

CITY COUNCIL REPORT



MEETING DATE: March 24, 2009

ITEM NO. 11 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Southbeach Restaurant
18-UP-2008

REQUEST

Request to consider the following:

1. Adopt Resolution No. 7894 approving the Live Entertainment Conditional Use Permit and finding that the conditional use permit criteria have been met for case no. 18-UP-2008.

Key Items for Consideration:

- The establishment of 7,785 square feet is located within the 94 Hundred Shea office and retail development center.
- The nearest existing residential use is approximately 700 feet away to the northeast (Aventura Condominiums).
- The establishment has been issued a Notice of Violation by Code Enforcement for live entertainment without a Conditional Use Permit.
- There is no known opposition to this Conditional Use Permit request.
- The Planning Commission Recommended approval, with a unanimous vote of 4-0.

References:

- *11-ZN-2002*: An approval for a rezoning from Commercial Office, Planned Community District (C-O PCD) to Highway Commercial, Planned Community District (C-3 PCD).
- *8-DR-2004*: A development approval for the site plan, landscape plan, and elevations for an office and retail center (94 Hundred Shea).

OWNER

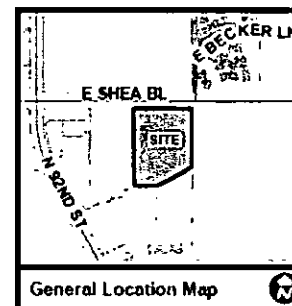
Westar 101 LLC
480-451-0248

APPLICANT CONTACT

Frank J. Tsikitas
602-722-5641

LOCATION

9343 East Shea Boulevard



BACKGROUND

Zoning.

The site is zoned Highway Commercial, Planned Community District (C-3 PCD). C-3 allows most types of commercial activities including the sale of commodities and performance of services for a large segment of the population. Live entertainment is allowed as a conditional use.

General Plan.

The General Plan Land Use Element designates the property as Commercial. These uses provide a variety of goods and services to the people who live in, work in, or visit Scottsdale and have been designated throughout the community at an appropriate scale and location. This category includes areas designated for commercial centers providing goods and services frequently needed by the surrounding residential population, and retail businesses, major single uses, and shopping centers, which serve community and regional needs.

Context.

The site is located on the south side of East Shea Boulevard between North 92nd Street and North 96th Street and is part of the 94 Hundred Shea commercial center. The site is surrounded by a cemetery to the north as well as retail and office uses on the east, west, and south.

Adjacent Uses and Zoning:

- North: Existing cemetery; zoned Single-Family Residential (R1-35)
- South: Existing offices; zoned Commercial Office District, Planned Community District (C-O PCD)
- East: PCS corporate headquarters; zoned Commercial Office District (C-O)
- West: Existing shopping center; zoned Highway Commercial District, Planned Community District (C-3 PCD)

**APPLICANT'S
PROPOSAL**

Goal/Purpose of Request.

The applicant is requesting approval of a Conditional Use Permit for live entertainment at an existing restaurant (Southbeach) located at 9343 East Shea Boulevard (within 94 Hundred Shea office and retail center). The live entertainment will typically consist of a live band or a DJ, with patron dancing.

Development Information.

- Existing Use: Restaurant
- Proposed Use: Restaurant with live entertainment
- Parcel Size: 7.77 acres
- Building Height Allowed: 36 feet
- Building Height Existing: 36 feet
- Parking Required: 77 spaces for live entertainment
209 spaces for shared uses in the evening
284 spaces for shared uses in the day
- Parking Provided: 389 spaces
- Open Space Required: 60,005 square feet
- Open Space Provided: 92,099 square feet
- Floor Area: .24

IMPACT ANALYSIS**Traffic.**

The proposed live entertainment will operate 8:00 p.m. to 2:00 a.m. Wednesday through Saturday with primary trip generation occurring in the evening hours when many of the other businesses in the center are closed. Existing access to the 94 Hundred Shea commercial center is from East Shea Boulevard. A trip generation analysis has been submitted that indicates no significant adverse traffic impacts are anticipated to be generated by the proposed use.

Parking.

The proposed live entertainment use is within an existing restaurant in an established commercial center. The proposed establishment opens in the afternoons with peak hours in the evenings, which will not be detrimental to the existing businesses that are largely in operation during daytime business hours (with some businesses open at night). The parking analysis took into consideration the night-time uses within the commercial center that might require parking spaces during the same operating hours as the proposed establishment. The study indicated sufficient parking spaces for all night-time uses. The study also indicated there will be surplus parking spaces to accommodate all the uses operating at the same time.

Water/Sewer.

There are existing water and sewer improvements on the property to serve the site. The proposal will not generate any additional impacts on the existing infrastructure.

Police/Fire.

All live entertainment uses are required to submit a Security Maintenance and Operations Plan. The Security Maintenance and Operations Plan was reviewed and approved by the Police Department (See Attachment 6). The nearest fire station is located on the south side of East Via Linda between 90th Street and 91st Street. The proposal is not anticipated to generate adverse impacts to the Fire department.

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and the City Council has found as follows:

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - **This use does not generate smoke, odor, or dust. Noise and vibration will be minimized keeping doors closed while live entertainment is present, there will no exterior amplification, and music volumes will be attenuated so as to keep the noise**

and vibration to a minimum. Additionally, there will be no modifications to the exterior or interior illumination.

2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - A trip generation analysis has been submitted that indicates no significant adverse traffic impacts are anticipated to be generated by the proposed use.
 3. There are no other factors associated with this project that will be materially detrimental to the public.
 - There are no other factors associated with this project that will be materially detrimental to the public.
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
- The uses surrounding the subject property are primarily office and commercial with the closest residential property located approximately 700 feet away to the northeast. The proposed live entertainment will only take place in the evening hours. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
- C. The additional conditions for live entertainment specified in Section 1.403.C.1 have been satisfied as follows:
1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.
No new driveways or access points are proposed, and the center's parking is already walled and does not provide access to existing residential subdivisions.
 - b. All patron entrances will be well lit and clearly visible to patrons from the parking lot or a public street.
Exterior lights exist at the entrance to the establishment which faces north towards the parking lot and East Shea Boulevard. Exterior lights also exist at the south entrance which is visible from the parking lot.
 2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.
All noise generated by live entertainment will be contained within the building. Front and rear doors will remain closed except to admit patrons. External speakers are not part of this request, nor is the amplification of music outside of the establishment. Volume attenuation will also be used to assure compliance.
 3. The applicant has provided a written public safety plan which the city police and fire departments have approved as complying with the written guidelines of Planning and Development Department.
A Security, Maintenance and Operations Plan has been submitted and approved by the Police Department.
 4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with section 7.600 of the zoning ordinance and with the public safety plan guidelines.

The existing lighting for the commercial center meets the provisions of the zoning ordinance. No new lighting has been proposed for the subject property.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

This Conditional Use Permit is an application for an established restaurant whose business license has already been issued. Provisions for refuse control are included in the Security, Maintenance and Operations Plan and are in compliance with the city's written guidelines.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include but are not limited to patron dancing areas and/or stages for performances.

The floor plan has been provided for review as Exhibit A to Exhibit 2.

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with transportation planning department written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standard set by the city.

The entrance to the subject establishment is provided by East Shea Boulevard which is a major arterial street.

8. If the Zoning Administrator determines that a study is necessary the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

Based on the parking analysis submitted by the applicant, the Zoning Administrator has determined that the project meets the parking provisions of the zoning ordinance.

9. The applicant has provided any additional information required by city staff in order to evaluate the impacts of the proposed use upon the area.

The applicant provided a parking analysis to address potential in parking demand on the site and the analysis has been determined by the Zoning Administrator to be satisfactory.

10. The following operational standards must be met by the use throughout its operation:

a. All external doors shall be closed but not locked during business hours.
All external doors shall be closed but not locked during business hours.

b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.

There are no external speakers proposed with this application, and the applicant has agreed to a stipulation that no exterior speakers will be allowed.

c. The applicant/operator shall comply with all plans approved as provided herein.

The applicant/operator will comply with all plans approved as a part of this request.

Community Impact.

The proposed live entertainment use is located in an existing restaurant, within an existing commercial center. The applicant has submitted and obtained approval of a Security, Maintenance and Operations Plan that establishes maintenance and security operations for the use. The live entertainment will operate on from 8pm to 2am Wednesday through Saturday. No adverse community impacts are anticipated.

Community Involvement.

Property owners within a 750-foot radius of the subject site were notified. The site has been posted. There is no known opposition to this Conditional Use Permit request. One letter was received regarding the application (see Attachment 8A).

**OTHER BOARDS AND
COMMISSIONS****Planning Commission.**

The Planning Commission heard this case on February 25, 2009 and found that the Conditional Use Permit criteria had been met and recommended approval, subject to the attached stipulations, with a unanimous vote of 4-0.

**STAFF
RECOMMENDATION
TO PLANNING
COMMISSION**

Staff recommended approval to the Planning Commission, subject to the attached stipulations and found that the Use Permit Criteria were met.

**RESPONSIBLE
DEPT(S)**

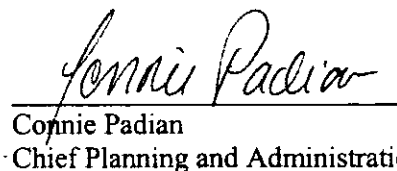
Planning and Development Services Department
Current Planning Services

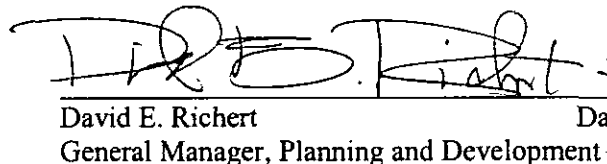
STAFF CONTACT(S)

Edmond Lamperez
Planner
480-312-7015
E-mail: elamperez@ScottsdaleAZ.gov

APPROVED BY

 3/2/09
Edmond Lamperez
Report Author Date

 3/3/09
Connie Padian Date
Chief Planning and Administration Officer

 3/4/09
David E. Richert Date
General Manager, Planning and Development Services

ATTACHMENTS

1. Resolution No. 7894
Exhibit 1. Context Aerial
Exhibit 2. Stipulations
Exhibit A to Exhibit 2. Floor Plan
Exhibit 3. Criteria for Bars
2. Applicant's Narrative
3. Aerial Close-Up
4. Land Use Map
5. Zoning Map
6. Security, Maintenance and Operations Plan
7. Traffic Impact Summary
8. City Notification Map
- 8A. Correspondence
9. February 25, 2009 Planning Commission Minutes

RESOLUTION NO. 7894

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADOPTING A CONDITIONAL USE PERMIT FOR LIVE ENTERTAINMENT LOCATED AT 9325 E. SHEA BOULEVARD, WITH HIGHWAY COMMERCIAL DISTRICT, PLANNED COMMUNITY DISTRICT (C-3 PCD) ZONING.

WHEREAS, the Planning Commission held a public hearing on February 25, 2009; and

WHEREAS, the City Council, held a public hearing on March 24, 2009;

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council finds:

- a) that the granting of this conditional use permit per stipulations set forth on Exhibit 2 will not be materially detrimental to the public health, safety or welfare based on, but not limited to, the following factors: damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination and impact on surrounding areas resulting from an unusual volume or character of traffic;
- b) that the characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas; and
- c) that compliance with the additional conditions for ranches, set forth on Exhibit 3, is required.

Section 2. That a description of the conditional use permit is set forth in Case No. 18-UP-2008. The property that is subject to the conditional use permit is shown on Exhibit 1 and the conditional use permit approval is conditioned upon compliance with all of the stipulations that are set forth in Exhibits 2 and 3. All exhibits are incorporated herein by reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 24th day of March, 2009.

