

**Summary Minutes**  
**City of Sedona**  
**Planning & Zoning Commission Meeting**  
**City Council Chambers, Sedona City Hall, Sedona, AZ**  
**Tuesday, May 7, 2013 - 5:30 p.m.**

**(15 minutes, 5:30 – 5:45 pm for agenda items 1-5)**

**1. Verification of Notice, Call to Order, Pledge of Allegiance and Roll Call**

Acting Vice Chairman Hadley verified the meeting had been properly noticed and called the meeting to order at 5:30 p.m.

**Roll Call:**

**Planning & Zoning Commissioners Present:** Acting Vice Chairman Michael Hadley and Commissioners Eric Brandt, John Currivan, Scott Jablow, Geoffrey Messer and Norm Taylor. Chairman Marty Losoff was excused.

**Staff Present:** Keith Chamberlain, Cari Meyer, David Peck, Donna Puckett, Ron Ramsey and Kevin Snyder.

**2. Commission/Staff announcements and summary of current events by Chairman/staff.**

There were no announcements.

**3. Public Forum – for items not listed on the agenda within the jurisdiction of the Planning and Zoning Commission – limit of three minutes per presentation. (Note that the Commission may not discuss or make any decisions on any matter brought forward by a member of the public).**

*The Acting Vice Chairman opened the public forum and having no requests to speak, closed the public forum.*

**4. Nomination and Election of Chairman and Vice Chairman.**

Acting Vice Chairman Hadley indicated that since Chairman Losoff is excused, he would recommend postponing this decision until the Chairman returns. The Acting Vice Chairman then asked if a motion was needed and Kevin Snyder explained that since it is an agenda item, it would be appropriate to do a motion. Acting Vice Chairman Hadley then stated that he would entertain a motion.

***MOTION: Commissioner Jablow stated, "I'll make a motion". Commissioner Taylor seconded the motion VOTE: Motion carried six (6) for and zero (0) opposed. (Chairman Losoff excused)***

Acting Vice Chairman Hadley indicated that the item will be rescheduled.

**5. Approval of the minutes of the following meetings:  
March 28, 2013 (WS); April 2, 2013 (R); April 11, 2013 (WS-SV)**

***MOTION: Commissioner Brandt moved to approve the March 28, 2013 work session, the April 11, 2013 work session - site visit and April 2, 2013 regular meeting.***

Commissioner Brandt then stated that he needs to abstain from the vote on the March 28, 2013 work session, because he wasn't in attendance. Acting Vice Chairman Hadley then noted that he heard a second by Commissioner Taylor.

**SECOND: Commissioner Taylor seconded the motion. VOTE: Motion carried five (5) for, zero (0) opposed and one (1) abstention. (Commissioner Brandt abstained; Chairman Losoff excused)**

**6. Consideration of the following requests through public hearing procedures: (1 hour 15 minutes, 5:45 – 7:00 pm)**

**A. Discussion/possible action regarding a request for Subdivision/Condominium Conversion approval to create 6 airspace units for individual sale in an existing office building at 30 Kayenta Court (Kayenta Plaza). The property is zoned C-2 (General Commercial) and has a 5,668 square foot office building. A general description of the area affected includes but is not limited to the northeastern terminus of Kayenta Court. The property is approximately 0.42 acres and is further identified as Assessor's Parcel Number 408-24-343. (15 minutes) Applicant: ATL Holdings, LLC Case Number: PZ13-00004 (SUB) Staff: Cari Meyer**

**Presentation, Cari Meyer, Associate Planner:** Indicated that this is a request for a Preliminary Plat for an office subdivision/condominium conversion and the location of the subject parcel was shown on a slide. Cari explained that the property was developed under a Development Review approval in 1995, and in 1996, construction was completed. The end of last year, representatives of the property owner began discussions with staff about converting the office building into office condominiums, to allow for the individual sale of the six units in the building. The application was submitted in February and the Planning & Zoning Commission had an introductory work session in March.

Cari again described the location of the site and indicated that it was developed in accordance with the approved plans. There is a 5,000 sq. ft. office building with associated site improvements and parking, and it has approximately 80 ft. of frontage along Kayenta Court. There are 20 parking spaces as approved and one ADA space is included in the 20 parking spaces.

Cari indicated that there are a number of easements on the property, all of which are shown on the Preliminary Plat and there is a 15 ft. ingress/egress utility easement on the western property boundary and a variety of easements on the northern property boundary, including two drainage easements and an ingress/egress easement.

Cari stated that the applicant is requesting approval of a Preliminary Plat Map to allow for the creation of a condominium, and no exterior work or modifications are proposed in conjunction with this application; however, they are requesting an exemption from the requirement of a 400 sf. per unit area that was supposed to be used for a recreation area, and the parking and utilities will be under the control of the condominium association.

Cari referenced the Preliminary Plat and repeated that there are no exterior improvements or modifications proposed and there will be three units on the ground floor and three units on the 2nd floor. The Engineering Department had some requirements regarding easements being shown on the Plat, and after final approval, the sewer billing will have to be updated with the Finance Department. The Fire District had some requirements, including a KNOX box and contact information, and the applicant has already fulfilled these requirements.

Cari referenced Section 704.04.G of the Land Development Code that outlines the Commission's responsibilities in reviewing Preliminary Plat Maps, and the Commission is to make a recommendation to the City Council based on the following findings:

- Conformance with adopted goals, objectives and policies
- Public health, safety & welfare considerations
- Design, etc.

Cari indicated that the applicant has submitted all of the required documentation for a Preliminary Plat and the Building Division has reviewed the application and conducted a preliminary inspection and confirmed that no major changes are needed to convert the building into ownership units. The applicant also has fulfilled the Fire District's requirements by installing a KNOX box and fire extinguishers, and staff is supportive of the applicant's request to waive the requirement for 400 sf. of outdoor space for recreational purposes.

Cari explained that staff is recommending one condition that would place a restriction on uses that require more parking than one space per 250 sf., as that was the ratio used under the original development approval.

Cari stated that based on compliance with all ordinance requirements and satisfaction of the Preliminary Plat Map findings of the Land Development Code, staff recommends approval of case number PZ13-00004 (SUB), Kayenta Plaza Condominium Conversion, subject to all applicable ordinance requirements and the attached Conditions of Approval.

**Commission's Questions of Staff:**

Commissioner Currivan asked about the computation for the parking spaces and indicated that the rule we are working under refers to "gross floor area", so we have one parking space for each 250 sf. of gross floor area, and he was unable to find a definition of "gross floor area", so he wonders if we have a view as to what that means, and in particular, whether it includes the common areas. When you have a condominium unit, you have the square footage of each unit, but then each unit is viewed as owning an undivided interest in the common area. We aren't talking about the land, but the floor area that is considered common area, and there is an Area Table that was provided to the Commission that shows how many square feet are in each unit and how much of the common area each unit is considered to own. The Commissioner then asked if the "gross floor area" includes both of those.

Cari Meyer explained that it would include some of them and she believes it included the covered walkways, but some of the exterior areas in the common area would not be included in the "gross floor area", since they are open. Additionally, this project was approved as constructed with 20 spaces. She looked at the Staff Report and there wasn't any mention of a reduction in parking, but there may have been some considerations, and it was built as approved with 20 spaces, but a number of the areas shown under the common area would be included in the indivisible areas and would not be included in the "gross floor area".

Commissioner Currivan then asked if staff came up with a number for the square feet of "gross floor area" this project has and Cari stated yes, for the "gross floor area", staff would count the restrooms, storage area and one floor of the elevator, which would be 5,244 sq. ft. Under the current parking, it would be 21 spaces, but there haven't been any changes since it was approved and constructed as is. The Commissioner then indicated that we are saying if we did it just by the arithmetic it would require 21, but since it was already approved with 20 and we are not really making any changes, you are recommending that we approve it with 20 spaces and Cari stated, right.

**Presentation, Jason Segneri, Survey Innovation Group, Scottsdale, AZ:** Indicated that he is representing his client and owner, ATL Holdings, and he is happy to have the Commission's time here and if there are any questions, he is here to entertain them.

There were no questions asked by the Commission.

*Acting Vice Chairman Hadley opened the public comment period at this time.*

While waiting for a member of the public to fill out a card, the Acting Vice Chairman asked staff if the Commission's function is to approve a Preliminary Plat Map, which then goes to the City Council. . . ., Cari interjected that the Commission recommends to the City Council, and the

Acting Vice Chairman continued to say that the Council then takes the final action, but the Commission is not being asked to approve or review anything else, since it is all existing and there are no changes. Cari agreed and stated that it is all existing; the change would be from rental units to ownership units. Acting Vice Chairman Hadley then noted that it obviously changes the Plat Map of the footprints of the units and Cari stated, right. The Acting Vice Chairman then suggested that if anyone else wishes to address either of the next two items on the agenda, this would be the time to complete a white card.

