”

Commissioner Klein indicated that if you are deleting “. . . or the Director may recommend to the City Council amendments”, and you are just saying the Commission may make those recommendations, how can you then say the Director may nonetheless forward those amendments to City Council for consideration. . .” Vice Chair Levin interrupted to say, “Keep them both in or take them both out.” Audree Juhlin asked how the Commission wants this worded.

Vice Chair Levin stated that she would take them both out, but Commissioner Kinsella stated that she would leave in “or the Director” and delete the deletion, and then it agrees with the rest of the paragraph. Chair Losoff added that as Robert said, these are the Commission's Rules and Regulations, so we are the ones that should approve or not approve it, and if we do not approve it, it shouldn't go any further. Robert Pickels Jr. clarified that if you want to delegate that authority in your rules to authorize the Director to have that authority, then you should retain that. Commissioner Kinsella stated that it doesn't say approve; it says recommend.

Vice Chair Levin indicated that she agreed with Commissioner Kinsella to reinstate “. . . or the Director”, and then it matches the language later on in the paragraph. Audree Juhlin asked if there was a consensus, and Commissioner Klein stated that you either add the Director both times or take the Director out both times. Vice Chair Levin stated the same thing simultaneously, and then indicated that we are reinstating it. The consensus was to leave it in.

Audree Juhlin then stated that we have consensus on the changes and noted that this item is agendaized for action, if the Commission wants to make a motion recommending the changes as discussed tonight.

MOTION: Commissioner Brandt so moved. Vice Chair Levin seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. Commissioner Barcus had left the meeting.

- 8. FUTURE MEETING DATES AND AGENDA ITEMS**
- a. **Tuesday, March 20, 2018; 3:30 pm (Work Session)**
 - b. **Tuesday, March 20, 2018; 5:30 pm (Public Hearing)**
 - c. **Tuesday, April 3, 2018; 3:30 pm (Work Session)**
 - d. **Tuesday, April 3, 2018; 5:30 pm (Public Hearing)**

Audree indicated that the meeting on March 20th is going to be a very long night, because it includes a discussion about the Land Development Code and we had an item for the Residence Inn at 5:30 p.m.; however, she believes that they are not ready and will ask to continue that meeting to April 17th. The Land Development Code is in the work session and it also will be on the 5:30 p.m. agenda to allow for continued discussion if necessary, because we are going to talk about density, landscaping, Firewise and draft three.

Chair Losoff asked if the Commission didn't need another work session on the Residence Inn, and Audree explained that they requested to move forward to a public hearing. They have had their sessions in the past and feel that they are meeting everything the Commission previously requested, so they are ready for you to consider their packet. She did tell the applicant that if the Commission needs more information, we can continue that public hearing to another date.

Audree indicated that she does not know what items are on April 3rd, staff will be meeting to determine what we need to do to get the CFA Plan ready for consideration, so she does not know if we will be able to do that by April 3rd. The other proposed item is the Habitat development proposal, depending on the Administrative Waiver and if that is appealed. Chair Losoff asked if Habitat would come back for Design Review, and Audree clarified it would be for Development Review, because the Commission has that authority for Multi-family projects. Audree added that April 17th could be the Residence Inn if they continue the March 20th meeting.

9. 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.

10. ADJOURNMENT

Chair Losoff called for adjournment at 6:45 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 March 6, 2018.

Donna A. S. Puckett, *Administrative Assistant*

Date