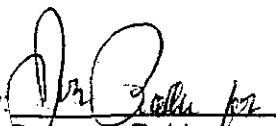
ATTEST:

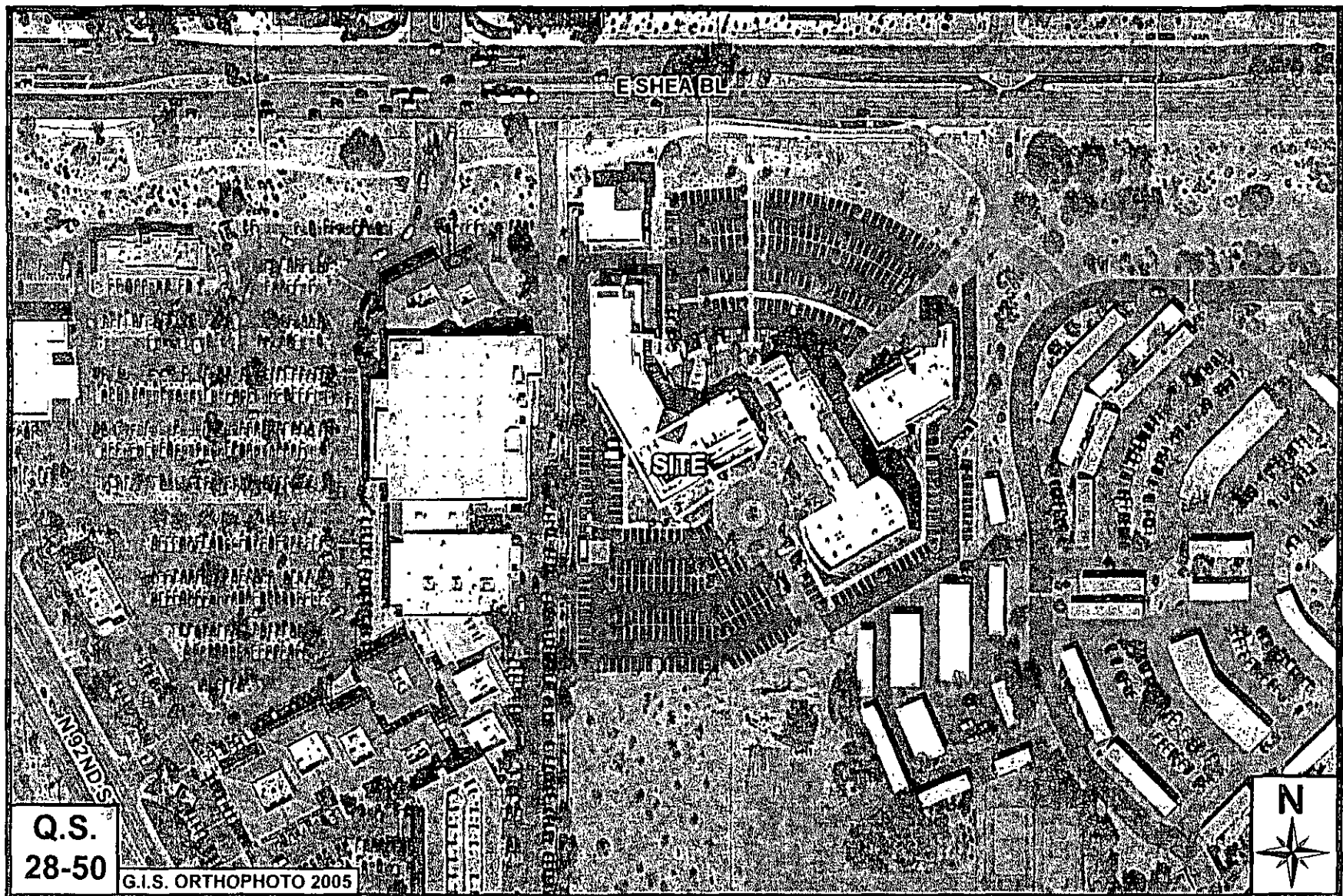
CITY OF SCOTTSDALE, an Arizona
municipal corporation

By: _____
Carolyn Jagger
City Clerk

By: _____
W.J. "Jim" Lane
Mayor

APPROVED AS TO FORM:

By:  _____
Deborah Robberson
City Attorney



Southbeach Restaurant

Resolution No. 7894

18-UP-2008

Exhibit #1

Conditional Use Permit – Live Entertainment

Stipulations:

Southbeach Restaurant

Case Number: 18-UP-2008

These stipulations are in order to protect the public health, safety, welfare, and the City of Scottsdale. Unless otherwise stated, the owner's completion of all requirements below is subject to the satisfaction of the Project Coordinator and the Final Plans staff.

OPERATIONS

1. **CONFORMANCE TO THE CONCEPTUAL FLOOR PLAN.** The interior layout of the premises shall be in substantial conformance with the conceptual floor plan submitted by Terrevolution and Eric Gerster with the city staff date of 12/22/08, Exhibit A to Exhibit 2. Any proposed significant change to the conceptual floor plan (including location and square footage of dance floor and staging area) as determined by the Zoning Administrator, shall be subject to additional action and public hearings before the Planning Commission and City Council.
2. **NO BAR USE.** This Conditional Use Permit is for live entertainment only, and a bar use is not approved as part of this request.
3. **HOURS OF LIVE ENTERTAINMENT.** The hours of the live entertainment for this establishment shall be limited to:

	Start	To	End
Wednesday through Saturday	8pm	To	2am

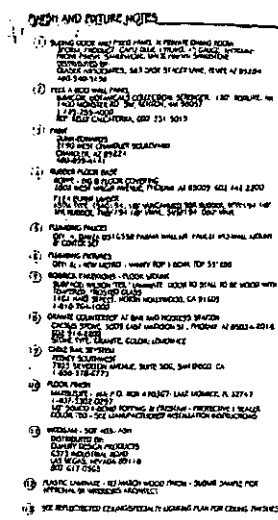
4. **SECURITY, MAINTENANCE, AND OPERATIONS PLAN.** The live entertainment shall conform to the Security, Maintenance, and Operations Plan approved by, and on record with the City of Scottsdale's Police Department and the Planning and Development Services Department. A copy of the approved Security, Maintenance, and Operations shall be maintained on site. Within 10 days after a request by the City Manager or designee, the owner shall provide an update of the Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning and Development Services Department. At least ten (10) days before any operational change of the live entertainment, or any promotional event (excluding Special Events), that modifies the requirements or contents of the Security, Maintenance, and Operations Plan, the owner shall submit a revised Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning and Development Services Department. Any revised Security, Maintenance, and Operations Plan shall be subject to approval by the City of Scottsdale's Police Department and the Planning and Development Services Department.
5. **NOISE.** Noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the

area during hours of operation, as determined by the Planning and Development Services Department's General Manager or designee.

6. EXTERNAL SPEAKERS. External speakers are not permitted.
7. EXTERNAL DOORS. All external doors shall be closed but not locked during business hours.

ADMINISTRATIVE PROCESS

8. CONDITIONAL USE PERMIT ADMINISTRATIVE REVIEW. Within ten (10) days after a request by the Planning and Development Services Manager or designee, the owner, shall submit a letter to the Planning and Development Services General Manager or designee demonstrating compliance with all stipulations. A deviation from any stipulations or change in the floor plan may be grounds for revocation of the Conditional Use Permit.
9. CHANGES IN OWNERSHIP. Within ten (10) days after a change in ownership, the owner shall provide notice to the Planning and Development Services General Manager in writing of any such ownership change.



SCALE: 1/4"=1'-0"

SOUTH BEACH RESTAURANT
9325 EAST SHEA BOULEVARD
BUILDING B
SCOTTSDALE ARIZONA

Exhibit 3
Scottsdale Revised Code Section 1.403(J)

J. *Live entertainment.*

1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.
 - b. All patron entrances will be well lit and clearly visible to patrons from the parking lot or a public street.
2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.
3. The applicant has provided a written public safety plan which the city police and fire departments have approved as complying with the written guidelines of the Planning and Development Department.
4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with section 7.600 of the zoning ordinance and with the public safety plan guidelines.
5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.
6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include but are not limited to patron dancing areas and/or stages for performances.
7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with transportation planning department written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standard set by the city.
8. If the Zoning Administrator determines that a study is necessary the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.
9. The applicant has provided any additional information required by city staff in order to evaluate the impacts of the proposed use upon the area.
10. The following operational standards must be met by the use throughout its operation:
 - a. All external doors shall be closed but not locked during business hours.

- b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.
- c. The applicant/operator shall comply with all plans approved as provided herein.

**SOUTHBEACH RESTAURANT AND LOUNGE
USE PERMIT PROJECT NARRATIVE
18-UP-2008**

Updated December 17, 2008

Southbeach Restaurant and Lounge (Southbeach), located at 9343 E. Shea Boulevard, is requesting a Conditional Use Permit to allow "Live Entertainment." Southbeach is located on the south side of Shea Boulevard near 93rd Street, and is part of a larger 7-acre mixed-use commercial project that has been completed since 2007. Southbeach is primarily a restaurant, with over 3,400 s.f. of dining room area, but a portion of the facility (720 s.f.) is a bar/lounge. There is an outdoor patio area which is used for both types of service

REQUEST

This request is for a Conditional Use Permit to allow "Live Entertainment" within the existing Southbeach facility. The Live Entertainment Use Permit would allow DJs or musical acts to perform within the existing premises. A small portion of the bar area (less than 250 square feet) could be cleared in order to allow for patron dancing.

Because of the existing restaurant business, South Beach's request for live entertainment is only for Wednesday thru Saturday nights, and will be between the hours of 7:00 PM and 2:00 AM. A small bandstand will be built, but a permanent dance floor will not be installed; instead, 2-3 tables will be moved to provide a small area where patrons may dance. There will also be no exterior (patio) modifications, and no speakers will be added to the rear patio or outside the front doors. The applicant will also concede that all exterior doors will be remain closed while live entertainment is present.

The total shared dining/dance area will be only 245 square feet

LAND USE CONTEXT

The property is zoned C-3, Planned Community District (PCD), which allows bars and "Live Entertainment" with a Conditional Use Permit approval by the City Council. This Conditional Use Permit does not propose any new building modifications or additions to the building.

USE PERMIT FINDINGS

The City's Zoning Ordinance sets forth conditions for the granting of a Conditional Use Permit for "Live Entertainment." These conditions are as follows, along with responses specific to the applicant's request:

ATTACHMENT #2

18-UP-2008
1st: 6/13/2008

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include but not limited to the following factors:

1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.

This use does not generate smoke odor or dust.

Noise and vibration will be minimized in several ways. The doors will remain closed while live entertainment is present, there will be no exterior amplification, and music volumes will be attenuated so as to keep the noise and vibration to a minimum. The building's walls to the north and south front onto parking lots, and the western side of the premises is buffered by the establishment's kitchen. The eastern wall abuts another establishment, but is several feet away from the bandstand area and the walls are sufficiently insulated. This should not create noises louder than the televisions and sound system which are already in operation. Also, the store will be closed shortly after live entertainment starts, since the applicant is proposing that Live Entertainment will not be present until 7:00 PM.

Illumination will not be an issue since there will be no modifications to the exterior or interior illumination

2. Impact on surrounding areas resulting from an unusual volume or character of traffic.

There are no proposed changes to the current ingress or egress into the parking lot. The attached Shared Parking Calculation Table indicates that the volume of traffic during the proposed periods of Live Entertainment never exceeds the traffic volumes during the peak restaurant hours.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

The area surrounding the subject property is primarily commercial, with a mixture of uses ranging from other restaurants and bars, as well as some retail uses. There is a cemetery to the north (across Shea) and an office complex directly to the east. The nearest residential is over 700 feet away to the northeast and to the south across an open tract that will be another commercial or office center. The granting of a Use Permit is reasonably compatible with the surrounding area.

- C. The additional conditions specified in Section 1.403, as applicable have been satisfied.

The proposed Use Permit for "Live Entertainment" meets these conditions:

1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.

The proposed Live Entertainment Use Permit is for an established bar and restaurant which does not have a record of any disruptions during its daytime and nighttime uses. The parking lot is internal to a larger commercial center. No new driveways or access points are proposed, and the center's parking is already walled and does not provide access to existing residential subdivisions.

- b. All patron entrances will be well-lit and clearly visible to patrons from the parking lot or public street.

The Use Permit is for an established restaurant which already has exterior lights at its entrance, which faces north over an existing parking lot and Shea Boulevard.

2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.

Any noise generated by the "Live Entertainment" will be contained within the building. Live Entertainment is only proposed after ten PM, and at that time the front and rear doors of the restaurant/bar will remain closed except to admit patrons. External Speakers are not a part of this request, nor is the amplification of music outside of the establishment. Volume attenuation will also be used to assure compliance.

3. The applicant has provided a written public safety plan which the City Police and Fire Departments have approved as complying with the written guidelines of the Planning and Development Department.

A Public Safety Plan should have been provided to the City Police and Fire Departments as part of the original Use Permit application. A Plan of Operation and a Security, Maintenance and Operations Plan has been made as a part of this Use Permit application.

4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with Section 7.600 of the zoning ordinance and with the public safety plan guidelines.

No additional lighting is proposed as part of this submittal.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

This Conditional Use Permit is an application for an established restaurant and bar, whose business license has already been issued. Southbeach Restaurant and Lounge has also submitted a Service Area Plan as a part of this application that indicates that trash hauling is done daily if necessary. The facility uses its own dumpster for trash removal, and employees monitor the clean up of trash which may have fallen out while dumping.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include, but are not limited to, patron dancing areas and/or stages for performers.

See the attached "Floor Plan Worksheet."

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with the transportation planning department's written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standards met by the City.

There are no proposed changes to the established ingress and egress from Shea Boulevard. Shea Boulevard is a major arterial street. A trip generation estimation was prepared by Morrison Maierle, Inc., and was submitted with this application.

8. If the Zoning Administrator determines that a study is necessary, the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

A parking study was prepared and submitted as a part of this application.

9. The applicant has provided any additional information required by City staff in order to evaluate the impacts of the proposed use upon the area.

This application has been through a first review, and comments have been addressed in a second submittal. If additional information is required and/or requested, the applicant will work with the City to provide that information as soon as possible.

10. The following operational standards must be met by the use throughout its operation:

- a. All external doors shall be closed but not locked during business hours.

The doors of the establishment shall remain closed except when allowing patrons to enter or exit.

- b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.

There are no residential districts within 700 feet of the premises where the use is requested.

- c. The applicant/operator shall comply with all plans approved as provided herein.

The applicant/operator will comply with all plans approved as a part of this request.

CONCLUSION

The issuance of a Live Entertainment permit will not significantly alter the character of the existing use, and will not create an undue burden on the site through increases in light, noise or traffic. Residential uses are more than seven hundred (700) feet away, and the absence of external speakers as well as the applicant's plans to keep the doors closed during periods of Live Entertainment, will combine to make this use almost unnoticeable. We respectfully request the approval of Conditional Use Permit No. 18-UP-2008.