**John Glascock, Sedona, AZ:** Indicated that they are tenants of the building and his only question regarding this building is, when they did an improvement to the building, they pulled permits and ran everything through you guys, and they have original blueprints for this building, which was for four separate areas, not six, and they want to make sure that whatever those divisions and whatever happened since the original construction happened to code, and that effectively, the City has inspected each part of those, because originally it was a four-part building construction.

Cari Meyer explained that she went with Brian Pearson when the application first came in, and they conducted an inspection of the outside of the building, and then as part of the application process, the applicant provided a Building Inspection Report. As far as permits for interior work, the City has not conducted an inspection of that.

**Thea Draaisma, Sedona, AZ:** Indicated that she is John's wife and she is the owner of *A Spa for You*, and they are located in the ground floor unit, that is one of the units. As John mentioned, they actually put a lot of money in it. It was one room and empty for four years. For 2½ years, it has been running as a spa and her concern is the lease that she signed, and the honoring of that, and just wanting to put out the concern where they are not being placed in a position that they are just kind of no longer there.

Commissioner Messer asked about the length of the lease and Ms. Draaisma stated four years and with an extension of another three years where they are able to raise the rent a certain percentage, so it would be in total seven years.

Commissioner Jablow stated that he doesn't believe this is a concern of the Commission; it's not what we are voting on or considering. Kevin Snyder stated that the lease relationship between this party and the property owner is a private party matter. The only thing that would concern the Commission is if you were engaging in action somehow that removed any legal right they have, and he would refer to Mr. Ramsey on that, but that is the only way he would say you would have any role in this.

Commissioner Jablow then asked Cari Meyer if any unauthorized conversion from four units to six units was done without permits, and if it was done at all, should we even be speaking about this case today. Cari indicated that she can do a quick search to see if there are permits for that. Mr. Segneri added that he didn't know if there were any permits pulled for that. The Commissioner then asked if any type of major construction was done, permits would be required and Cari stated yes.

Kevin Snyder explained that staff can do that research and if any action was taken without proper permits, that would be a code enforcement action that staff would engage in; however, that would not necessarily change the consideration before the Commission relative to the Preliminary Plat for creation of air space. Staff would do a code enforcement action to ensure proper conformance to Building Codes, including any action, but you can separate the two.

Commissioner Jablow asked if it would be possible to provide the Commission's vote today, but hold off any recommendations to the Council until this matter is clearly rectified, even before it goes to Code Enforcement or until Code Enforcement does their inspection and that entire matter is cleared up, before it goes to Council. Kevin indicated that the Commission has some

options. One, you can continue this item to a future specified meeting date and in that time direct staff to provide additional information on this matter, to allow time to do research. Since you are making a recommendation to the City Council, you would have to make some sort of action, positive or negative, because you are not the decision-making body. You are a recommending body this evening, but the first option would be available if the Commission feels you need that information to make a recommendation.

Cari Meyer repeated that staff hasn't done an interior inspection of the building, which staff may be able to do, but there is also the possibility that they are proposing to divide them into six units, and maybe the current tenant would be able to answer whether or not there are six units right now.

Commissioner Taylor stated that the real serious question is whether the modifications done at some time in the past affect the code -- egress in particular, and are we assured that the building meets the current code in all respects. Kevin Snyder stated that staff is not assured, because we have not done an interior inspection, so we would not be able to tell the Commission this evening whether or not it conforms to applicable Building Codes. Please remember that we are operating under the 2006 Building Codes and this building is older than that, so it may have been constructed when there were different Building Codes and it may conform to those codes, not necessarily to the most currently adopted codes, so we would have to investigate.

Commissioner Taylor noted that it seems that it should be done before the Commission recommends moving forward on this. Commissioner Jablow added that he understands what Kevin is saying about the old Building Codes, but he would like to be sure that if any work was done between the time the original plan was approved and now, that it was done to some code, and if it was done recently, it has to be compliant to current codes, and if there was any major modifications that the entire structure has to be brought up to current codes. Kevin explained that it depends on what is involved. You have to classify what "major" is. From the Building Code perspective, if it increases the value of the property 50% or greater, it is considered major under the Building Codes and what we would determine, as part of the investigation, is based on original building plans that were reviewed by the City, and then subsequently, we would compare those to the interior space and identify any modifications. There might be some minor modifications that we would require them to address, but normally it depends on the nature of it, and again the 50% threshold. The imperative is always life, health and safety, so we want to make sure at a minimum that they meet Fire Code requirements and minimum Building Safety Code requirements. The Buildings staff would make a call as to whether or not that was appropriate to do under the codes in effect at the time the modifications occurred, if we can determine that, or if we can't determine when the modifications occurred, we can use the current code.

Acting Vice Chairman Hadley noted that the discussion has kind of drifted back into a Community-staff discussion and asked Thea Draaisma if there was anything else she would like to address to the Commission and Ms. Draaisma stated yes.

**Thea Draaisma, Sedona, AZ (continued):** Stated that in 2010, when they moved in, they definitely made changes, and it was all according to the proper permits needed and the City and Fire Department were involved, so they followed all of those rules and it might be a step removed from what you are talking about, in terms of the whole building. She is just talking about the unit that they are renting. With what you mentioned, that what she brought up is probably not under your decision-making, is there still a request that you can make to her?

Acting Vice Chairman Hadley indicated that the Commission might consider, if the Commission wishes, acting on the Preliminary Plat Plan and refer this to Council for action, but with the notation that the Building Department should look into what improvements have been made, and that could be part of the Council's decision-making process.

Commissioner Jablow asked Ms. Draaisma if she is saying that when she moved in there were four units and asked how many units there are now.

**Thea Draaisma, Sedona, AZ (continued):** Indicated that there are three, and just recently the upstairs unit was divided into two and half of that is rented out as far as she knows.

Cari Meyer indicated that after a quick search of the permitting database, there are a number of permits for Tenant Occupancy and Tenant Improvements for this building, but we can do a search and see what plans were improved. Kevin Snyder added that based on what the Acting Chairman suggested, if the Commission is comfortable with that, then staff will assure the Commission that it will not be taken forward to the City Council until such time staff has completed the investigation and is assured that it was code-compliant, and addressed any outstanding issues with the owner. Commissioner Jablow stated that he is very comfortable with that.

*Having no additional requests to speak, the Acting Vice Chairman closed the public comment portion of the hearing.*

**Summary Discussion:**

Acting Vice Chairman Hadley indicated that it seems that the Commission should recommend to City Council on the Plat Map and direct staff to prepare a report on tenant improvements and what other permits may or may not have been involved, and that can be part of the Council's action.

Commissioner Brandt expressed interest in saying so moved; however, the Acting Vice Chairman asked how the Commission makes that happen. Commissioner Jablow indicated that he is not so much concerned about the tenant improvements as he is about the structural improvements. If there were major structural changes from the building going from four units to five, six or more, structural changes are much more important than tenant improvements; however, Acting Vice Chairman Hadley explained that in reality they may not necessarily be structural, but a tenant improvement could be structural. Commissioner Jablow then indicated that it might go with the Director's suggestion; he is very comfortable with that.

Commissioner Messer indicated that typically dividing a space doesn't do anything to the structure, when you are putting up a dividing wall; it is not a structural issue. Commissioner Taylor stated that it all depends on whether or not there were permits. If there were permits, then he would say no problem, the City would have looked at all of those things, but if there weren't permits, then it is a problem.

Commissioner Brandt stated that he would say there is no problem, because the City of Sedona Building Safety Division notes were "no comment", so they are aware of the situation and they didn't have a comment regarding this, but they could do more investigation.

Kevin Snyder suggested that whether or not the Commission ultimately recommends that staff assure itself, we will do an investigation before we forward this on, so whatever your recommendation is to City Council, we will do that investigation just to assure ourselves, the applicant and tenants that everything is done to the minimum standards that are required, so there are no life, health and safety issues. We will do that regardless, to give the Commission that comfort level.

Acting Vice Chairman Hadley stated, very good and explained that his feeling is that in fairness to the applicant, we need to move this on to the City Council and let staff do their job and see what happens, so he will entertain a motion.

Commissioner Currivan asked if the Commission is surprised by the notion that there are six units. He is a little bit confused by that, because the proposal before us is for six condominium

units and he thought there were currently six units, and they are proposing to convert them into six condominium units, and the Plat provided shows units one through six. Acting Vice Chairman Hadley indicated that he had the same impression. Commissioner Currivan then stated that he is not sure what the issue is and Commissioner Jablow stated that is the issue; we aren't sure and want to be sure. Commissioner Currivan then indicated that he is not sure why we are not sure and asked if we know for a fact that this building started out with only four units, when it was originally approved. Acting Vice Chairman Hadley indicated that it could have, but if there have been permits to subdivide the tenant space, then it is perfectly okay.

Commissioner Currivan then stated that he is comfortable with passing this along to the City Council subject to the conditions that were just stated. Acting Vice Chairman Hadley asked if the motion needs to be amended or will staff just do this and Kevin Snyder explained that is at the Commission's discretion, but staff will do that investigation whether it is directed or not, to assure staff, the tenants and the applicant that everything is in an appropriate situation. The Acting Vice Chairman then indicated that he would entertain a motion.

***MOTION: Commissioner Jablow moved to recommend to the Sedona City Council approval of case number PZ13-00004 (Sub) based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements and the conditions as outlined in the Staff Report.***

Cari Meyer pointed out that she made a mistake on that proposed motion; it should be satisfaction of the Preliminary Plat findings, not Conditional Use Permit findings, and Commissioner Jablow stated that he will amend the motion to remove the word "permit" and replace it with "Preliminary Plat". Commissioner Currivan pointed out that the words "Conditional Use Permit" need to be removed, and Commissioner Jablow stated okay, remove the words "Conditional Use Permit" and replace them with the . . . Acting Vice Chairman Hadley indicated that the motion should be read again as amended. Commissioner Jablow then repeated that we are removing "Conditional Use Permit" and replacing that with the "Plat" findings; however Cari Meyer stated "Preliminary Plat Map" findings.

***AMENDED MOTION: Commissioner Jablow moved to recommend to the Sedona City Council approval of case number PZ13-00004 (SUB) based on compliance with all ordinance requirements and satisfaction of the Preliminary Plat findings and applicable Land Development Code requirements and the conditions as outlined in the Staff Report. Commissioner Brandt seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. (Chairman Losoff excused)***

- B. Discussion/possible action regarding a request for Conditional Use Permit approval to operate an outdoor food service business at 1695 W Highway 89A (Over the Edge Bikes). The property is zoned C-2 (General Commercial) and has an approximately 1,300 square foot bike shop. A general description of the area affected includes but is not limited to the southern side of W Highway 89A between Northview Road and View Drive. The property is approximately 0.28 acres and is further identified as Assessor's Parcel Number 408-26-431. (20 minutes) Applicant: Jonathon Kerchner Case Number: PZ13-00005 (CUP) Staff: Cari Meyer**

**Presentation, Cari Meyer, Associate Planner:** Indicated that this is a Conditional Use Permit for an outdoor food trailer at the Over the Edge Bike shop. Cari then described the location of the subject property on a Vicinity Map and showed an aerial view of the site. She then explained that Over the Edge Bikes opened in September, 2011 and in January of 2013, representatives of the bike store talked with staff about the possibility of placing a food trailer at the rear of the store. The application was submitted the end of February and the Commission had a work session the end of March and visited the site in April.

Cari again described the location of the property and indicated that there are two existing buildings and businesses on the site. Over the Edge Bikes occupies an approximately 1,300 sf. building and the What You Want shop is approximately 336 sq. ft. The property has approximately 118 ft. of frontage along S.R. 89A and 126 ft. of frontage along View Drive. The site plan submitted shows nine parking spaces; however, because of minimum drive aisle requirements, only seven of those spaces can be counted and the site has access from both S.R. 89A and View Drive.

Cari explained that the applicant is proposing to place a food trailer in the rear courtyard of the bike store and the trailer would have the same hours of operation as the bike store, which is currently 9:00 a.m. to 6:00 p.m. seven days a week. The area that would be occupied by the food trailer and the outdoor patio is approximately 548 sf. and seven parking spaces are required, with 5.2 for the store and 1.37 for the outdoor dining area. The applicant is proposing to screen this use with new fencing and landscaping, and a sewer connection would be based on a minimum of a 5-seat restaurant.

Cari referenced the proposed site plan and pointed out the seven spaces that were counted and the proposed location of the food trailer and patio area that would include new fencing and landscaping between the food trailer and the street. Additionally, Cari explained that the applicant, in addition to obtaining a Conditional Use Permit, must also meet the requirements of the Yavapai County Health Department and the City of Sedona Public Works Department. No signs are proposed as part of this application, but any future signs would be counted towards the sign area allowed for the bike store. There is no outdoor lighting proposed and the applicant notified property owners within 500 ft. of the property and provided letters of support. Additionally, staff was contacted today by the owner of the Red Planet Diner across the street, and he submitted a letter which was given to the Commission tonight.

Cari indicated that there were a number of comments from the reviewing agencies. The Engineering Department mostly addressed the connection to the sewer and the billing for that. The Fire District required the trailer to be inspected and the first inspection has occurred and there were no major issues found. The applicant has also been working with the Yavapai County Health Department to obtain permits as a licensed mobile food unit and the Commission provided a number of comments at the previous work session.

Cari stated that the Land Development Code requires outdoor businesses to obtain a Conditional Use Permit, and this proposal is considered an open air business. Some of the requirements include that it be located on the same parcel as the primary business, and this business would be associated with the bike store and have the same hours of operation. Access would be through shared entrances and the trailer would be painted or wrapped to match the bike store, and be in an area that is already used by bike store customers. There is also a requirement that the sales display area be enclosed and surrounded by a group of buildings or a wall and landscaped, and they have proposed a new 6' fence and landscaping to screen this use. Additionally, before they can be in operation, they must provide proof of approval from the Sedona Fire District and the Yavapai County Health Department.

Commissioner Jablow asked if they have done that and Cari indicated that she will get to that and continued to explain that off-street parking for the outdoor sales display area is to be consistent with the parking required, and the off-street parking requirements in the Land Development Code are 5.2 parking spaces for the bike store and 1.37 spaces would be required for the outdoor area, for a total of 7 spaces, which are shown on the site plan. The other business on the property provides their parking separately from what was shown on the site plan.

Cari explained that any other conditions deemed appropriate by the Commission's previous comments were taken into consideration, when drafting the Conditions of Approval. Therefore, staff finds this request complies with ordinance and reviewing agency requirements and it is

consistent with the Community Plan and complies with required findings for Conditional Use Permits and open air businesses, and staff is supportive of a five-year Conditional Use Permit with a possibility of renewal. Therefore, based on compliance with all ordinance requirements and satisfaction of Conditional Use Permit findings of the Land Development Code, staff recommends approval of case number PZ13-00005 (CUP), Over the Edge Eatery, subject to all applicable ordinance requirements and the attached Conditions of Approval.

**Commission's Questions of Staff and Applicant:**

Commissioner Currivan referenced the parking and asked why it is that we use half of the indoor rate and if that is just a policy that has been adopted over the years. Cari indicated that it is a policy. It is a Director's determination that was done in 2009 and it was to be consistent with how wastewater fees are calculated. Wastewater fees are calculated at half the rate, for outdoor seating at restaurants, so it was determined that parking would be calculated at half the rate as well. The Commissioner then stated that we basically use the same formula for parking as we use for wastewater treatment and Cari stated yes. The Commissioner noted that he is not sure what the connection is, but if that is a longstanding policy, he doesn't want to oppose it, he was just curious about what it is.

Commissioner Currivan then asked to go back to the Plat diagram and referenced the number 548 sf. He then asked if that is the number used for the calculation of the parking and Cari stated yes. The Commissioner then asked what that number includes and Cari explained that her understanding is that it includes the patio area and the area occupied by the trailer. Commissioner Currivan then asked if it includes the trailer itself and Cari, as well as the applicant, stated yes. Commissioner Currivan then referenced the serving of alcohol and asked the applicant to identify himself and the applicant responded, John Kerchner. The Commissioner then asked if Mr. Kerchner would object, if the Commission approved this request subject to no alcohol being served.

**John Kerchner, Applicant, Sedona, AZ:** Explained that at this time, he doesn't have any plans to get a license to serve alcohol. If the business increases and they can make it grow, and if that is a way for them to be more profitable, then that would be something they may look into in the future, but right now, he doesn't foresee that. He would like to have that option if possible; it is hard to know what the future holds.

Commissioner Currivan then stated in other words, you want to keep the possibility open of serving alcohol as part of this operation. Mr. Kerchner indicated that if he had to say right now, yes, he would like to keep as many possibilities open as he can. The Commissioner then referenced the notice to the property owners in the area and asked if there was any mention of the possibility of this being a place that served alcohol and Mr. Kerchner stated no, it explained a general overview of what they are proposing and it was an invitation to come to the meeting so they could ask questions. He didn't get anyone to come to the meeting; no one showed up, but several people did call and he explained what was going on with the meeting, and they all kind of cut him off and said that they just wanted to know what it was about generally and didn't really get a full explanation of it from him.

Commissioner Currivan then asked if you were to decide to serve alcohol at this place, he is wondering to what extent it would change the whole character of the business proposed, not only to the Council but to the surrounding property owners. In other words, wouldn't it be possible for people to just walk in off of the street to just have a drink -- having nothing to do with biking or eating; they would just come in because they want a drink. Mr. Kerchner stated that it is possible that anyone could come in there for any reason just off of the street -- for food, etc. It is designed to work in conjunction with the bike shop as an extension of the bike shop, so if there were people that came for the food, they are hoping it will increase the sales at the bike shop as well. They are in conjunction with them and it will be labeled as that and presented in that way.

Commissioner Currivan stated that once word got out that alcohol was being served, you could go in there and get a glass of wine or a beer or something like that, and once word got out about that, there would be nothing to stop people from just coming in, because it was a convenient place to grab a beer. He then asked if that is right and Mr. Kerchner explained that there could be, if they put a restriction or a sign up saying that it was a bike shop or you need to be -- he doesn't know how you would restrict that. Right now, they don't have any plans to serve alcohol; they plan to serve beverages that are healthy, like fruit smoothies, coffee and things that are typically for healthy eating for going on bike rides.