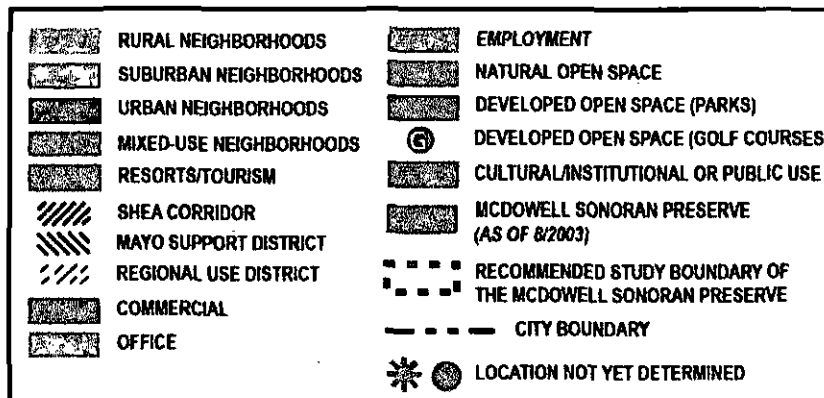
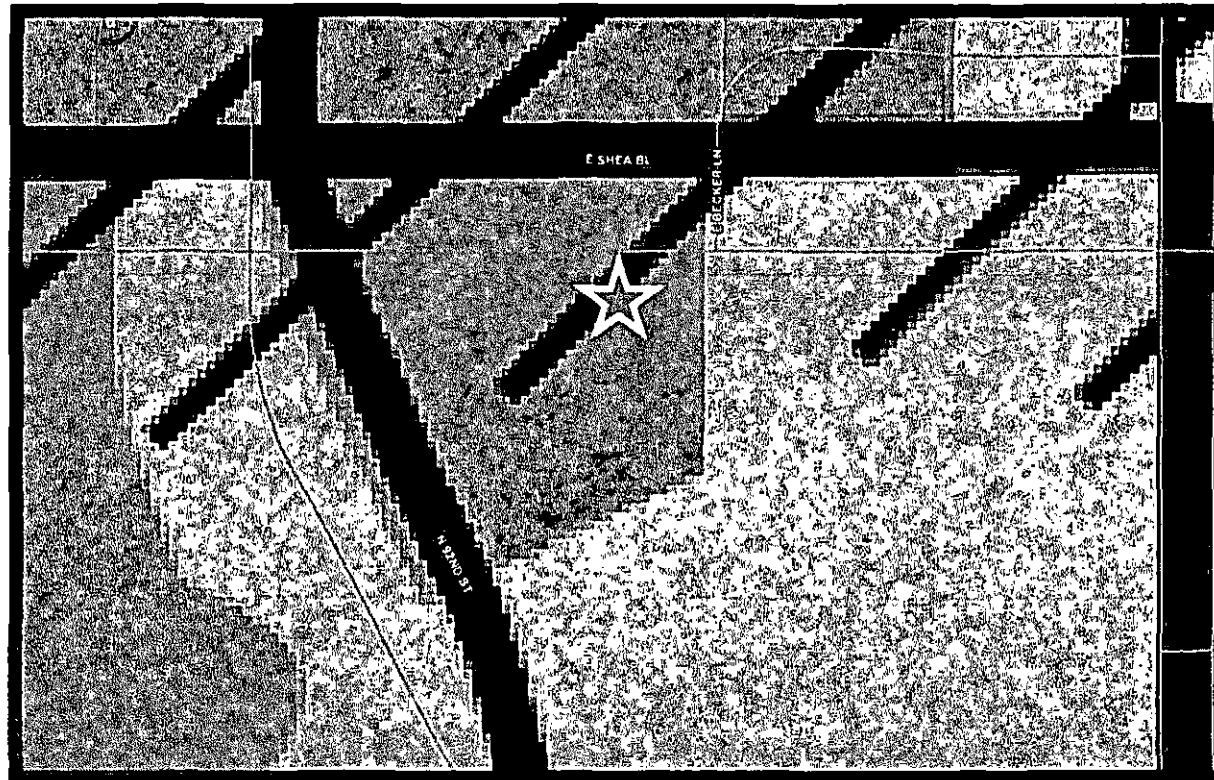


Southbeach Restaurant & Lounge

18-UP-2008

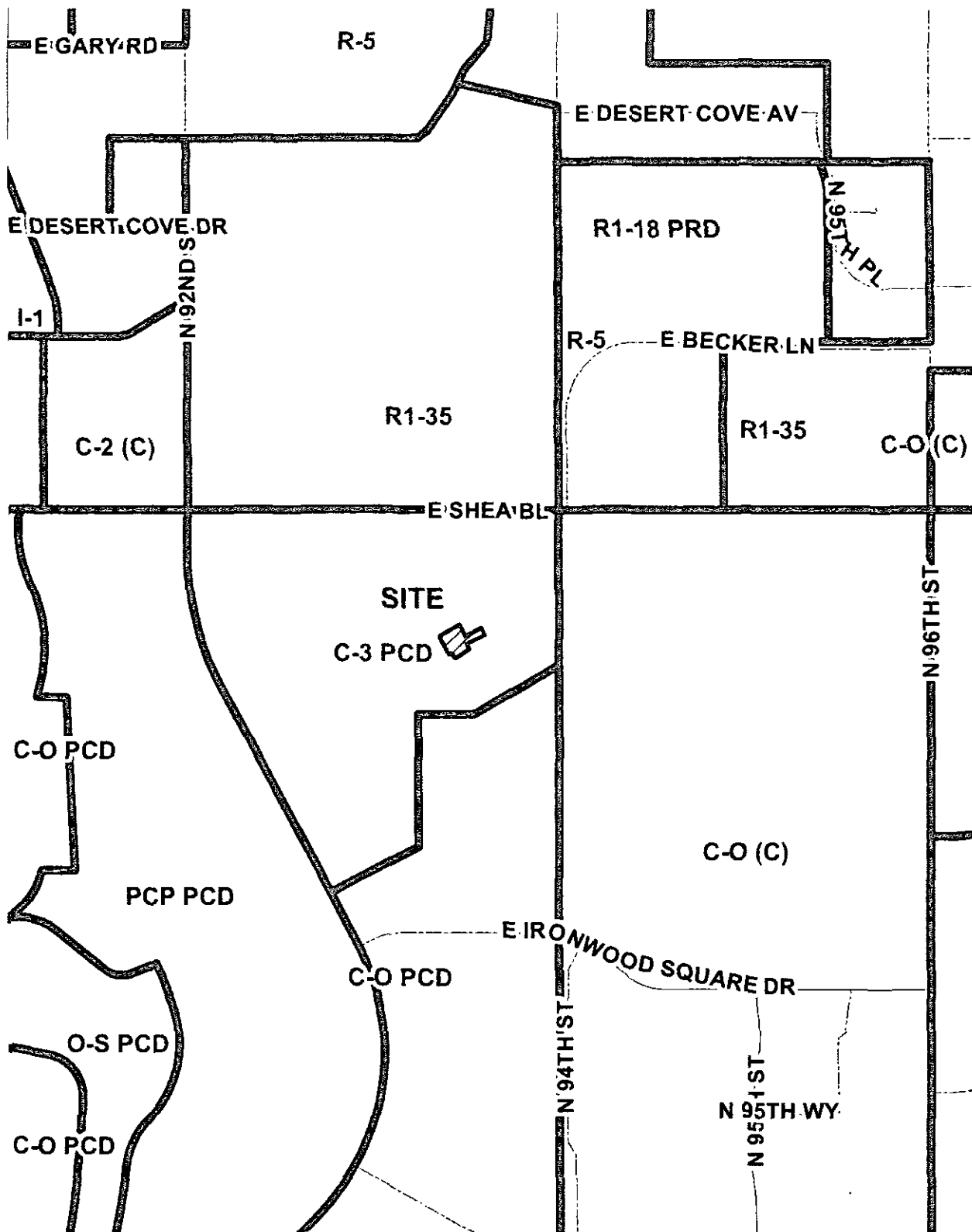
ATTACHMENT #3

General Plan



18-UP-2008

ATTACHMENT #4



18-UP-2008

ATTACHMENT #5



SECURITY, MAINTENANCE AND OPERATIONS PLAN

For Bars and Live Entertainment Use Permits



Scottsdale Police Department, 3700 North 75th Street, Scottsdale, AZ 85251

480.312.5000

FAX 480.312.7701

City of Scottsdale Planning, 7447 E. Indian School, Scottsdale AZ 85251

480-312-7000

FAX 480-312-7088

Assigned Planner:

Edmond Lamperez

Police Detective:

Establishment:

South Beach Restaurant

Address:

9343 E. Shea Blvd.

Business Phone:

480-990-1777

Business FAX:

480-551-1777

Maximum Occupancy:

210 Under Roof

Effective Date of the Plan:

2/5/09

Date of Plan Review:

2/25/09

Use Permit Issue Date:

Liquor License Number:

12077108

Contact Person (1):

Angela Rana

Home Phone:

480-614-1383

Contact Person (2):

Frank Tsikitas

Home Phone:

480-661-7313

Purpose of the Plan

To address security measures, maintenance/refuse and operations for an establishment whose use shall require a Security Plan pursuant to Scottsdale Revised Codes. These uses typically include a Bar Use Permit and a Live Entertainment Use Permit. The contents of this plan will address the listed concerns as well as community concerns regarding:

- Any significant increase in vehicular or pedestrian traffic, including effects on parking, traffic and circulation in the area.
- Adequate control of disruptive behavior both inside and outside the premises to include property damage and refuse issues.
- Compatibility with surrounding structures and uses.

It is the intent of the City of Scottsdale to provide an environment that enhances the safeguarding of property as well as public welfare and to limit the need for law enforcement involvement.

The Permittee agrees that successful execution and enforcement of this Plan are a required condition of the use permit. Termination, cancellation, deviation or non-approval of the Plan constitutes a breach of the Plan and could result in the revocation of the use permit.

Operations and Hours

1. Permittee: South Beach Restaurant & Lounge

Type of Organization: ☒ Arizona Corporation ☐ Corporation
☐ Sole Proprietorship ☐ LLC
☐ Partnership ☐ Other

2. Managing Agents Name: Angela Rana

Title: President

Address: 9343 E. Shea Blvd.

Phone Numbers: 480-644-8499 (Cell)

Fax or Other Numbers: 480-990-1777 (Office)

3. Business Owner(s) (if different than Managing Agent) Name, Address, Phone: Frank Tsikitas 602-722-5641

4. Property Owner or Property Manager (if different from Managing Agent)
 Name, Address, Phone: John Rosso, 9400 E. Shea L.L.C., 602-740-4588

5. Hours of Operation:

	<u>Peak/Non-Peak Night</u>	<u>Open to Customers</u>	<u>Liquor Sale Begin</u>	<u>Liquor Sale Ends</u>	<u>Closed to Customers</u>
Monday	11:30 PM - 2 AM	11 AM	11 AM	10:45 PM	11 PM
Tuesday		11 AM	11 AM	10:45 PM	11 PM
Wednesday	7:30 PM - 2 AM	11 AM	11 AM	10:45 PM	11 PM
Thursday	7:30 PM - 2 AM	11 AM	11 AM	10:45 PM	11 PM
Friday	7:30 PM - 2 AM	11 AM	11 AM	1:45 AM	2 AM
Saturday	7:30 PM - 2 AM	10 AM	10 AM	1:45 AM	2 AM
Sunday		10 AM	10 AM	10:45 PM	11 PM

6. Promotional Events: (Attach an addendum which describes week to week promotional events you plan to have throughout the year i.e. "Ladies night." Do not include special events)

7. Program Format/Entertainment/Advertising: (Complete for Live Entertainment Use Permit Only. Attach addendum that describes

entertainment format i.e. DJ, Live music, Comedy acts etc.) See Scottsdale Revised Code – Appendix B, Zoning Ordinance for definitions.

8. Special Events:

Permittee must give notice to City of Scottsdale Planning and Development at least forty-five (45) days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Scottsdale requires separate licenses for outdoor special events.

9. Cooperation/Complaints/Concerns:

Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses that may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Steve Borchew
Name: _____ Address: 9343 E. Shea Phone: 602-390-8889

Permittee, managing agents, on-duty managers, supervisors and security personnel will cooperate closely with Scottsdale Police, City of Scottsdale Code Enforcement staff or other City staff as well as business and residential neighbors in addressing and investigating complaints, criminal acts, refuse issues and any other concerns.

Security and Maintenance

Security Attire

Security personnel must be readily identifiable to police, patrons, and other employees to ensure the safety of the security staff when engaged with patrons. Security personnel should wear an appropriate styled shirt with the word "security" on both the front and back, in two (2) inch lettering and clearly visible. During cold weather, a jacket with the same inscription should be worn.

The use of radios should be employed between security staff and management when the size of the establishment limits communication efforts.

Security Officer Responsibilities

The Permittee or management must clearly delineate the below responsibilities to all new security personnel and ensure these responsibilities are explained and understood.

Civilian Security Officers will be responsible for patrolling the full property of the liquor establishment during all hours when patrons are in the establishment, outside the establishment, and in the establishment parking areas.

On peak nights, there will be a minimum of Ø uniformed security officer(s). (Wearing the above-described uniform). The following responsibilities shall be agreed upon and adhered to:

1. Ø Security officer(s) will be responsible for roaming the interior of the business and identifying hazards, problems, and maintaining guest safety.
2. Ø Security officer(s) will be responsible for checking identifications at the front door. Acceptable identification are those listed in Arizona Revised Statutes Title 4, section 241A and apply to patrons accessing any area of the licensed premises, including the time period of After-Hours, if applicable. Additional responsibilities shall include: access control, counting of patrons, and prevention of intoxicated persons from entering the business.
3. Ø Security officer(s) will be responsible for conducting roaming patrol of the exterior in an effort to prevent criminal behavior, maintain the peace and prevent refuse issues. This patrol shall include all parking areas to prevent a gathering of patrons during business hours and up to thirty (30) minutes after closing.