Acting Vice Chairman Hadley asked staff if the Conditions of Approval state that no alcohol is served and they decide to serve alcohol in the future, obviously they need a license, but would that be a condition change that would be required to come back to P&Z, and staff stated yes. Cari pointed out that currently the conditions state that they are not allowed to serve alcohol without the proper permits, which would have to go through the state and the property would be posted, plus there would be a hearing with the City Council. If the Commission changed that condition to no alcohol at all and they wanted to come back in the future, they would have to first come to this Commission to amend that condition.

Commissioner Currivan explained that his concern was that he thought all they would have to do basically is get the licenses and they would be able to serve alcohol. Cari explained that there is a process and they would have to go through the City Council. Kevin Snyder then added that attainment of the liquor license is a multi-step process. First, they have to make an application to the State Liquor Control Board. Second, they have to make an application through the City and the City then handles the noticing process, which requires posting of the site and allows all interested parties to comment. Third, it goes before City Council and the Council makes a recommendation only; we don't have decision-making authority, that is the State Liquor Control Board. Our recommendation goes forward to the Liquor Control Board and they consider our recommendation, positive or negative, as part of the overall application process, but it is not simply that they submit an application and start serving the next day. There is a multi-step process and on average it takes 60 to 90 days, depending on the type of application, to get potential approval.

Commissioner Currivan stated that in other words, there would be an opportunity for the City to look at this again, if they decided they wanted to serve. Kevin Snyder clarified that it is normally at the staff level; it does not come back through the Commission. It would go from staff and staff would make a recommendation directly to the Council. Commissioner Currivan stated that he understood.

Mr. Kerchner then explained that he doesn't know if there would be a way that they would be able to refuse service to anyone, but there would be no way to stop them from having people just walk up, and it is the same for any other establishment that serves beer or wine, just like Red Planet Diner across the street. That is a bar and anyone can walk up and get a drink right there, so it would be no different than that. Commissioner Currivan indicated that he was just concerned about what the people who were told about this thought was going to be happening and whether they would be surprised if two years later you started serving liquor.

Commissioner Currivan then referenced a statement in the package that indicated five years is typical for this type of a permit and asked if that is an accurate statement. Cari stated yes, typically these are approved for up to five years the first time around. Staff may recommend a shorter amount of time depending on the extenuating circumstances of a project, but for projects that seems to have all of the issues resolved, five years is typical.

Commissioner Messer referenced parking and asked why the space on the south side is not added, which has like five parking spaces that are used all the time, and Cari explained that is on a separate parcel. The Commissioner noted that Joe owns that whole land and Cari

agreed, but explained that they are separate parcels. They could meet the parking requirements based on the parking onsite, so staff only considered that.

Commissioner Jablow indicated that he understands that there is nothing for the Fire District to inspect until they can see the trailer, which is not built yet. Cari explained that Gary Johnson, the Fire Marshal, has gone out and done an initial inspection, so the applicant can talk about what that involved.

Mr. Kerchner explained that the Fire Marshal came by and the trailer is here; it is in Sedona, and he inspected everything and there are some minor things that need to be done, but they have what he called the meat and potatoes of what is needed. They have a vented hood and an Ansul fire suppression system, and he said that what they have is what most people don't have and stops a project, and the things that need to be done are very minor and it looked really good.

Commissioner Taylor referenced a discussion about serving beer at an earlier work session and indicated that he thought that was a non-issue and out of the question. There were no plans to do that. Mr. Kerchner explained that he still doesn't have any plans to get a liquor license or do any of that process to be able to serve liquor. He doesn't have any plans for that. Commissioner Taylor then stated that it seems that it could be discussed all day long, but it seems that it is incompatible with the kind of bike riding that people who come to the bike shop do. Commissioner Jablow then pointed out that the applicant is not considering it, but Commissioner Taylor referenced the earlier discussion and noted that it sounded like it is a possibility down the road. In other words, the Commission approves it and thirty days later, they apply for a liquor license.

Acting Vice Chairman Hadley asked if staff had any wisdom to share on that and Kevin Snyder stated that there are two options. One, the Commission can place a Condition of Approval limiting alcohol sales, because it is discretionary, and the other is that there is a separate process that one has to go through to obtain a liquor license from the state that does involve the City, and that involves a City Council recommendation, so if citizens have any particular concerns or issues, they can take it to their elected officials as part of that process. He sees those as the two best options for the Commission to consider -- either place a condition on limiting or not allowing alcohol sales or allow the potential process, if the applicant does choose to pursue a liquor license, and that will provide interested parties the opportunity to participate in that conversation.

The Acting Vice Chairman noted that even though it is a staff review process, it still goes to the City Council and Kevin Snyder explained that under state law, the City Council, the legislative authority, has to make a recommendation to the State Liquor Control Board. We don't have an option at the staff level of doing that without Council's direction.

Commissioner Brandt asked what the problem is with serving alcohol, because if you don't have a liquor license, you can bring in alcohol in some states, and if you have a liquor license, you cannot bring in alcohol, so he doesn't see why there is a concern one way or the other with alcohol. Commissioner Currivan indicated that it is not that he is opposed to serving alcohol; it is just that the people who were sent the required notice have an opportunity to comment, and nobody told them anything about the possibility of serving alcohol. They thought this was going to be health food and energy drinks, so if all of a sudden there is going to be something next door that is serving alcohol, it would have been nice if they had been told that, so they would have had an opportunity to react and some of them might be surprised to learn that.

Commissioner Messer indicated that he is starting to feel like he is in Utah instead of Arizona. There is nothing wrong; he is within the 500 ft. and he hopes they have beer, because after a ride that is what he wants, but that is just him.

Commissioner Jablow stated that he understands Commissioner Currivan's concern. As he understands, Commissioner Currivan is not against alcohol; he just wants to be sure that the community is being noticed properly and he (Commissioner Jablow) is all for that. He is concerned about that if that is a concern. Acting Vice Chairman Hadley explained that as he understands the process, if the applicant applies for a liquor license, it requires public notification and City Council approval, so the public would be notified. Kevin Snyder clarified that the only difference is that under the state laws, public notification is a public posting of the site. We don't send out notification as we do for this hearing. It would be publicly posted on the property and those individuals that review that posting then could submit written or verbal comments for Council's consideration.

Commissioner Taylor stated that the question is answered, but he still would think that those around would have questions about serving alcohol. He sees it a little differently; it is a bunch of young guys and gals to some extent and it could turn out to be something other than the picture that has been painted to date, but with that, he doesn't have any opposition to moving ahead with this project.

Mr. Kerchner repeated that there are no plans to get a liquor license. The reason why he spoke about alcohol tonight was because it was put to him and that is why it was brought up. As far as the community there, the Red Planet Diner is a stone's throw away; he doesn't know how many feet, but it is right there and they serve alcohol, so it wouldn't be leaps and bounds to have the people have another place right there -- right on S.R. 89A; it is a business. Again, he is not planning to do that and his other comment is that this place has been a bike shop for a long time, and the previous bike shop, Mountain Bike Heaven, did have kind of an image and he doesn't know if that is part of the reason -- he doesn't know if this is bias or kind of a prejudice against the bikers being rowdy and drinking, but the bike shop has changed a lot and the new owners are very responsible. They are trying to get a good crowd and trying to clean the place up to make it really nice, and their intent is as stated, and that is all he can say, and he hopes that the Commission trusts that.

Kevin Snyder indicated that one possible solution for the concern about making sure the public is aware is that the state minimum is that the site be posted, and the Commission could consider a potential Condition of Approval to require additional noticing beyond just a site posting, so that the same notification area for this meeting receives notification of that, and staff could work with the applicant to assure that happens.

Acting Vice Chairman Hadley stated that he thinks that is a good idea; he was looking at Condition of Approval number 7 and if we just added a short sentence to say that public notification would include the 500 ft. radius that would satisfy him. Kevin Snyder then stated that it would be a site posting plus a 500 ft. notification. The Acting Vice Chairman stated, correct.

Commissioner Currivan questioned what the process would be, because the notification has already gone out to the owners. The Acting Vice Chairman explained that this would be in the future, if they decide to serve alcohol, and it would require more than just posting the sign on the door; it would require written notification to the property owners within 500 ft. Commissioner Currivan asked what would happen then; let's suppose people have an objection, to whom would they bring the objection? Acting Vice Chairman Hadley stated that they would give it to staff and Kevin Snyder added that ultimately it would go to the City Council, because Council does consider individual applications for liquor licenses during a regular Council meeting.

Commissioner Messer indicated that he is curious if any other eating establishment has to do this. When El Portal started, as an example, they did not have a liquor license and they procured a Class 7 liquor license, which is very expensive and hard to find, because there is a limited amount, but he is wondering if there is a precedent, like if he owns an eatery business

and he wants to pursue a liquor license, is this a standard thing to notify the surrounding area again. Kevin Snyder stated no, it is not standard; he was proposing a potential solution to help ease some of the concerns, but that was just a suggestion from staff.