In addition, security officers will report all acts of violence to management personnel, complete a written report, log the act of violence, and contact Scottsdale Police Department immediately. Liquor establishment management and/or ownership has the ultimate responsibility for the recording of the act of violence, logging of the act of violence, and reporting the act of violence to the police department and the State Department of Liquor Licenses.

Management Responsibilities

The Permittee must clearly delineate the below responsibilities to all managers, assistant managers, and person(s)-in-charge and ensure these responsibilities are understood and followed.

The manager(s) shall ensure that all employees, security staff and off-duty officers (if applicable) be trained and knowledgeable about the contents of this plan. The following shall be agreed upon and adhered to:

1. There will be a minimum of 1 manager(s) available during peak nights.
2. There shall be a general manager and one assistant manager on duty all hours while open for business and for thirty minutes after closing.
3. A manager shall be identified as the "Security Manager" for the establishment and be responsible for ensuring that a safe environment exists; for the supervision of all security personnel and that all security personnel as identified here shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulation issued pursuant thereto.
4. At least one security manager will be on duty until one hour after closing or the last security officer is off duty, whichever occurs last.

Uniformed Sworn Officer Responsibilities:

If Off-duty law enforcement is used for security, it is the responsibility of the Permittee or management to clearly delineate the following responsibilities, which include at a minimum the following:

1. Conduct traffic control as needed.
2. Assist civilian security officer(s) in removal of disorderly and/or intoxicated guests and maintain the peace outside the establishment.
3. If necessary, patrol the exterior portions of the business to maintain the peace as well as prevent criminal acts.
4. If a valet is utilized, maintain the peace in the area of the valet.
5. Assist Security Officers with maintaining order in the entrance line and assist in discovery of underage patrons attempting admittance.

- ☐ I plan to hire 0 officer(s) during peak nights from (name of agency) _____
- ☒ I do not plan to hire off-duty law enforcement.

Parking

In order to reduce criminal activity that negatively affects the nearby businesses, the Permittee is responsible for the designated parking area to include any lots used by the Permittee's contracted valet company. It is the Permittee's responsibility to ensure that parking areas utilized by patrons and employees will be routinely patrolled by security staff so parking areas are not used: as a gathering place; for consumption of spirituous liquor; for violations of state or city law; for acts of violence, or disorderly conduct. Management will ensure that all patrons have left the parking areas within thirty minutes after the designated closing time.

If valet is used, it is the Permittee's responsibility to ensure the valet company meets all the requirements of the City of Scottsdale and has a valid valet license and permit prior to conducting valet business.

Refuse Plan

It is the Permittee's responsibility to ensure refuse containers are properly used and the area in and around the business is kept clean. Failure to do so will result in an investigation and possible citation from the City of Scottsdale Code Enforcement or other governmental agencies.

At closing, management will be responsible for refuse pick-up and any appropriate cleaning, for any refuse found within a 300 foot (three hundred) radius of the business. This will also include patron parking lot(s), valet parking lot(s) and employee parking lot(s). All bottles, trash, bodily fluids or secretions and refuse found on streets, sidewalks, private property, and empty lots within the above designated areas will be placed in the refuse container or cleaned appropriately.

Enforcement of Security Plan

Violations of this Security Plan will be enforceable by City of Scottsdale Police Officers and/or Code Enforcement employees and may constitute grounds for revocation of applicable use permits relating to the establishment.

Violation, amendment, revocation, as defined in Scottsdale City Zoning Code Sec. 1.402.

Conditional use-permits, which have been approved by the City Council, shall be subject to the following procedures and criteria regarding any violation, amendment, or revocation.

- The violation of any condition imposed by the conditional use permit shall constitute a violation of this ordinance and shall be subject to the requirements of Section 1.1400 et seq.
- Conditional uses shall be developed in conformance to the approved plans as determined by the Zoning Administrator. An amendment to a conditional use permit is required before implementation of any material change in the scope and nature of an approved conditional use, material change in any conditions or stipulations to a conditional use permit or material change in the physical size, placement or structure of property subject to a conditional use permit. The Zoning Administrator shall have the discretion to determine if a proposed change warrants an amendment. An amendment must be approved as provided in Section 1.400 et seq. for the approval of conditional use permits.
- The Zoning Administrator may recommend to the City Council and the City Council may affect revocation of a conditional use permit pursuant to Section 1.402 of the Scottsdale Zoning Code for acts including but not limited to:
 1. A violation of the Plan.
 2. Violation of the conditions of the Use Permit.
 3. Violation of Scottsdale ordinances or law.
 4. Repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, or failure to report acts of violence
 5. Failure of the Permittee to take reasonable steps to protect the safety of persons entering, leaving or remaining on the premises when the Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or reasonably should have known of such acts of violence or altercations.
 6. Any enlargement or expansion of the premises, plan of operation or program format without appropriate approval from the City.
 7. Misrepresentations or material misstatements of the Permittee, its agents or employees.

Dissemination of the Security Plan

- A copy of this security plan must be provided to each security officer and off-duty sworn law enforcement officer as well as the manager(s) and assistant manager(s) employed by the permittee.
- A reading log will be maintained and will be signed by each of the above persons, stating they have read and understood this plan. Each security employee must read the plan once per year, or when there are any changes to the plan.
- A current copy of this plan will be maintained on the premises at all times, and a copy of this plan must be made available upon request of any code enforcement officer or police officer.
- Failure to conform to this plan will be considered a violation of the use permit.

Termination of the Plan

This plan terminates on the date that the permittee's use permit terminates, or two (2) years from the security plan's effective date, whichever occurs first.

Enclosures

- ☐ Addendums attached
- ☒ No enclosures.

APPLICANT/MANAGEMENT:

Name: *Frank James Tsikitas*
 Address: *9343 E. Shea Blvd., Scottsdale, AZ*
 Phone: *480-661-7313*
 Date: *2/15/09*
 Signature: _____

APPROVED BY:

Detective: *JOHN MULLER*
 Phone: *480-312-3252*
 Date: *2/17/09*
 Signature: _____

TO: Phil Kercher, P.E., P.T.O.E., City of Scottsdale

FROM: Paul E. Basha, P.E., PTOE
Yung Cossar, E.I.T.



RE: South Beach Restaurant (M-M 8695.001)
Trip Generation Estimation

DATE: 22 May 2008

INTRODUCTION:

South Beach Restaurant, in the southeast corner of the intersection of 94th Street and Shea Boulevard in Scottsdale, Arizona, proposes to provide live entertainment for their patrons. Twenty seats will be removed from the dining area to provide space for a dancing area. Morrison-Maierle has been selected to prepare a trip generation study for the proposed increase in patrons and associated number of vehicles due to the provision of live entertainment.

RESULTS:

The South Beach Restaurant with current and proposed conditions is anticipated to generate the traffic volumes provided in **Table 1**.

Table 1: South Beach Trip Generation Comparison

	CURRENT	PROPOSED
	Total	Total
WEEKDAY DAILY	804	796
PM GENERATOR	94	86
SATURDAY DAILY	790	783
GENERATOR	93	85

CONCLUSIONS:

18-UP-2008
1st: 6/13/2008

The South Beach Restaurant with proposed conditions is anticipated to generate approximately the same traffic volumes as current conditions.

Table 2 provides a list of the existing facilities within the South Beach Restaurant without the provision of live entertainment, as well as their corresponding characteristics pertinent to this study.

Table 2: Existing South Beach Facilities

SOUTH BEACH RESTAURANT					
FACILITY	SIZE	UNITS	FACILITY	SIZE	UNITS
RESTAURANT	4,302	square feet	BAR	2,055	square feet
	206	seats		75	seats
Private Dining	704	square feet	Bar	1,053	square feet
	38	seats		49	seats
Dining	351	square feet	Patio	477	square feet
	23	seats		7	seats
Elevated Dining	535	square feet	Sushi Bar	525	square feet
	37	seats		19	seats
Outdoor Dining	1,263	square feet	OTHER	3,429	square feet
	66	seats	Reception	599	square feet
Back Entry Reception	1,449	square feet	Ladies Room	192	square feet
	42	seats	Mens Room	178	square feet
			Kitchen	2,460	square feet

Adding live entertainment to South Beach Restaurant reduces the square footage of the restaurant area by approximately 754 square feet and reduces the total restaurant seating by 24. This area will be a dance floor with live entertainment. A density of one (1) person per five (5) square feet and 2.5 people per vehicle was assumed.

Table 3 provides a list of the proposed facilities within the South Beach Restaurant with the provision of live entertainment, as well as their corresponding characteristics pertinent to this study.

Table 3: Proposed South Beach Facilities

SOUTH BEACH RESTAURANT					
FACILITY	SIZE	UNITS	FACILITY	SIZE	UNITS
RESTAURANT	3,548	square feet	BAR	2,055	square feet
	182	seats		75	seats
Private Dining	704	square feet	Bar	1,053	square feet
	38	seats		49	seats
Dining	351	square feet	Patio	477	square feet
	23	seats		7	seats
Elevated Dining	535	square feet	Sushi Bar	525	square feet
	37	seats		19	seats
Outdoor Dining	1,263	square feet	OTHER	3,429	square feet
	66	seats	Reception	599	square feet
Back Entry Reception	695	square feet	Ladies Room	192	square feet
	18	seats	Mens Room	178	square feet
LIVE ENTERTAINMENT	754	square feet	Kitchen	2,460	square feet
	151	people			

ANALYSIS WITHOUT LIVE ENTERTAINMENT:

The estimated trip generation for South Beach Restaurant was determined through the procedures and data contained within the Institute of Transportation Engineers (ITE) *Trip Generation*, 7th Edition, published in 2003. This document provides traffic volume data from existing developments throughout North America that can be utilized to estimate vehicle trips that might be generated from proposed developments. The traffic data are provided for 152 different categories. The estimated traffic volume is dependent upon independent variables defined by the characteristics and size of each land use category.

Traffic volumes can be estimated for nine different time periods: weekday day, weekday morning and evening peak hour of adjacent street, weekday morning and evening peak hour of generator, Saturday day, Saturday peak hour of generator, Sunday day, and Sunday peak hour of generator.

The ITE land code use code and category utilized for the restaurant is 931 – Quality Restaurant. The independent variable of 1,000 square feet of facility area and number of seats was utilized. The most appropriate land use code and category for the bar was 936 – Drinking Place. The independent variable of 1,000 square feet of facility area was utilized. The data for 936 – Drinking Place provided rates for the evening peak hour of the adjacent street and evening peak hour generator only. Therefore 931 – Quality Restaurant was utilized for the seven additional time periods with an independent variable of 1,000 square feet of facility area.

Attachment A to this memorandum provides the complete results of the calculation of trip generation for South Beach Restaurant without live entertainment. The results are summarized in **Table 4**.

Table 4: Current South Beach Restaurant Trip Generation

	BAR			RESTAURANT			TOTAL		
	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	108	108	215	295	295	589	402	402	804
AM ADJACENT STREET	1	1	2	3	3	6	4	4	8
AM GENERATOR	8	4	12	22	11	33	30	15	45
PM ADJACENT STREET	15	8	23	36	18	54	51	26	77
PM GENERATOR	22	10	32	36	25	62	58	36	94
SATURDAY DAILY	106	106	211	289	289	579	395	395	790
GENERATOR	15	10	25	40	28	68	55	38	93
SUNDAY DAILY	81	81	162	221	221	443	302	302	605
GENERATOR	11	7	18	31	18	49	43	25	67

ANALYSIS WITH LIVE ENTERTAINMENT:

South Beach restaurant proposes to provide live entertainment. There are no land use categories and codes within *Trip Generation* for this provision. Therefore assumptions for trip generation were necessary. The trip generation was estimated dependent on the number of square feet per person. It was assumed that during the peak hours of adjacent street, the restaurant and bar would be completely full and twenty-four (24) seats from the back entry reception area would be removed to create a dance floor. It was assumed this 754 square foot area would be filled with a density of one (1) person per five (5) square feet and that there would be 2.50 people per vehicle. This 754 square foot area was removed from the restaurant, and the trip generation for the restaurant was recalculated.

Attachment B to this memorandum provides the complete results of the calculation of trip generation for South Beach Restaurant with live entertainment. The results are summarized in **Table 5**.

Table 5: Proposed South Beach Restaurant Trip Generation

	BAR			RESTAURANT			LIVE ENTERTAINMENT			TOTAL		
	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	108	108	215	260	260	521	NA	NA	60	368	368	796
AM ADJACENT STREET	1	1	2	3	3	5	NA	NA	NA	4	4	8
AM GENERATOR	8	4	12	20	10	29	NA	NA	NA	28	14	41
PM ADJACENT STREET	15	8	23	32	16	47	NA	NA	NA	47	24	71
PM GENERATOR	22	10	32	32	22	55	NA	NA	NA	54	33	86
SATURDAY DAILY	106	106	211	256	256	511	NA	NA	60	361	361	783
GENERATOR	15	10	25	35	25	60	NA	NA	NA	50	35	85
SUNDAY DAILY	81	81	162	196	196	391	NA	NA	60	277	277	613
GENERATOR	11	7	18	28	16	44	NA	NA	NA	39	23	62

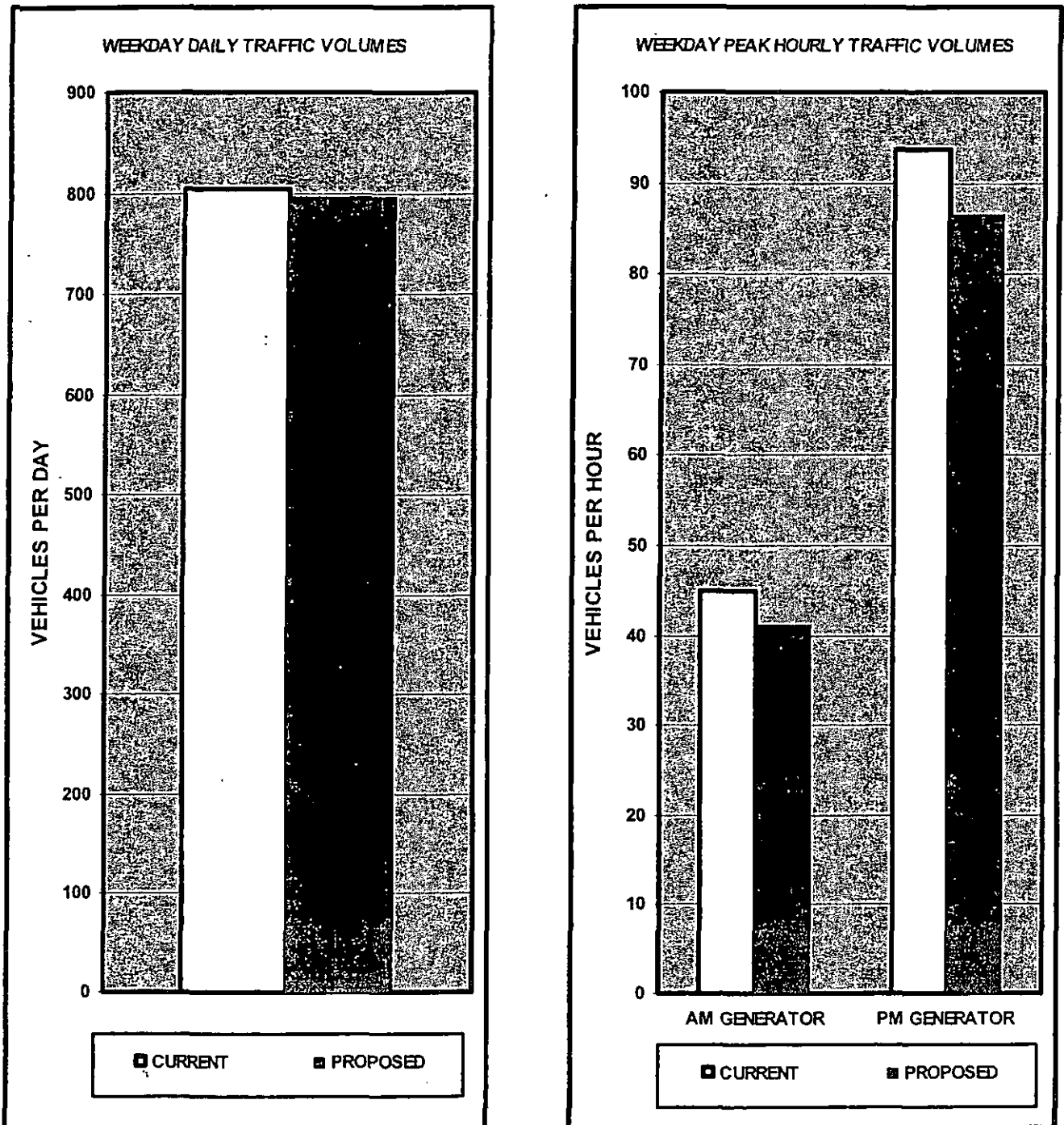
South Beach Restaurant current conditions versus proposed conditions are summarized in Table 6. A graphical comparison is provided on the next page.

Table 6: Current and Proposed South Beach Restaurant Trip Generation

	CURRENT			PROPOSED		
	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	402	402	804	368	368	796
AM ADJACENT STREET	4	4	8	4	4	8
AM GENERATOR	30	15	45	28	14	41
PM ADJACENT STREET	51	26	77	47	24	71
PM GENERATOR	58	36	94	54	33	86
SATURDAY DAILY	395	395	790	361	361	783
GENERATOR	55	38	93	50	35	85
SUNDAY DAILY	302	302	605	277	277	613
GENERATOR	43	25	67	39	23	62

Proposed conditions have essentially no difference in trip generation compared to current conditions. Weekday daily and Saturday daily trips decrease approximately 1% for proposed conditions.

Figure 1: Current and Proposed South Beach Restaurant Trip Generation

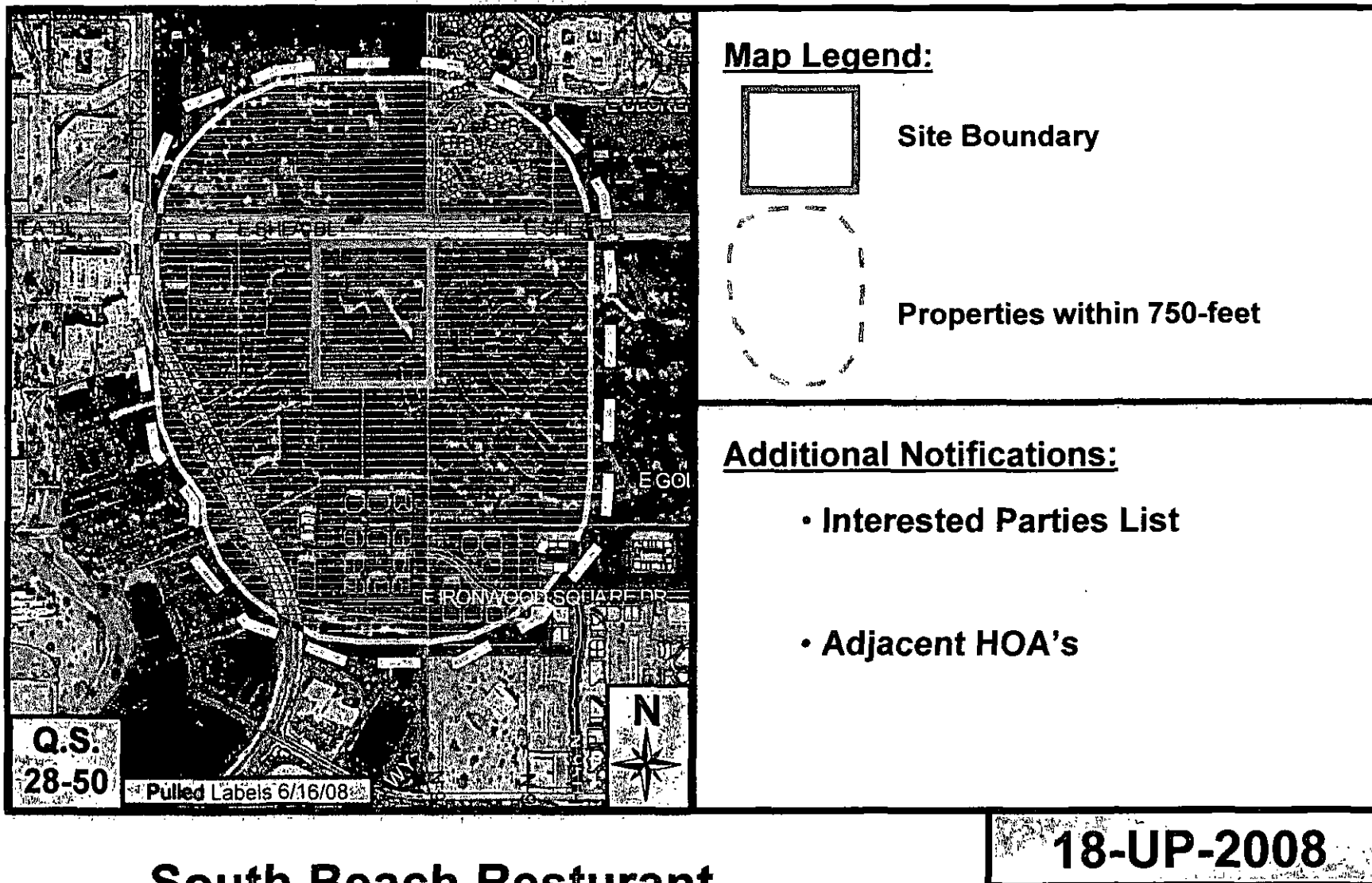


Phil Kercher, P.E., P.T.O.
South Beach Restaurant
Trip Generation Estimation, Page 7 of 7
22 May 2008

Please contact me at (480) 449-4686 if you would like to discuss this analysis or this information.

Attachment A: Current Trip Generation Calculations
Attachment B: Proposed Trip Generation Calculations

City Notifications – Mailing List Selection Map





MESSINGER MORTUARIES
CEMETERIES AND CREMATORIES

Mr. Edmond Lamperez
City of Scottsdale
3939 Drinkwater Blvd.,
Scottsdale, AZ 85251

Re: Case Number 18-UP-2008 – Live entertainment at 9325 E.
Shea Blvd., Scottsdale, AZ

Dear Mr. Lamperez:

Paradise Memorial Gardens is not opposed to the above noted Use Permit, provided **the live entertainment occurs inside their building, and the sound is not piped outside or amplified off of their property.**

We certainly do not want to inhibit their use of their property, except that the sound should not exceed their property. We do not perceive any detriment to us or families visiting our memorial park.

Respectfully

Paul R. Messinger, CEO & Chairman
Paradise Memorial Gardens, Inc.

PRMp.

Messinger ☐
Indian School Mortuar,
7601 E. Indian School Rd
Scottsdale, AZ 85251
(480) 945-9521
Fax (480) 946-9362

Messinger ☐
Pinnacle Peak Mortuar
8555 E. Pinnacle Peak Rd
Scottsdale, AZ 85255
(480) 502-3378
Fax (480) 502-9947

Messinger ☐
Fountain Hills Mortuar
12065 N. Saguro Blvd
Fountain Hills, AZ 85268
(480) 837-5588
Fax (480) 837-9383

Messinger ☐
Payson Funeral Home
302 W. Aero Drive
P. O. Box 379
Payson, AZ 85547
(928) 474-2800
Fax (928) 474-1658

Mountain Meadows
Memorial Park ☐
(Cemetery & Crematory)
Round Valley - Payson
P. O. Box 379
Payson, AZ 85547
(928) 474-2800
Fax (928) 474-1658

Paradise Memorial Garden ☒
9300 East Shea Blvd
Scottsdale, AZ 85260
(480) 860-2300
Fax (480) 860-2339

Paradise Memorial Cremator, ☐
9300 East Shea Blvd.
Scottsdale, AZ 85260
(480) 451-4255
Fax (480) 451-4408

Members:
Selected Independent Funeral Homes
National Funeral Directors Association
Arizona Funeral Directors Association

ATTACHMENT #8A



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

THURSDAY, FEBRUARY 25, 2009

DRAFT MEETING MINUTES

PRESENT: Kevin O'Neill, Commissioner (Chair pro tem)
Steven Steinke, Commissioner
Michael D'Andrea, Commissioner
Jeffrey Schwartz, Commissioner
Michael Schmitt, Commissioner

ABSENT: David Barnett, Chairman
Eric Hess, Vice Chairman

STAFF: Connie Padian
David Richert
Joe Padilla
Lucia Galav
Kira Wauwie
Erin Perreault

CALL TO ORDER

Ms. Padian called the meeting of the Scottsdale Planning Commission to order at 5:04 p.m.

ROLL CALL

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

Commissioner Steinke nominated Commissioner O'Neill pro tem chairman.
Commissioner Schwartz seconded the nomination. It was the consensus of the
Commission that Commissioner O'Neill serve as chairman pro tem.

MINUTES REVIEW AND APPROVAL

1. February 11, 2009 Regular Meeting Minutes including Study Session.

COMMISSIONER STEINKE MOVED TO APPROVE THE FEBRUARY 11, 2009 MINUTES OF THE PLANNING COMMISSION INCLUDING THE STUDY SESSION. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FOUR (4) TO ZERO (0).

EXPEDITED AGENDA

2. 18-UP-2008 Southbeach Restaurant & Lounge

COMMISSIONER STEINKE MOVED TO APPROVE 18-UP-2008, SOUTHBEACH RESTAURANT & LOUNGE, WITH THE UPDATED STIPULATIONS BECAUSE IT MEETS THE CONDITIONAL USE PERMIT CRITERIA. SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FOUR (4) TO ZERO (0).

REGULAR AGENDA

3. Discussion and possible initiation of a "major amendment" to modify the major General Plan amendment criteria.

Mr. Richert noted that staff had an internal discussion on ways to approach a major amendment criteria discussion prior to having the General Plan update in process. Staff believes that because the community area plans will be in conformance with the General Plan, the criteria will be adjusted as necessary as they move through the process. If a major amendment is addressed at this time, attention will be diverted from the General Plan community area plans. He requested that the Commission state whether or not they support the approach, with the understanding that they would not expect a General Plan amendment once adopted, prior to the update of the General Plan in 2011. He noted that it is hoped to have the area plans in place within 18 months.

Commissioner Schwartz noted an understanding of the process involved and agreed that including the amendment as part of the General Plan update is the most appropriate approach given the timing.

4. Discussion on Downtown Plan Update Revisions. Ref: 3-GP-2008.

CHAIRMAN O'NEILL: We'll move to discussion item number four, discussion on the Downtown Plan. And Erin has given us a presentation and you're just looking at this point now for us to jump into comments.