Acting Vice Chairman Hadley indicated that what would happen is Condition of Approval number 7 would read, "No alcohol service is permitted unless proper permits are obtained from the Arizona Department of Liquor Licenses and Control and public notification has been mailed to property owners within 500 ft." He then asked if that is adequate and Kevin stated yes, that would be a possible solution to address some of the Commission's concerns, but again it is just staff's suggestion and not anything more than that.

*Acting Vice Chairman Hadley opened the public comment period at this time.*

**Amy Seivold, Sedona, AZ:** Stated that she is John's girlfriend and she thinks it is a really great idea. A lot of people hang out at the bike shop and mountain biking is getting really big in Sedona, and we all know that Sedona is a huge tourist town, so there are people young and old, and you go there before a ride to get your information, but there is not really any good place to eat that is quick and easy right there. They have a bunch of bars and stuff that you can take on your ride, but as far as before or after your ride, it is great to talk with everybody and get to know the trails and know all the great people out there, so it would be really great for the community.

**Michael Raney, Sedona, AZ:** Indicated that he is the owner of the Over the Edge Bike shop and he could probably answer a lot of the questions the Commission has about the parcel behind the store, and they have done Temporary Liquor License Permits for parties a number of times. They are trying to provide an experience at the store and cycling is an affluent sort of sport. People are traveling around the world to come to Sedona and they want to provide a unique experience to them. He has never heard of having a food truck outside of a bike shop, but it sounds awesome. It sounds like people come and they are here on vacation to ride and want something unique and different, and everyone goes to eat right after they ride, so it is a great fit and he would be happy to answer any questions.

**Catherine Holborow, Sedona, AZ:** Stated that she has lived in Sedona for 20 years, 10 of those years in the subdivision of Northview and she drives up View Drive several times a day and that area in the back of OTE is an eyesore to her and other residents she knows. With the addition of the OT Eatery, it would provide improvements to that area and it would enhance that area, and because of that, she is in support of the OT Eatery.

**Jeffrey Mellon, Sedona, AZ:** Stated that their biggest concern is the parking and with What You Want and the Bike shop a lot of parking gathers right on the street and sometimes in the street, so they would want a partition or distinction between the parking and the road, so consider that.

**Lisa Mullen, Sedona, AZ:** Indicated that she is Jeff's wife and her concern is that she hasn't really complained a lot about what has been going on since they came to the Bike shop, because it has been a great improvement, but the problem is the parking behind. From what she understands, part of it is residential, so they can't go beyond a certain point. Where they want to put the truck; it is a very small patio and she feels that if they would add onto the building and make it a little nicer, it would be better, but what has been happening is these trailers come in from all over and it is great, because it is business for Sedona, but they are staying overnight and they haven't said anything, but it has been going on and there was an Airstream parked there last year for three months, where they had solar panels and were actually sleeping there, and that is her concern. What goes on in that area, those trailers will stay there overnight and she knows they are not allowed to do that, but she wants to see designated parking, as to what is going on. You turn the corner and the trucks are parked out and you can't get around the street, and there is only one spot and 1½ spots for the pizza

place, unless everyone rides in on their bike, which isn't going to happen. She doesn't think there is enough parking, because they use that whole back area for parking, all the way to her neighbor's back fence. It looks bad, and nothing bad has happened, but people shouldn't be able to sleep there, when there are RV parks or wherever they are supposed to stay -- that is a concern to her and she has seen it up until the last two weeks before the City Council meeting. They have now been parking the trailers in the front, and it was just upsetting that they would do that and not care what they think. She believes there is not supposed to be overnight parking back there and it has been going on for at least however long ago they started. They have lived there three years, so that is her only concern. She is fine with everything as long as they don't have to see it and there is plenty of parking, and the way she sees it now with just the business, there hasn't been enough parking just for the bike shop.

Commissioner Currivan asked what trailers she is referring to and the Acting Vice Chairman explained that south of the yellow line there is open space and it goes quite a ways south to the residential zone, and he thinks that is what is being referred to and people are parking there.

Ms. Mullen stated that people are parking behind where the pizza truck is supposed to be, but on the other side of What You Want there is a line and they are parking all the way back to the fence, but when she went . . . Commissioner Currivan interrupted to ask who is parking and what are they parking. Ms. Mullen stated that they don't know; it is either clients of. . . The Commissioner again interrupted to ask if this has anything to do with the bike shop and Ms. Mullen stated yeah, it is big bike trailers, where they have bikes and they come in from all over the country. They have bikes in there and there are places to sleep within the trailers. She walked up to them and looked in, and they are there overnight, but last summer there was a silver Airstream camper like you would pull behind a truck that was out there with solar panels barbecuing for over three months.

Commissioner Currivan then asked if Ms. Mullen sees the proposed project having any impact on that, and Ms. Mullen stated yeah, she is not going into the alcohol part. She wants it to be fun too; she is not one of those droopy neighbors, but the thing is that it has been out of control and it hasn't even started yet. She is concerned about the parking and she doesn't believe there is enough parking. They have a bike thing torn all up back there that nobody uses for mountain biking and she has never seen anyone on the trail back there. There are just cars parked continually and it is not for commercial parking, and it has been beyond that solid line. She didn't realize it until she studied it the last two days with her husband. It just doesn't look good to the neighborhood. They have invested and they are taxpayers; she is not saying anything bad, but structurally there are hike places in town where they have built in juice bars, and from what she understands they want to serve pizza out of the truck and that is fine. It is not really about the camper; it is what is going to house the people. As you come around S.R. 89A and onto the street, there are always truck bottoms parked from the bike shop sticking out into the street where it impairs your view, and she just wants to make sure there is ample parking for a restaurant. If it was in the front lot, she would feel better about that, but it being in the back -- she has no idea where people are supposed to park.

*Having no additional requests to speak, Acting Vice Chairman Hadley closed the public comment portion of the hearing.*

**Summary Discussion:**

Acting Vice Chairman Hadley indicated that the Commission understands Ms. Mullen's concern and this is really not part of what the Commission is acting on, but he understands that it is under the same ownership. It is vacant land that is evidently being used for parking and it is not necessary parking per the application and Staff Report. Kevin Snyder indicated that from staff's perspective, that is correct, but we have a potential code enforcement issue to look at with the owner of that property, if it is the same owner of the bike shop, then we would be working with them. The property is not improved and has not been approved for vehicle parking, so any overnight or long-term parking or camper parking would not be allowed. They

could come back and go through a process to potentially secure that approval, but that would be a separate application process. Right now, we will do an investigation to determine if we have code violations and deal with the property owner appropriately.

Commissioner Currivan asked about the letter the Commission received today; it is a fairly short letter and the third point in the letter says that the food truck sets a negative precedent and leaves the City open to litigation. He doesn't know if staff has a comment on that, but it seems that because of the requirement for open air businesses to be on the same parcel as the primary business, the implication is that there has to actually be a primary business, so if there is no primary business, it means that whatever precedent we are setting would not simply allow some food truck to roll up and set-up shop on a vacant lot. It would have to be in connection with an existing business, so his initial reaction was that this should not be a problem, but he wanted to get staff's view on that.

Kevin Snyder indicated that he would let Ron Ramsey talk to the litigation part of that, but you are going through a Conditional Use Permit process for an open air business, which is required by City Code, so any business that wants to do a similar thing would have to follow that. They couldn't just roll into town and open up. Commissioner Currivan explained that his point is not only would they have to do that, but they would have to be in conjunction with a primary business and Kevin stated that is correct.

*Acting Vice Chairman indicated Mr. Jeffrey Mellon, Sedona, AZ could speak again.*

**Jeffrey Mellon, Sedona, AZ:** Pointed out an RV on the aerial view and stated that is just one instance that happened to be photographed, so somebody is obviously living in that and they have bled over into the other lot on several occasions, so just as proof.

Acting Vice Chairman Hadley stated that it is clear that we need staff to look into this as a code enforcement issue, and Commissioner Jablow added that the owner of the property offered to speak and perhaps he could address some of the issues and questions.

**Michael Raney, Sedona, AZ:** Commissioner Jablow indicated that there have been some questions about parking of trailers, campers and overnight parking, and Mr. Raney stated that they had an issue with that Airstream and they did have to leave, and that was not something they were real happy about. If they had known earlier that the neighbors were having an issue with it, it would have been taken care of much earlier. That photograph was taken before he had anything to do with the business, so he can't speak to that trailer. They do frequently have vendors that come and a lot of times it is sprinter vans with trailers, and they'll tow hundreds of thousands of dollars of bicycles in there, and they get robbed often, so a lot of the time they want to stay for a night and we typically try to put them somewhere well lit and not let them sleep in the thing, but that is what they do. It will be a vendor that is bringing every bike from their company all at once. We are talking about 50 high-end mountain bikes.

Acting Vice Chairman Hadley indicated that the point is that you are aware of the problem and you have neighbors that are concerned, so staff is going to look into the issue. Mr. Raney stated that they very much want to be in compliance, so they don't want to cause an issue.

Hearing no other comments, the Acting Vice Chairman indicated that he would entertain a motion, but the Commission didn't decide what to do about the public notification, in the event of an application for a liquor license. He then asked if the Commission wanted to add that as a condition or let it go through the normal process of the City Council only.

Commissioner Jablow indicated that he would prefer not to set precedence and he is confident with the way staff handles all of the notifications and the procedures that are being done, as long as it is something that will be done in the normal course of business, like every other business. To single this one business out and make a special example or exception doesn't

need to be done. Commissioner Taylor agreed and Commissioner Currivan stated that he is comfortable with that as well.

**MOTION: Commissioner Jablow moved to approve case number PZ13-00005 (CUP) based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements and the conditions as outlined in the Staff Report. Commissioner Messer seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. (Chairman Losoff excused)**

*Acting Vice Chairman Hadley indicated that there are a lot of people present who are interested in the last item, but the Commission could use a three or four minute break. The meeting was recessed at 6:50 p.m. and reconvened at 6:56 p.m.*

- C. Discussion/possible action regarding a request for Development Review approval to redesign a portion of the previously approved Park Place Condominiums Project (DEV 2002-16 & SUB 2002-08) at 3865 W Highway 89A. The redesigned units will be smaller units with decreased height and lot coverage. The applicant is also requesting approval of a new community building. The project site is zoned RM-2 (High Density Multi-Family Residential). The parcel was originally approved for 88 residential condominium units. Twelve of the approved units have been built and the rest of the site is vacant. A general description of the area affected includes but is not necessarily limited to the area on the southern side of W Highway 89A across from Bristlecone Pines Road and adjacent to the Foothills South Subdivision. The parent parcel is identified as Assessor's Parcel No. 408-11-531 that is approximately 7.94 acres. The parcel numbers affected by the request are: 408-11-463, 408-11-463D, 408-11-463C, 408-11-463E, 408-11-469B, 408-11-469E, 408-11-469C, 408-11-469F, 408-11-469D, 408-11-469G, 408-11-460, 408-11-462, 408-11-459, 408-11-461, 408-11-456, 408-11-458, 408-11-455 and 408-11-457. (40 minutes) Property Owner: Park Place, LLC Applicant: Don Woods Case Number: PZ13-00002 (DEV) Staff: Kevin Snyder

**Presentation, Kevin Snyder, Community Development Director:** Noted that David Peck with the Engineering Division is also in attendance and this is a discussion/possible action for Development Review approval for a portion of the previously approved Park Place Residential Condominium Project originally submitted in 2002, and went through approximately a 2-year review process ending in 2004, at which time the project was approved at the Development Review level and a Final Plat level.

Kevin explained that the proposal before the Commission does involve a portion, but not all, of the Park Place Residential Condominium Project site. The proposal before the Commission is to build approximately 12 smaller units with a smaller height and area, as well as a community building and an associated outdoor pool and terrace area. Kevin described the location of the site and referenced the Vicinity Map. He also explained that the area is bounded primarily by residential uses and the state highway.

Kevin indicated that staff conducted a substantive review of the project and applicable code sections. For the record, those include Section 401, Development Review, of the Sedona Land Development Code; the City's Design Review Guidelines and Standards, and Article 9, Development Standards, of the Sedona Land Development Code, and staff has identified and recommended a conditional approval for this and the conditions are contained in the Staff Report. Prior to this evening, staff and the applicant met last week with the Commission to review and discuss the proposed project and at that time there were some suggestions on amendments, so he wanted to enter some additional information into the record, along with new information received.

Kevin explained that the Commission has received Attachment N and it contains recommended and suggested edits to the Staff Report. He has identified and corrected those edits; the new

text is underlined and the deleted text is strike out, but that was to address suggested edits. Attachment O contains correspondence received yesterday through the City Manager's Office from Alton Cogert who submitted information and a video. Kevin explained that he has an editing issue with the video, because it is upside down. It can be played for the Commission if you like, but it is upside down, and he could not fix it, but it relates to the drainage and water leak issue discussed at the meeting last week, and Mr. Cogert's interest is that it be resolved.

Kevin then asked if the Commission would like to see the video and Acting Vice Chairman Hadley stated that he guesses that the Commissioners can stand on their heads; we'll watch it. Kevin then tried to show the video; however, technical difficulties prevent it from being shown, so Kevin indicated that Mr. Cogert is present this evening and will present still pictures into the record, so in the interest of time, you can see that Mr. Cogert has some concerns about the leak, and the Commission has Mr. Cogert's comments with his response.

Kevin Snyder then explained that Attachment P is an elevation drawing requested at last week's work session. The Commission requested Mr. Woods to submit an elevation drawing of the observation deck on the community building and provide a perspective drawing at roof level as well as how that would compare to the existing building, so that is entered into the record as Attachment P. Attachment Q was received this evening from Park Place Sedona LLC, specifically from Ben Miller, Partner, and it addresses the Commission's concerns relative to the installation of public art, so that item was just put in front of you, and he will provide the Commission a moment to read that.

Kevin then summarized that staff finds that this proposal complies with applicable requirements of the Sedona Land Development Code and Design Review Manual either as presented or as conditioned in the recommended Conditions of Approval. The Conditions of Approval do address different phases of development and conditions are inserted around those phases of development to ensure appropriate action is taken. Kevin then reminded the Commission that a Development Review approval decision is made by the Planning & Zoning Commission; however, a companion action to this, should you decide to make a decision of conditional approval, will be receipt of an amended Final Plat approval from the City Council, because the original Plat was filed with building footprints shown on the Plat; therefore for the applicant to move forward with this project, they need to amend the final Plat to show the proposed amended footprints.

Acting Vice Chairman Hadley asked if the amended Plat would come back to the Commission in the future and Kevin stated that is correct, and then ultimately the City Council would have to approve it. It would be a separate action and the applicant chose to seek Development Review approval first in order to determine whether or not they would proceed to Final Plat following that, and there is a condition for that.

Kevin then noted that the Commission has had the Staff Report plus prior conversation last week, so he wanted to limit staff's report to provide the utmost time for public comment, but he will answer any questions and Mr. Woods and David Peck are present.

**Commission's Questions of Staff:**

Commissioner Jablow expressed appreciation for the letter from Ben Miller and stated that the arts requirement not being satisfied was a big concern, and this letter answers that question very nicely. The Commissioner then indicated that since the project wasn't completed 10 to 15 years ago, there was a possibility of increasing that \$25,000 to a more current value and asked if that has been discussed with staff and the contractor. Kevin explained that we are bound by a Settlement Agreement that was entered into between the City and Park Place Sedona previously through legal action, so the City would have to amend that Settlement Agreement with the cooperation of Park Place Sedona LLC; we have to abide by that dollar amount. The Commissioner indicated that he understands, but they should have abided by their requirement to build the artwork when the plan was originally approved, and they didn't do that.

Kevin noted that he should enter into the record that the City failed to ensure that requirement was met, so we have some culpability in that. The Commissioner stated that he is not very satisfied with that, but he will accept it. Kevin then explained that staff's original recommendation was that the public art be installed prior to issuance of a Certificate of Occupancy for the first building constructed, but he believes the applicant's letter is indicating that they would be comfortable and would support moving that timeframe up to prior to Building Permit issuance for the first building, so there would be a quicker timeframe than originally contained in the staff recommendation, as submitted by the applicant's representative.

Commissioner Currivan asked if the new timing is going to be reflected in the motion or conditions that are attached to the Staff Report and Kevin indicated that if the Commission feels that the proposal by the applicant is appropriate, the Commission could require that particular condition be amended to be prior to Building Permit issuance, as part of your decision and motion. Commissioner Currivan then stated that he would recommend that the motion and the attached conditions be consistent with this letter just received. Acting Vice Chairman Hadley indicated that when we get to the point of a motion, someone can be creative and add that.

Commissioner Brandt referenced having to bring the Plat back for approval and asked if that is in the Conditions of Approval already and Kevin stated yes, it is Condition A.2 on page 33 of 40. The Commissioner then indicated that, if this is approved, the slate is being erased and the existing buildings stay, but we are looking at a whole new development, and Kevin indicated that is right. As history, the original approval was tied to completion of the entire project in 2009. The applicant came forward and requested to extend that to September 1, 2013 and that meant that the final phase of construction had to be completed by that date, but obviously that is not going to happen, so the applicant understands that any future phases of this project that come forward will be treated as a new application and any ability to go under the existing approval that expires September 1, 2013 will extinguish. It will come back to this Commission in the future as a new application.

Commissioner Brandt then asked if the Plat Map will show the existing buildings and the proposed buildings, and then nothing else or everything else dashed, and Kevin indicated that at this point, if approved, the applicant will come back with an amended Final Plat for just what you have approved. In the future, should they come forward with additional applications and receive approval, they would come back for amended Final Plats at that time. It depends on how large they want the project to be; they may have multiple phases or come back with one large phase. Commissioner Brandt then stated that the property is one lot and Kevin explained that there is a parent parcel, but each of the buildings has been assigned its own tax parcel number.