And while we do that or before we do that I'll just point out, Erin, I think it was a great presentation; it really seemed you listened. Staff collectively listened incredibly well and in the presentation and the document that's in front of us seems to be very well thought through and a great response to all of the discussion items that had come up before.

I'll open it up for discussion.

COMMISSIONER SCHWARTZ: Well, I was going to suggest maybe, Kevin, if it's okay with the rest of the Commission, that we just hear from the community first and let them tell us what their thoughts are and any questions or concerns they have and then close public testimony and discuss it. If that's all right with everybody else?

CHAIRMAN O'NEILL: All right. There's no reason we can't do that, is there? Any other comments?

All right. With that we'll get started with public testimony. Nancy Cantor will be first and Sonnie Kirtley.

While Nancy's coming up to the podium, Mr. Frenkel, you just identified you want to speak regarding the study session item; I assume this was the study session item? Okay. Thanks.

MS. NANCY CANTOR: Members of the Commission, I've been around Scottsdale for a long time; I've lived here for 47, going on 48 years. I'm keenly involved in the southern Scottsdale community area planning process. I've also served on boards and commissions.

One of the boards that I currently serve on is the Housing Board and over the summer we had met with planning staff looking at the changes to the General Plan, the Downtown Plan, the PUD, all of these things, how they were going to work as part of revitalization. At that time it was discussed to create a committee of some kind and in November I received an email from the City Staff, Ross Cromarty, and was told that the southern Scottsdale advisory group had been more or less assembled; there were two positions still open. And they were to meet with the Planning Commission to do some work study on both the Downtown Plan and the southern Scottsdale area plan and how those two would mesh together.

I have emailed, I have visited, I have asked what happened to that group? What are we going to do with it? Are we going to get rid of it? Fine, let me know I've got a calendar I can finally fill in. But I'd really like to know if there is one, going to be an advisory group of any kind and number two, are the boards and commissions going to work more closely together on the issues of revitalization for the Downtown and south Scottsdale? These are critical. Downtown sits right in the middle of south Scottsdale; anything that happens in Downtown will impact south Scottsdale.

My other question is this: you've included an infrastructure element into the Downtown Plan. I and a lot of other people would be very much interested in how that came about. We have seen an issue of infrastructure dealing with SRP and the substation at Camelback and Scottsdale Road; it's made a big, big impact on a lot of people as to how Scottsdale does address infrastructure and how Scottsdale plans for it, and where do they get the assumptions that they base their planning on?

That's basically my concern.

CHAIRMAN O'NEILL: Thank you, Ms. Cantor. I don't know if there is anybody from staff that can answer some of her questions?

MS. PADIAN: Sure. Mr. Chairman, Members of the Commission, Ms. Cantor was relating to a process that was put into place initially in the spring to look at the community area plans. We have been stepping back and doing a little rethinking and retooling of how we are going to approach each one of those.

It certainly is our intention to involve boards and commissions as well as all of the citizens in those plans, and we will be doing that. But the original process that we had set up at that time, we are rethinking. We will get -- in particular, if she does not feel a full understanding of that I'll meet with her personally and make sure she does understand what our new process will be.

CHAIRMAN O'NEILL: Thank you.

Sonnie Kirtley, followed by Michael Kelly.

MS. SONNIE KIRTLEY: Good evening acting Commissioner O'Neill and Commissioners, my name is Sonnie Kirtley. I am a 40-year resident of Scottsdale and I am the chairperson for the Coalition of Greater Scottsdale.

First of all have you received your four page -- excellent. Your homework.

Because there are only four Commissioners here this evening, we certainly aren't going to take a great deal of your time. You have some homework here; we'll make sure the other Commissioners get an opportunity to see the concerns of the Coalition of Greater Scottsdale members have and the board of directors.

The top part of what you're holding is a summary statement. We want to applaud the advanced planner and the planning staff for four specific reasons: number one it's concise, and it's readable. That was one of our major complaints on the earlier 2008 version. The history chapter is gone. The constant duplication of statements is gone. The staff responded to the request for an element of infrastructure. And finally, the glossary; this confirms that the staff is listening to the citizens when we were asking for clarity and meaning for some of the words.

We do have some concerns, I'll only mention three right now; you have four additional pages. We have over 36 specific policies that we wish to have clarified; we have comments on them or recommendations for them. And I'll make sure the advanced planning staff has copies of this as well.

Immediate concerns: when you go to page 12 of the revised draft, it's talking about -- here's the quote, "Encourages residential development for a variety of income groups." That text is way too weak. If you go to land use policy on 6.3 -- I just read it. If you go to land use policy on page 11, 4.5, we have a list of incentives that we give out as inducement for developers to provide public benefits. And we suggest that one of the flexibilities under there should be to reward them for projects that are, however you want to term it, for affordable housing is included.

Second item, the inclusion of a separate multi-use designated area; on your list on attachment C that they gave you on the front there on page one. It doesn't make sense. This is in conflict with the many DPU draft policy statements that include mixed-use, multi-use terms within the existing character areas. So how can multi-use be a distinct

area and still be proposed throughout the Downtown? So we need to know, how is staff differentiating between mixed-use, multiple use?

And finally, how and where will the proposed planned unit development, the PUD, district, which is now talking about standalone, fit into the Downtown Plan update?

And as you go through the additional pages that we have -- and we will put it on our website: www.cogsAZ.org for anyone else to read. We've taken each of the policies, it's quite readable suggestions for additions. We would like for you to purchase for Advanced Planning a spell checker, that would be a big help too.

Thank you.

CHAIRMAN O'NEILL: Thank you. I don't know if there is any -- Sonnie, Commissioner Schwartz has a question for you.

COMMISSIONER SCHWARTZ: Sorry to interrupt you there.

Thank you for your hard work. You can tell somebody read something when they tell you, you have a typo; we don't make them.

Can you tell me how you define affordable housing?

MS. KIRTLEY: How I define what?

COMMISSIONER SCHWARTZ: Affordable housing.

MS. KIRTLEY: I do not, the Federal government does. Nancy Cantor can; it's a lengthy thing. When we say affordable housing we run into trouble with the definition. I have heard a definition that talks about a certain income level as defined by the Federal government.

COMMISSIONER SCHWARTZ: So you -- so what you're saying -- affordable in that sense means workforce housing?

MS. KIRTLEY: It means if I'm a school teacher in the Scottsdale district and the highest pay in the whole district is \$56,000, I can still live here; a starting teacher with \$30,000.

COMMISSIONER SCHWARTZ: I want to be able to quantify it. That's really helpful, thank you. Appreciate it.

CHAIRMAN O'NEILL: Thank you. I don't know if there's a need for staff to comment on any of her questions. We've got your written comments and thank you very much for giving those in such detail.

MS. GALAV: Chairman O'Neill, we have not received a copy of this document yet.

CHAIRMAN O'NEILL: There you go.

COMMISSIONER SCHWARTZ: Excuse me, Kevin.

CHAIRMAN O'NEILL: Yes, Commissioner Schwartz?

COMMISSIONER SCHWARTZ: You know, Lucia, what might help is if some of these -- I haven't read this thoroughly, but maybe if you have a chance to get together with Sonnie and go through some of these things. Some of these points she brought up may be already dealt with within our document. And then if there are some outstanding issues, you know, you could probably let us know at the next hearing or via email so we can take a look at that in greater detail.

Thanks.

MS. GALAV: Commissioners, what we will do is all the comments that we receive from either internal staff or from the general public or from the Commissioners, we'll go through those again and then when we bring it back for public hearing we'll have the information as to how we address these comments from now on.

CHAIRMAN O'NEILL: Thank you. Michael Kelly, followed by Tom Frenkel.

MR. MICHAEL KELLY: Chairman O'Neill, Members of the Commission, I'm Michael Kelly, 8973 North 84th Way here in Scottsdale.

I gave Erin Perreault a three-page letter of points relating to the document that I hope she shared with you. And also, if you didn't retain it, I think I gave you a copy of a letter I wrote last August basically talking about the importance of aligning the Downtown Plan with the General Plan. And in fact, I would say that the iteration of the plan that you're looking at now is more traceable and more directly related to the elements of the General Plan and I appreciate your efforts in that specific regard. I don't have time here to go through the entire letter, but after you read it, if you have any questions I'll be happy to do it.

One thing -- and I believe Commissioner O'Neill was the lead person in regards to the mission -- or to the Vision Statement, and I would just suggest that we drop that word "metropolitan" from the vision statement. I think that there is a better way to describe this meeting of the old west and the new west that we're talking about rather than using the word "metropolitan." And I suggested that the Downtown would have an innovative future where the old west meets the new west.

The other thing is I asked Erin the other day about a reference to the General Plan and she assured me that there was going to be a reference in the executive summary for this. Because I think it's important for people who don't know the history of the community to understand that our Charter and State statutes require that we have that and that is the overarching umbrella for the Downtown Plan that you're doing; because the Downtown Plan is a character area plan and a subset of the General Plan, which of course as we know was voter ratified here.

I think the thing that concerned me the most, on page 7, was your graphic portrayal of how the boundaries might in fact spill over into adjacent areas. And I would ask you that you just rethink how you're expressing that, because I think that's going to cause immediate concern in regards to adjacent neighborhoods that are concerned about encroachment and spillover; and that's been a concern of this community for years. And it dates back to the shared vision and before that in the 1990s.

There's been talk here tonight about the housing element on page 12. And I would suggest that since you mention housing in land use goal number six, and land use policy number three, that you actually create a Downtown housing element for this plan; because we have that plan that's required at the General Plan level. And because you've addressed the topic, let's put it under its own chapter even if, in fact, that's the only item in that chapter.

The other one pertains to our referral to the urban design. And I would suggest to you that we do not use that term; we do not use the word "urban." What we're really talking about is Downtown character and design and the myriad neighborhoods that we have down there, which you, in fact, have already alluded to by your type one, type two heights and density, in fact, we need to reflect that Downtown is what it is; it's Downtown and there are various neighborhoods there.

So the last comment, if I could have just an extra second, is on the infrastructure element. The General Plan actually has what we consider or what we call the public service and facilities element, so I think that your infrastructure element ought to be titled the same as the other elements that you've had so that we can trace backwards from there. And in that, you might also mention the calls to development area elements and the growth area elements, because both of those have comments pertaining to what you're trying to deal with in the infrastructure element.

So with that, I thank you very much for your time.

CHAIRMAN O'NEILL: Thank you, Mr. Kelly. Tom Frenkel, followed by Kevin -- what's your last name?

MR. KEVIN DE ROCILI: DeRocili.

CHAIRMAN O'NEILL: DeRocili.

MR. TOM FRENKEL: Tom Frenkel, Members of the Planning Commission, 6716 Montecito. As far as the Downtown Plan -- as far as I've been concerned, I've been probably one of the biggest -- I think I am the biggest user of it in terms of property that have actually used it to develop or redevelop property. It's been a wonderful plan.

And I usually don't like to participate in focus groups but I actually participated in a couple of focus groups, which may be among the last focus groups I'll participate in. Through those focus groups there was some suggestion, and I did have neighbors in some of the areas that I specifically was concerned about where it was suggested that the boundaries get expanded. And I think in the initial draft there were areas that were expanded, and when I saw the most recent draft I see that that was taken out of the plan or at least recommended that they be pulled. And when I asked the staff member about it, I guess it was at the urging of the Planning Commission that it got pulled. And I guess one question that I had was, I was unaware, and maybe I missed the meeting, of how that came about or why that was; so maybe some curiosity about that.

And then the other thing that I would say is that if you looked at -- and I don't know if staff knows how many actual projects have gone through the process using the Downtown overlay, but I think if you looked at them and if you looked at some of the goals of it, a

good percentage of them were directed towards smaller projects. And I think the bulk of them, if you look -- as far as the majority, I don't know if a hundred have gone through or a couple hundred, or maybe not even that -- but the majority of them have been smaller projects that have enabled someone with a smaller building, give them some incentive and means and perks, if you want to call it that, to remodel, expand, or build. And I selfishly have found it very useful and probably a good 50 percent of the things that I have been involved with, I would not have been able to do it without the benefit of the Downtown Plan.

And I guess I would voice my support for the Planning Commission to reconsider, maybe, keeping the addition to those boundaries, because -- and I know there's some kind of mechanism in it for still being included in the Downtown Plan even if you're not in the existing boundaries, but I think there have been very, very few smaller projects that even the people that would have some objections to the Downtown Plan, where they would look at those smaller projects and say that they weren't a benefit and something that was worthwhile to have in this community and to have built. And I guess I see very little -- if we went through the focus groups and those were originally added. I'm surprised they were pulled and wouldn't see a need to have to go through another mechanism to have them included.

Thank you.

CHAIRMAN O'NEILL: I don't know if staff can summarize at all maybe some of the discussion that we had regarding the additional boundaries and what process we went through and how we decided to do that?

MS. PERREAULT: The basic discussion first occurred at the City Council work study session; there was not a lot of support from the City Council level last fall to include that. The intention was that they felt the properties already in the existing boundary should be developed or redeveloped first before looking at any expansion of the existing boundary.

That discussion then occurred at the Planning Commission level as well in terms of the same intention of looking internally and making sure the existing boundary gets developed and redeveloped under the revised plan before going forward with expansion boundaries. So that was really the basic discussion at both levels.

CHAIRMAN O'NEILL: Erin --

If you've got an additional follow-up question, Mr. Frenkel, you can come up to the podium.

Erin, could you also talk really quickly, though, about the language that you've put in there that actually gives, kind of, the opening of reviewing it on a case-by-case basis; properties that would want to be included in the boundary?