**Don Woods, Architect, Sedona, AZ:** Indicated that the three or four big things that changed on this submission are the elimination of the underground parking, and that started as an economic decision and killed them in terms of cost, but because of that, they were able to lower the heights at least 5 ft. in every case, because they pulled the parking floor up 5 ft., which is the main level of the houses and garages now, and then consequently all the buildings were lowered by a minimum of 5 ft. Their proposal today asks for no alternate standards. The alternate standards previously on the project allowed them to go to 32 ft., so that is a considerable difference. Also, there is a lot more open space, instead of taking the buildings and stringing them out lineal, they turned them and made more of a north-south direction, and they had more open space between the buildings visually, both on the highway side and on the neighborhood side. That is probably the most significant thing that they have done.

Mr. Woods indicated that he would like to address something that is important for everyone. He had a meeting this morning with the ADOT representative and they walked the property and talked about the construction access, and the representative said they could work with him on that. Mr. Woods asked if he could quote him and say that ADOT is supportive, but there will be some conditions with fences and gates, and making sure that the wheels of the trucks are

clean, etc., and they will meet all of those, and Mr. Woods was told that unless there is somebody in the ADOT office, such as Transportation, that has some objection to it, he didn't think it is a problem. Charles Mosley and David Peck have been made aware of this conversation and Charles indicated that if he gets ADOT's approval, he has Charles's approval, so he thinks you can leave in the condition that subject to the City Engineer's approval, that is how they will proceed without changing the wording.

Kevin Snyder explained that at last week's work session, there was considerable conversation about construction access, and originally the construction access was conceived to come through the commercial piece of property to the south; however, there has been a change of ownership and the applicant's desire is now to move that construction access approximately in that area, and staff understood from discussions with ADOT that there is potential for consideration and permit action by ADOT to allow the temporary puncturing of the existing wall and establishment of the construction access, avoiding impacts to the existing buildings. At this point in order for that to happen, the applicant's representative and the applicant would have to obtain an approved permit from ADOT. The Commission had some concern as to what would happen if that did not occur, and he thinks that Mr. Woods is giving you information that based on a verbal conversation only, there does appear to be support, although there will still need to be permit action.

Mr. Woods added that it would be terrible for the neighbors living in Park Place now for them to drag construction traffic in front of them for who knows how long, so he feels strongly that this has to be accomplished.

Acting Vice Chairman Hadley indicated that is good news, because there wasn't any news prior to today. He then asked if the Commission had any questions for Mr. Woods and the Commissioners indicated no. Commissioner Taylor added that we have been over this and been to the site and he is satisfied.

Mr. Woods noted that he hadn't addressed Commissioner Brandt's question about the landscaping in the ADOT right-of-way, and the Acting Vice Chairman indicated that he was going to go over a quick list of things that were on the minds of the Commissioners after the last work session, and that was one of them. Mr. Woods explained that they have to get permission and there has to be an agreement with the City as to who maintains that, and the developers are aware of that. He doesn't want to commit them today, but they will certainly be open to making that look nice and want that for them too.

Acting Vice Chairman Hadley noted that the other issues were the observation deck and you supplied a drawing of the cross section and the footprint in the plan, so it is smaller than anticipated. Mr. Woods stated that is the observation deck and it is quite small considering the size of the building below it, and that elevation, for the benefit of the neighbors, is about the same elevation, within a foot or so, of the observation deck and it is quite a distance away. The roof peak hides the man, so he is just supplying the information as to how they have planned it and he will listen to suggestions.

*Acting Vice Chairman opened the public comment portion of the hearing at this time.*

**Shelly Werner, Sedona, AZ:** Thanked the Commission for listening to their concerns this evening. She has a letter that she was unable to fax to Kevin that she would like introduced into the record, and she would like to read it. She is representing 20 of the 22 homeowners in the complex and many of them are here.

"We have read the Staff Report and Recommendation for the Park Place Residential Community Project. We appreciate that several of the construction concerns as outlined in our letter of April 8, 2013, have been addressed as Conditions of Approval.

While we recognize that the City of Sedona has no purview over the CC&R issue we raised in our letter regarding the reduction of unit square footage and the financial impact it would have on current homeowners, we were hopeful that we could work out an agreement with the developer to amend the CC&Rs to reflect a more equitable allocation of common element expenses. This was asked of the developer at an HOA meeting in November, 2012, and subsequently in writing after a March, 2013 HOA meeting. As of this date Mr. Miller, the developer, has not responded to our request.

We noted that there was no mention in the Staff Report of our objection to the proposed observation deck atop the community building. We ask that the Commission address our concern as stated in the letter of April 8, 2013.

The remaining issue of concern that we would like the staff and Commission to consider is the ingress/egress for construction vehicles. As a Condition of Approval, #15 on page 35, states 'unless otherwise approved by the City Manager, the egress from the construction site shall be by way of the roadway to Upper Rock Red Loop Road.' This will result in construction vehicles utilizing the onsite private roadway originally approved by Planning & Zoning for homeowner and pedestrian use; there are no sidewalks. Not only does this pose a safety hazard to residents, it creates a potential problem for emergency access vehicles. In addition, heavy construction equipment will damage the roadway. To significantly reduce the impact to existing homeowners we request, 1) As a Condition of Approval, the developer continue to seek approval from the Arizona Department of Transportation for temporary construction ingress and egress to S.R. 89A, and 2) If our private roadway is used by construction vehicles, that the developer repair Positano and Portofino Way to its original state at the developer's expense.

Lastly, please reference page 9, Public Input of the Staff Report. For the record, our April 8, 2013 letter was signed by 20 condominium homeowners (ten couples) not 12 homeowners (six couples) as the report indicates. Please make this correction. There are currently 12 condominium units, 11 are occupied and one unit is on the market as a resale."

**Allen Anz, Sedona, AZ:** Indicated that he is one of the residents of Park Place. The developer that built the existing 12 units in Park Place is asking the development plan to be modified for smaller units. They are more marketable than the units originally planned; in fact, the units will be about half the size of the existing units. They don't oppose that concept, but they are concerned with the inequities that would result to the existing owners there, in that the CC&Rs, which the Planning Commission has nothing to do with, are written for units of approximately the same size, so when the smaller units' fees are based on square footage, it comes to about half of what they are paying now, and the units there today would carry the lion's share of the expense for the common areas. Shelly related to that and said that we had asked for Ben to work with us on that and he said he would, but we haven't seen anything. We have had a proposal made to him for several months.

Mr. Anz stated that their past history and experience with the developer in solving developer-related problems in the existing 12 units has not been satisfactory. He has pictures and a partial list of unresolved developer problems in the existing 12 units that have become very frustrating to existing owners. The Commission has the photos of most of what he has. The water leak in #1 has been going for almost two years and that water is running at the rate of a gallon every 40 seconds, 24 hours a day. If you look at the picture, you will see the water ponding. Storm water leaks in the garage are in #2; this is just one of them, there are multiple leaks. Stucco cracks are in #3, and gaps in #4 are in stairwells. The stairs were manufactured off site and brought in, and there are huge gaps. Stucco cracks again are in #5 and gaps in the stairwells are shown again in #6. Concrete slab cracks are in #7, and the next two he doesn't have any pictures of, but their building has a

water softener, and a resident had that water tested today and the water is not drinkable. Failure of the patio surface on one of the units has been going on for over a year, and they finally, after several meetings, got to the bottom of it, but it is not fixed.

Mr. Anz stated that these types of problems are very frustrating to existing owners who are living there. What can P&Z do about it? It's not your job, right, but I guess the developer wants to build more units and if history is a guide, it will create more development issues and problems.

**Linda Nicholas, Sedona, AZ:** Asked where the proposed puncture in the ADOT wall would occur along the stretch from the Foothills South entrance to Park Place, and Acting Vice Chairman Hadley explained that it would be toward the northeasterly part of the property and the proposed location was pointed out for her. Ms. Nicholas then commented that Park Place LLC held a meeting at the public library on the 29th of March and it was attended by at least 40 homeowners from Foothills South, so tonight's light attendance isn't suggestive of lack of concern or interest in this project. Her assessment of it was that there were no major issues at that time with the project, unlike the original project where we had many City Council meetings over the course of a year and it was included a lawsuit. She and her husband were the ones that appealed the Park Place approval by Planning & Zoning, which then led to a succession of City Council meetings, so it was a very contentious situation and she feels like this project is more in line with what they had hoped for in the beginning, so she doesn't see that there are issues coming from Foothills South residents at this point.

*Having no additional requests to speak, Acting Vice Chairman Hadley closed the public comment period at this time.*

Kevin Snyder apologized and indicated that it was an oversight on his part to not address the observation deck in the Staff Report; however, Mr. Woods provided information as this was an issue that we discussed for the Commission's consideration, and in terms of the document provided regarding the observation deck, it was both from a roof perspective as well as an elevation perspective. In terms of the other correction regarding page 9 of 40, the reference to 12 (six couples) was an error and staff apologizes for that and accepts the correction made by the speaker. In terms of the issue and condition pertaining to access for construction proposed, which is Condition of Approval 15 on page 35 of 40, it currently states, "Unless otherwise approved by the City Engineer, the egress from the construction site shall be by way of the roadway to Upper Red Rock Loop Road", and he just conferred with David Peck and we are supportive of a modification of that condition that does require attainment of an approval from ADOT for a temporary construction access via S.R. 89A as the preferred method of temporary construction access. Staff believes this is supported by the comments made into the record by Mr. Woods's recent conversation with the representative of ADOT and it would certainly reduce some of the impacts that might be caused by having the construction access via Upper Red Rock Loop Road through the commercial land, and then through the occupied residential portion of the site, so staff has no objection to that and would recommend that particular condition be modified as he read.

Kevin then indicated that the issues raised by some of the speakers regarding the issues of equity in assessments, as has been pointed out by the speakers and in the Staff Report, legally this is not an issue that the City can weigh-into in terms of any Conditions of Approval for the Commission's consideration. It is a civil matter between Park Place Sedona LLC and those individuals. The water leak or drainage issue that has been discussed, as you will note in the conditions, Engineering raised that as a question to be answered. Some information has been provided by the applicant's representative that indicates it may be a domestic water leak issue, so the City will want satisfaction of that investigation, in terms of the Condition of Approval.

Kevin explained that some of the other issues spoken of by the last speaker regarding the conditions and some of the outstanding maintenance issues are things that aren't under the purview of the Commission or staff relative to the application before you, as those are existing structures, so staff doesn't believe there would be any legal authority for you to condition satisfaction of those concerns through this application.. Ron Ramsey agreed.

Mr. Woods added that within the last couple of meetings out there, he has volunteered his time to try to get to the bottom of these construction defects, including bringing manufacturer reps out or whatever it takes to satisfy those conditions. Some of it is simply that years have gone by and you have some maintenance issues of that type, but he will do all he can to help these neighbors and he just wanted that to go on record. Acting Vice Chairman Hadley indicated that he is sure they will appreciate Mr. Woods's help.

**Summary Discussion:**

Commissioner Taylor referenced the section in the lower left corner of the drawing and asked if it is a ridgeline running in and out of the drawing and Mr. Woods stated that is a ridgeline, and there is another one in back of it. The Commissioner then referenced the person standing on the observation deck and asked if they walk back and forth, are they walking parallel to the ridgeline? Mr. Woods responded yes and pointed out the area of the ridgeline. The Commissioner then asked if there is concern that children will go up there and sit on the roof and Mr. Woods stated that is no different than a lot of things -- a guy could go out a window and climb up on the roof. Commissioner Taylor then suggested putting a wall there and Mr. Woods indicated that the wall could be a little higher. The Commissioner added that it seems like it would feel insecure and the other is he wonders if children are going to run up and down that roof, if they get the chance. Mr. Woods explained that you won't find many children in the subdivision, if any, but he will look at the safety issue of that and that is a consideration.

Commissioner Jablow referenced the picture of the location of the construction access and indicated that it is great if ADOT approves the access, so it won't impact the current residents, but his concern is about the construction trucks coming through the City down S.R. 89A and making a u-turn to enter the area. He then asked if they can come in through Cottonwood, so they don't have to come through the City, because we were concerned about the residents seeing all of these construction trucks, but our roads or ADOT's road on S.R. 89A is going to take a beating from that many trucks as well.

Kevin Snyder asked if the Commissioner is requesting that there be a condition limiting how trucks access the site and the Commissioner replied, exactly. David Peck explained that S.R. 89A is designed to handle those heavy trucks without much deterioration and most of the supply trucks should be coming from the Cottonwood area. Additionally, since there is a median, it will be a forced right-in and right-out, so the trucks would come from Cottonwood and turn right into the development, and to return to Cottonwood, they would have to go to Foothills South and turn left at the medical center and go around Navoti and back to Bristlecone Pines Road to S.R. 89A.

Commissioner Jablow stated that he is concerned about the road surface itself, but also what the residents in the City see -- a lot of construction trucks for a year or more, in addition to regular traffic. The traffic itself would be a burden to residents, so if, as Mr. Peck is saying, the trucks come through Cottonwood, that would ease his concerns. If you are unsure of where they are going to come from and they are coming from Phoenix or somewhere south, they can come down 260 to S.R. 89A and that would be better. Acting Vice Chairman Hadley indicated that he doesn't know if the Commission has any legal jurisdiction over something like that, but Ron Ramsey is indicating no.

Mr. Woods indicated that the odds are that anything coming from the Valley is going to come through Cottonwood, because that is the shorter way and it doesn't have the curves

that are on S.R. 179. Most everything else local does come from Cottonwood, so he thinks it is not too bad. Acting Vice Chairman Hadley agreed and stated that he doesn't know how the Commission could condition that and enforce it, and Kevin Snyder agreed that enforcement would be challenging.

Commissioner Messer stated that often he wishes we could write wrongs on this Commission, but that is not our thing. He finds a gallon every 40 seconds to be quite disturbing, and he would hope that would be addressed ASAP. Other than that, he sees this project as a scale down and a good thing. Even with the inequity in the CC&Rs, which we can't discuss or touch, it is still a good project and he is all for a scaled-down version. It is a tasteful and good project. Commissioner Brandt stated that he agreed with Commissioner Messer.

Acting Vice Chairman Hadley indicated that there are two conditions that the Commission has to consider modifying -- number 15 on page 35 that addresses the egress issue. He then asked if that needs to be written into the record or can that be entrusted to staff. Kevin Snyder stated that he could read it for the Commission, and read the following condition:

- "Unless otherwise approved by the City Engineer, the egress from the construction site shall be by way of West S.R. 89A following attainment of permits and approvals from the Arizona Department of Transportation for a temporary construction access."

Acting Vice Chairman Hadley indicated that sounded good to him and the other one is on page 30 regarding the \$25,000 art in public places, which as written says it will be installed following Certificate of Occupancy, and the letter suggests that they would be willing to do it prior to permit issuance, so can that be modified accordingly? Kevin Snyder stated yes and staff would recommend that it read as follows:

- ". . . prior to the issuance", strike the Certificate of Occupancy and replace with, ". . . prior to the issuance of a Building Permit for the first building of the project."

David Peck referenced the construction entrance and explained that this is a probable future Condition of Approval, so as far as the City Engineer approving something different than the entrance from Upper Red Rock Loop Road, he doesn't think there should be something saying that it shall be based on the City Engineer -- it shall be by way of a new entrance with ADOT's approval, because he is sure that the City Engineer will be fine with it going through the gates there now. It is just that the City Engineer is open to letting it come in through that other construction entrance, as long as ADOT approves it. Kevin Snyder indicated that he thinks what David is saying is that the reference to "unless approved by the City Engineer" is not necessary, so we could strike that, and it would read as follows:

- "Egress from the construction site shall be via West S.R. 89A following attainment of permits and approvals from the Arizona Department of Transportation for a temporary construction access."

Acting Vice Chairman Hadley indicated that he would entertain a motion at this time.

***MOTION: Commissioner Currivan moved to approve the proposed Development Review application for the Park Place Residential Condominiums as set forth in case number PZ13-00002 (DEV) based on compliance with all ordinance requirements, the Design Review Manual and satisfaction of the Development Review findings and applicable Land Development Code requirements and the conditions as outlined in the Staff Report, as modified in the previous discussion, which is on the record with respect to item 15, which is on page 35 of 40 of the Staff Report and item D.6.a on page 39 of 40 of the Staff Report. Commissioner Taylor seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed. (Chairman Losoff excused)***

7. **Discussion/possible action regarding future meeting dates and agenda items: (10 minutes 7:00 – 7:10 pm)**  
**Thursday, May 16, 2013 – 3:30 p.m. – Work session**  
**Tuesday, May 21, 2013 – 5:30 p.m. – Regular**  
**Thursday, May 30, 2013 – 3:30 p.m. – Work session**  
**Tuesday, June 4, 2013 – 5:30 p.m. – Regular**

Kevin Snyder indicated that staff has no items for May 16th and May 21st, so staff would recommend that those two meetings be canceled. For the Thursday, May 30th work session, staff anticipates speaking with the Commission regarding a proposal for the Wyndham site for potential relocation of the commercial sales office and that would be a Development Review application. Staff also anticipates speaking about a Conditional Use Permit application for a model home sales office by Dorn Homes for the Rimstone development, which is in an area similar to where this project is, and then staff also anticipates a work session on the Conditional Use Permit for Studio Live. Tuesday, June 4th, will be a regular meeting and staff anticipates public hearings on the Wyndham proposal, the Studio Live proposal, and that would be the timeframe for the continuance and action on possible elections for Chair and Vice Chair.

Acting Vice Chairman Hadley then summarized that the Commission will not meet until May 30th.

8. **Adjournment (7:10 pm)**

Chairman Losoff called for adjournment at 7:45 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 May 7, 2013.

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Donna A. S. Puckett, *Recording Secretary*

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Date