MS. PERREAULT: Sure. That language first was suggested by the Town Hall participants and looking at it on a case-by-case basis in terms of boundary expansion. And then the discussion occurred at the Planning Commission in terms of still preserving some right, recognizing that this is a long-term plan for the Downtown and not just an immediate plan. So preserving some of the language in there to allow future boundary

expansion and then recommending tying that to certain criteria so there's a reason why we're expanding and why it's good for the community.

CHAIRMAN O'NEILL: Mr. Frenkel?

MR. FRENKEL: And I think my response to that would be if you look at the smaller cases -- and I can't speak for the very large projects -- but on the smaller ones, even if you took the people that might have some problems with the density or, I guess, if you want to call the activists that just don't like the idea of it at all, I think there would be very little opposition to the smaller projects that were done. And the idea -- and I forgot that that had been a discussion that staff had had or maybe Planning Commission had had or Council -- that well, let's wait until the whole thing is redeveloped or until everything is gone within the existing boundaries before we look to expand it.

The reality is if a lot of it was designated, that also the smaller user could participate in it. Pretty much the larger sections that have been assembled, a lot of them have been assembled; there isn't tremendous opportunity there to do too much. A lot of those properties are owned by owner/users who either chose not to participate because they don't want to expand their property or don't want to remodel. So I don't know if the idea that waiting for the existing to develop and to use up what's there first before we think about expanding it further -- I don't know how great of an argument that is.

And then the better argument is what would be the -- what's the disadvantage of considering expanding it when the benefits, I think, are fairly positive?

CHAIRMAN O'NEILL: All right. Thank you.

Kevin DeRocili, followed by Patty Badenoch.

MR. KEVIN DE ROCILI: I apologize for the last name. My name's Kevin DeRocili, 6900 East Camelback.

This gentleman who just spoke, I just have a similar concern. One of the things as a -- having a Scottsdale address, which I'm very proud of, and also I'm a development professional. One of the things I notice in Downtown is east -- or I'm sorry, west of Camelback, it seems as you go under the bridge where the mall is, a lot of the pedestrian traffic really seems to drop off, particularly after hours. When you're up at the corner of Goldwater and East Camelback, particularly at night, there's a lot of pedestrian activity, a lot of people moving around, but once you go under the bridge, it almost shuts down at night; that whole corridor from Goldwater to the bridge. Goldwater going west on Camelback kind of shuts down at night.

And one of the things is -- I'm also a development professional; I've spent my entire career developing and particularly specialize in urban development in downtown areas. And I totally applaud the idea of bolstering the mixed use, the urban neighborhoods in that area. And that's one of the things that I've noticed and I have a similar question to this gentleman, is the way that -- when I went to the original Town Hall sessions, the Downtown boundary included some properties west of Camelback that would be brought into the Downtown boundary, which would enable them to be redeveloped for mixed-use, et cetera.

And I guess maybe some of these questions have already been answered, but I would again encourage as this gentleman had, encourage the Planning Commission and the City Council to relook at that Downtown boundary. And I know this is -- I think Erin said this is more of a long-term plan. But from what I've seen, again, on that west side is that there needs to be additional mixed-use in those areas.

If you look at the west side where the tower is, there's a vacant piece of property that's been vacant for quite a while. There's -- you know, you have the Orchid Tree apartment complex, which is pretty run down. To me that whole west side would just be prime for mixed-use development to encourage the neighborhood to come out and they would have a place to have some retail shops et cetera. And I think it would blend in well with what's going on, on that west side.

So probably I've already had a couple of my questions answered with this gentleman that came before me, but I would really like to see the Planning Commission revisit the idea of expanding the Downtown boundary; I think it would be great. And I think we've already talked about some timelines; I understand that's a long-term vision.

But the second thing is it would be great if we also could do it in conjunction with redevelopment of Downtown, particularly in today's economic climate. I think you're going to see a slowing of redevelopment projects within the formal Downtown boundary. The ability for developers or individuals to redevelop those projects, I think, will begin to slow a little bit.

So my view is if you expanded the Downtown Boundary sooner rather than later, I think it would encourage more dollars to come in, more people to redevelop those sites that might otherwise just sit there and not be redeveloped.

So I guess where I'm going with this whole comment is, again, would encourage the Planning Commission to kind of relook at the timing and to relook at the inclusion of some of those areas that were once considered. My understanding also originally was that that kind of came out of a public outcry; that the public wanted to see certain of those properties be pulled into the Downtown so they can be developed.

CHAIRMAN O'NEILL: Thank you.

MR. RICHERT: Mr. Chairman, before you leave that point, I wasn't here obviously for that discussion with the Council last summer, but what I guess I would say is it's something that we will continue to explore. And just listening to staff, there was a logical reason why some of them were suggested and discussed. They do square off boundaries, they do a lot of those types of things that would make it very identifiable and also bring it to the boundaries of where neighborhoods truly exist and no one is going to go across the street or down the road to do these things. So we will keep these comments going along and working with the people who are discussing these things tonight as well as Mayor and Council, as there are differences there today, too.

So it's important to know that we think that these have a logic at some point in time and if it's not now it may be later. So we will continue to look at it.

CHAIRMAN O'NEILL: Thank you.

Patty Badenoch.

MS. PATTY BADENOCH: Patty Badenoch, resident of Scottsdale for 37 years and I live in Camelback Park Estates. And I'm right on the other side of the line of the north boundary of the Downtown and I absolutely don't want to be part of it. So I don't want to be considered, my neighborhood, as the expansion of the Downtown.

My concern is that I think it's about having the cart before the horse. I would think the greater discussion and emphasis would be on the General Plan, which State mandates every ten years that there is an update or a reconsideration of the Downtown Plan. And it seems to me that -- I mean with the General Plan. I'm sorry, I meant with the General plan.

So what you're doing is you're incorporating ideas of the Downtown Plan that really precedes our constitution, which is the General Plan. So I'm kind of confused about why more discussion isn't placed about your concerns and revisions of the General Plan before you institute your revisions and considerations with the Downtown Plan.

Did I make myself clear; because I got kind of confused there? Thank you.

CHAIRMAN O'NEILL: I don't know, staff, if there's anybody that is prepared or wants to try to address that? Erin?

MS. PERREAULT: The General Plan and the -- the Character Plan is the Downtown Plan, which is an element or a portion of the General Plan. So we do look at both the General Plan and the Downtown Plan when we make any of these suggestions or goals and policies that are before you tonight. So we have looked at both levels, the General Plan level and the Downtown Plan level.

CHAIRMAN O'NEILL: All right. Thank you.

There's no more citizen cards, so we'll close public testimony at this point and I'll open it up to the Commission for comments. I don't know, maybe we can just go down the line, start with Commissioner Steinke?

COMMISSIONER STEINKE: First of all I would lend my appreciation to Lucia and staff and all those who worked on the update following our pretty spirited Planning Commission study sessions for this particular Downtown Plan. I think we all knew there was a lot of work that needed to be done; it wasn't going to be easy to do. But I want to certainly commend the direction it's heading.

And I think whoever you're listening to tonight, whoever offers additional remarks tonight, one thing that I do sense is that there's somewhat of a coalescing of ideas here, even though there's some differences. One example being the boundary issue. I think the line between putting those in a map form and the language which basically says that modification to the Downtown boundary may be considered when it has been demonstrated that such modification results in the achievement of the goals and policies of the Downtown Plan; we really aren't that far off.

One of our concerns at the time we were looking at those boundaries was that there was some sense that those -- by putting them in map form, you'd be all-inclusive and that

maybe we missed something along the way or maybe there was, in the rush to get so much of this document in some format that we could move forward, that somehow we didn't pay as much attention to those as we could.

I do think there's some logic to some of those boundary issues, but I also think that's covered in the policy statement, the language that we have here. And somewhere between those two the gap has closed, and now we have to refine that. And I commend everybody for keeping that flexibility there. It isn't gone just because the map is gone; it's still very visible.

I'd like to also state that the presentation at the study session in which you compared Planning Commission points of interest and concerns to the actions that were taken, was excellent. I also know there was a similar list that came out of the City Council; I think Councilman Ecton. Perhaps when you present to them, you'll have his list and the Council's list similar. But I certainly think that reflects very well exactly what I'm hearing from other people, that you were listening.

I don't know that everything that we said in those long sessions and all of the detail, because it was pretty nitty-gritty, is covered in all of this. I think there is much more missing from what we were working with to begin with and what we have retained. So I'm hopeful that we didn't lose something along the way; there's a lot of effort that has gone into it. But I think that comparative kind of presentation really lends itself to showing us the progress that's been made.

I would ask in the glossary portion we might want to include reference to what Type 1 and Type 2 mean; where you can find reference to that. I don't believe it's in the glossary here, but it should be quickly identifiable.

Also I want to emphasize the importance of what I think of the infrastructure element, whatever we call it; infrastructure. Again, Mr. Kelly's points, he's been consistently on target in trying to keep us tied in generally with the General Plan and I give him a lot of credit for helping us keep our focus in how we have to tie those two together. So whatever we call it, I really appreciate the infrastructure portion being in there. It was referenced in there and I marked it up as I went through -- and I'm not going to try to find it -- but there's reference in there to somehow tying that infrastructure into a five-year capital improvements plan or something in that effect. Infrastructure by its own nature has to go out beyond five years. And I hope in the process that we look beyond whatever the active capital improvements plan might be for any infrastructure that we want to be working on.

For the moment that's my comments. I may have some more as we roll around here, and we may come around a second time. But much improved, a much easier read, I think; a lot of strike-throughs; I much appreciate it, but we'll see where it goes from here.

CHAIRMAN O'NEILL: Commissioner Schwartz.

COMMISSIONER SCHWARTZ: I won't take up a lot of time. I don't want to be redundant, but again I want to applaud everybody's work; Lucia and Erin, you guys have done a phenomenal job bringing together all of our comments. I'm sure there are things that probably didn't make it here. I'm sure as you see and review this further, you'll implement any changes that didn't make it.

The big thing for me is to see the implementation plan, because I think that at least a lot of my comments will relate to that implementation. So I'll look forward to seeing that in the future.

And again, do you have a timeline when we're going to see these again?

MS. GALAV: Commissioner Schwartz, we don't have a specific timeline. At this point we are looking at -- let's see, it's February, March -- April; possibly April. There are just some internal decisions that have to be made as to how to proceed forward in discussions with new Council Members and so forth. So at the earliest, it would be April coming back to the Planning Commission; and that would be for the hearing, actually.

COMMISSIONER SCHWARTZ: Okay, great. If there's some information that we can get in the meantime, a draft implementation plan to review, that would be helpful.

But again, thank you very much for all your work. I think it's come a long way.

CHAIRMAN O'NEILL: Commissioner Schmitt.

COMMISSIONER SCHMITT: Thank you, Kevin.

Lucia, also I'd like to thank the staff and everybody that's been working on this for listening carefully to what we and others have had to say. And I think the document that we have here is certainly much easier to digest and understand, and it's concise and really gets to the point without a lot of redundancy.

I've gone through this in some detail and I have prepared quite a few comments, but some of those are fairly technical in nature. So I'll, maybe, just write those down for you and we can have them in our next discussion.

But maybe just a few of the points that I wanted to touch on a little bit with respect to the land use, is going through this sort of the phrase or the term "vertical mixed-use" keeps coming up over and over again, and you know, that is the trend in development now and it has been for the last few years; it's been very successful and a lot of people are excited about it. But development trends come and go. I mean, a few years ago we were all excited about strip shopping centers and now we're excited about this. And you know, what's the next horizon for development trends, and to what extent do you actually tie a master plan to a specific development trend? That's just a rhetorical question, but I think something that we ought to think about and be sure that we don't tie ourselves down too tightly to one particular model when maybe that model will change; and likely it will over time. I've never seen a model stick around for all that long, really.

Also in policy 2.3 it's talking a little bit about the medical mixed-use area down near the hospital and all that. And just sort of a question or maybe a goal that we -- I would hope that we have in mind on that is that, you know it seems that our next economy, our next real economy, is going to generate tax dollars and jobs and all those kinds of things that we like is biotechnology and medical research and those sorts of things; so what we can do with this plan to sort of encourage that. And I don't know to what extent Scottsdale Healthcare is a big player or chooses to be a big player in that, but I know Mayo and Banner and St. Joseph's and a lot of those are, and I would presume Scottsdale is too;

they are a pretty progressive organization. So if they could be host of that; and given our proximity to ASU, it seems like there are really a lot of things that could make that work. And I would like to see that become a big employment center for us; maybe that area between there and SkySong really becomes that kind of a piece for Scottsdale eventually.

In policy 2.5 there's a discussion about the urban open space and the Civic Center area being Downtown's primary open space, and I agree that it is. But unfortunately, if you don't live here and you've not kind of been there, it's hidden; if you're a visitor you may never find it because it's sort of buried behind a lot of things. It's a very wonderful space once you get into it. And the other thing is, it's fairly remote to most of the areas in the Downtown Plan.

So a couple of thoughts on that -- and maybe this becomes eventually a part of goals or policies or something that I would like to see promoted -- but the idea of maybe having that space open up toward Downtown. For instance, that large parking structure on the west side of it, you know if that weren't there and you could expand that whole open space out that way and have it address Old Town and so forth, it really could create some excitement; it would open that entire area to the public and visitors who might not otherwise know it was there.

And just another concept or thought that I've had in mind is -- this kind of maybe goes to our infrastructure or other open space kind of discussion in this plan -- is would it be possible to identify a fairly large tract of space that is maybe underused, underdeveloped, that the City -- or maybe float a bond so that we could purchase that almost like the mountain Preserve, in the same fashion that we do that, and create Scottsdale's Downtown central park, maybe at a different scale. And then in exchange for greater density, which most of these properties that we're dealing with will have, those developers then will contribute to paying back the cost of that park; it becomes a common amenity to all of them. But maybe there's a funding mechanism that comes in time from the developer sort of paying off that bond. But then create something that is more centrally located and maybe more recognizable; maybe becomes an event venue space or something.

And this is very conceptual ideas that I've had about that. But you know, you go to New York City, and how wonderful it is to be right in the middle of Manhattan Island and there's Central Park. And obviously this is a different scale and a whole different thing, but that same concept sort of appeals to me here if we could do something like that.

I could go on and on. I have a lot of comments through here like that. But I'll just get my major comments in writing to you and then we can discuss these further at the next meeting.

Maybe just one of the last things, and I've talked about this a little bit in prior meetings, but I have a feeling that as we look further than Downtown and kind of see how Downtown affects other things that it's adjacent to, that we really need to look at mass transit, whether it's rail transit or whatever happens, along Scottsdale Road towards Tempe. For a couple of reasons: the Downtown area really has the ability and the potential to be an anchor for transit-oriented development ultimately. And of course, ASU and Tempe are the other end of that anchor, so there's a horribly underdeveloped strip between there. And if we could just have those two anchor pieces sort of draw

development there -- and I know I'm getting out of the Downtown Plan now, but I think it's a goal, maybe this can serve that purpose as well. And it hopefully will fit into some of the agenda, south Scottsdale character area and that sort of thing, as well.

I'll end my comments there and then put some of these things in writing to you and then we can discuss it next time. Thank you.

CHAIRMAN O'NEILL: Thank you, Commissioner Schmitt.

My comments I'll try to go through real quickly. Specifically in land-use policy 2.3, and I don't in any way want to raise any concern or issue with regard to one of our biggest employers here, but we reference specifically Scottsdale Healthcare and as things change and grow and move and all businesses, you know, get bought and sold and things like that. I don't know if it makes the most sense to specifically reference specific businesses because as time goes on with the plan, maybe it's the medical campus, it's not necessarily Scottsdale Healthcare that we're talking about.

And 2.4 I've just got a question with regard to the last sentence, it says, "The greatest intensity of Downtown development may be accommodated in this urban neighborhood." And in the previous sentence it's talking about Scottsdale Fashion Square so it's just a little -- I was just trying to find -- so is this specifically referring to the fact that we want to encourage the greatest intensity of Downtown development to be within the Scottsdale Fashion Square area?

MS. PERREAULT: Chair O'Neill, what this is doing is not specific to Scottsdale Fashion Square but that regional area that you saw on the land use map. And we heard this from the community, that there was the most acceptance for encouraging the greatest intensity of development both north of the canal in that regional area and then on the medical campus as well; so that reflects that language. It was the intent to reflect that in both the medical and -- in policy 2.3 and land-use policy 2.4.

CHAIRMAN O'NEILL: All right, thank you.

And land-use policy 2.7, to me that seems to be a policy that possibly should lead all these others as opposed to being the last one. Consider that.

Conceptual urban neighborhoods, I agree with, I think it was Mr. Kelly who referred to the fact that there are little fuzzy lines here. And I understand the intent of it, but it could cause concern for somebody that's outside the Downtown boundary and they see that they're included in a certain urban neighborhood.

And also related to that, much like my comment with the Scottsdale Healthcare, in another just bigger issue for me with regard to kind of an elephant in the living room that nobody's talking about is the Galleria and what the future of the Galleria might be. Looking over the Downtown area and the Downtown Plan over the next 20 years, I mean, this is one of the largest areas of land use that we have and it's incredibly under-utilized for what I is, I believe. And then, specifically even just referring to one of these neighborhoods as the Galleria neighborhood really concerns me a lot.

The only place that I see any reference to historic preservation in all of the Downtown Plan is in land-use policy 4.5 and I would hope that -- and it's almost referred to here as

one of the public amenities that could be brought as part of other development incentives. But I would hope that we can somewhere in the Downtown Plan specifically refer to what our vision is for historic preservation for buildings that could fall under that category in the next 20 years.

Under the urban design section, goal number six, "Incorporate a desert landscape palette that completes the Downtown urban character." If there's anywhere within -- and I understand Scottsdale's western theme and that we are in the Sonoran Desert, but if there's anywhere in the City that possibly could benefit from other types of landscape materials that aren't necessarily specific desert landscape materials, I think the Downtown area would be one area where we would want to consider that. There's a reference that I kind of liked a little bit better under 9.2, which just says, "Regional plant materials." I don't know, that's just a thought.

Under mobility, boy, this is the area that probably I've got the most comments and questions and might go over these in more detail. But a lot of them are just related to how are we going to do some of these things that we're talking about in here? Because really as much as -- and I've talked about this before -- as much as I like to think about urban neighborhoods and walking neighborhoods and pedestrian movements, Americans are the laziest people around and if we can get from point A to point B the fastest way, that's what we're going to do. I mean, I've got story after story. Just another one, I within the last week was with somebody at a Downtown restaurant off of 5th Avenue and Scottsdale Road and we were going to go from there to the W Hotel and when I recommended that we walk, I mean it was just -- I was laughed at; why would we walk when we can just get into our car that's parked right here and drive to the W and have them valet and then when we're done, our car's right there? And that is how -- it's just a reality. And as much as we talk about a lot of these things, I want to know -- and I would love to see it, but I don't know how when we say -- I mean, I can just pick one of them: "Encourage and accommodate increased levels of bicycle, walking, and transit ridership." That's a great idea, but how are we going to do that; how are we going to do a lot of the things in there? I think it will be a challenge to actually get accomplished.

Under economic vitality -- and I might not understand the real reason and what this section is trying to accomplish, but for me, economic vitality for the City and as it relates to the Downtown Plan is talking about, if you're looking at it as a business, expenses and revenue and how the Downtown is going to -- you know, what our expenses are and what our revenues are and how as a city we're going to be economically viable. And I don't see really anything in there that talks about how the City is going to address the Downtown Plan and promote things that actually will be financially beneficial for the City.

I've got a couple of specific ones in here. Just again -- and a lot of these things -- one of them economic vitality policy 3.1, it would "Create and/or amend zoning and land-use regulations to allow flexible design as Downtown spaces develop and redevelop." That's kind of an interesting policy; I have no idea what relevance it has to economic vitality; it's just about redeveloping properties. And another one here, policy 3.3, I just have no idea what this says, "Be responsive to economic and social changes by examining Downtown goals and policies on a regular basis to ensure they are responsive to changes and to economic, social, and environmental market conditions." When I read that -- what does that say?

I look at this document as, for example, if I'm coming down to Scottsdale and I'm going to develop a property and I'm handed this document and I read through it to say, boy I want to really understand what the City of Scottsdale and its citizens are promoting in the Downtown areas. And certain things that I read, as an example that one, I just really don't know what it means. And the things that are in the document that we can just get rid of because they are just fluff, I think it will be better because people will be able to get through it and read it and understand it better.

Under infrastructure, the comment has already been made, I think. I mean, for me in the Downtown Plan, it specifically needs to try to address us sitting down and saying we need to make some projections over the life of the plan, over the next 20 years, what the impact is going to be with regard to our infrastructure needs in 20 years from now and address that. It appears we're just looking at it in our capital improvements five-year look.

And that was it. So I don't know if -- okay, Commissioner Steinke?

COMMISSIONER STEINKE: Just one thing I missed here. There was reference to what's referred to a through traffic graphic that will come in the final package. A key access through traffic graphic. There's reference in here multiple times to the importance of north/south route using Scottsdale Road, Drinkwater, Goldwater, et cetera; I couldn't find the name of any east/west streets in there. I suspect that through traffic graphic will have some east/west streets in it. Now that may be because that determination is still kind of hung up a little bit in discussion because of all of the issues surrounding Chaparral and other things; I don't know. But at some point we're going to have to commit to what that east/west primaries and secondaries are going to be, or we're going to miss an opportunity here to key off of that in the project.

So I assume that that traffic graphic is going to have that addressed when we see it.

CHAIRMAN O'NEILL: I had another comment I forgot or breezed over relating to that, a similar issue.

Under mobility policy 1.7, the first sentence there, "Maintain the primary function of Scottsdale Road as Downtown serving." I kind of don't quite understand what that means. I don't even know if that's a real sentence; but also, we're talking about Scottsdale Road, the longest road in all of our city and how at least in the Downtown Plan we're referring to it as its primary function being Downtown serving. To me it just doesn't -- it's not very clear; it doesn't make that much sense.

Any other comments, thoughts? I don't know if there's a response needed? Lucia?

MS. GALAV: Commissioners, thank you very much for your comments. And also, I'd like to thank the public for their input as well.

What I'd like to do -- or would like to have the Planning Commission do, if as Commissioner Schmitt has some redlines -- if you could get any of those redline comments to us, we'd be glad to -- I'd like to see them in that format so that we can go back and revise the document accordingly.

I will let you know that we are in the process as well with the internal review. Because the infrastructure element was a new element from the first draft, we've gotten some very good comments from the Public Works general manager. And so those goals and policies will be reworked based on the comments that we've received from Dan Worth's office so that that element can more clearly align with the goals and policies of the infrastructure element.

A lot of what you have talked about, particularly Chairman O'Neill and Commissioner Schwartz, are implementation -- will show up in the implementation piece. And so that will also be included with this second draft.

We are scheduled to have an internal meeting with the management team next week to talk about that implementation matrix, which is a key component to how we will take these goals and policies and move forward to try and create the activity that we need to implement the Downtown Plan.

So once again, I really appreciate the effort that you put into reviewing the document and knowing that we will once again listen to what you've told us and make the refinements that we need to do.

MR. RICHERT: Mr. Chairman, I also would like to add that what I've been used to through this process over the years is if someone identifies themselves, makes comments, from this day forward they become part of the record as to what the comment was and how we dealt with it. So you can see the progression.

We did the line out or the legislative edit of the larger document, which you've seen, now we're to this document, and how those are each going to change. It adds a little bit to it, but it shows all the way through the process whose been involved, what their concerns are, and then when it comes to the end, it's adopted, it gets dropped out of the system; but it tracks for people who's been involved, who cares, through the process to comment and take that time. And what it does, at the end then somebody can see, okay, what the difference it made being part of the process, as well as it builds that we're going all in the same direction to try to create a future Scottsdale and a future vision. And those documents are there.

So that's why I would -- anybody listening who hasn't done this yet, please do it. We will get any other Commissioners and any other citizen's groups to try to involve themselves and then track the system. It goes on the website; you can see your neighbors' concerns or someone else's concerns, business concerns, Chamber concerns. That is the way that this should be accomplished so that everybody knows where everybody is. And by the end of the day, you have a document that when it comes to Council should have all of that into it. They may still have to make the final decision, but you've honed down what those decisions are. So that's the other more detailed process with the comments.

CHAIRMAN O'NEILL: Erin?

MS. PERREAULT: Chairman O'Neill and the Commission, you had an attachment C in your package and based on your working sessions, there was discussion of how the Planning Commission's future recommendation and discussion items on the content of the Downtown Plan might go forward to City Council. This was just a draft sample

document for you to look at to see and discuss if this is the appropriate format that you would like to proceed with that as we go along into the public hearing process for the revised plan.

CHAIRMAN O'NEILL: I'm sorry, Erin, I was looking for it to make sure I had it while you were talking and might have missed the exact, kind of "to do" you would like us to do with this.

MS. PERREAULT: Chair O'Neill and the Commission, what I'd like you to do is at least just review it and give us your comments; it doesn't need to be this evening. But if this is the appropriate format that you would like us to document your future recommendation and discussion points on the draft plan once it goes in the recommendation hearing.

So this was just a sample, there was a lot of discussion at your working sessions on how the Commission votes as a body on the draft Downtown Plan eventually. And so this is an example that staff has given you to see if this is the appropriate format you would like your comments and recommendations forwarded on to the City Council. So really just your feedback on the format and how it's laid out, if there is an alternative suggestion that you might have.

COMMISSIONER STEINKE: Excuse me. So what you're suggesting is that our comments tonight would come back in some format similar to this. You would assemble those comments and this is how it would go forward; what we said tonight in some format like this if we were okay with it?

MS. GALAV: Commissioner Steinke, if you will recall back in our study sessions, we had talked about some -- we had some items in one study session that we brought forward to you for some recommendations and we didn't always agree on what that recommendation was going to be; you had some issues in the next study session that you brought back that you had concerns about.

So if there becomes an issue with you not agreeing on all the key elements of the Downtown Plan update, this was our approach as to making sure that the City Council understood the decision-making process that you went through and that if there were any concerns or anything that you wanted them to key in on based on your decision, that we could provide that to them separate from the actual Downtown Plan Update document itself.

So it could include some comments from today, but that whole series of comments that everyone has made will appear -- will generally appear in the executive summary. We're going to go through the entire, you know, the history, the process, and some of the key issues and explain what those were. But this is just -- this document would be specifically to transmit additional comments to the City Council based on your recommendation.

COMMISSIONER STEINKE: Okay. So this attachment C is basically issues related to direction --

MS. GALAV: Correct.

COMMISSIONER STEINKE: -- as opposed to detail and technical language, et cetera?

MS. GALAV: Correct.

COMMISSIONER STEINKE: Okay. Thanks.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 6:14 p.m.

Respectfully submitted,
AV-Tronics, Inc