

APPROVED 9/3/2009



**SCOTTSDALE DEVELOPMENT REVIEW BOARD
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

THURSDAY, AUGUST 20, 2009

MEETING MINUTES

PRESENT: Michael Edwards, Vice Chairman
Jason Ottman, Planning Commission Member
David Brantner, Development Member
Chris Jones, Design Member
David Ortega, Design Member
Eric Gerster, Development Member

ABSENT: Lisa Borowsky, Council Member

STAFF: Steve Venker
Joe Padilla
Don Hadder
Louisa Garbo
Hank Epstein
Doris McClay
Keith Niederer
Adam Yaron
Meredith Tessier
Bryan Cluff
Brad Carr
Greg Bloemberg

CALL TO ORDER

Vice-Chairman Edwards called the meeting of the Scottsdale Development Review Board to order at 1:10 p.m.

ROLL CALL

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

OPENING STATEMENT

Vice-Chairman Edwards read the opening statement that describes the role of the Development Review Board and the procedures used in conducting this meeting. He made special note of the focus on quality building and design.

MINUTES

1. Approval of July 23, 2009 Development Review Board Study Session Minutes
2. Approval of July 23, 2009 Development Review Board Meeting Minutes

BOARD MEMBER BRANTNER MOVED TO APPROVE THE JULY 23, 2009 MINUTES OF THE DEVELOPMENT REVIEW BOARD INCLUDING THE STUDY SESSION. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO ZERO (0). VICE-CHAIRMAN EDWARDS ABSTAINED.

CONSENT AGENDA

12. 62-DR-2008 NewPath Networks, LLC (H309-03) NEC of 100th St. & 102nd St.

BOARD MEMBER BRANTNER MOVED TO CONTINUE 62-DR-2008 TO THE SEPTEMBER 3, 2009 MEETING. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

3. 6-DR-2009#2 Fire Station 8
4. 17-DR-2008 Comerica Bank
5. 96-DR-2009 Kim Courtney's Swim School
6. 82-DR-2009 Cricket PHX-335 (PHX-999)
7. 19-DR-2007#2 Woodmere Fairways
8. 14-DR-2007#2 Starbucks at Scottsdale Fiesta
9. 10-DR-2007#6 Scottsdale Quarter – Building G1
10. 102-DR-2009 Bloom Restaurant
11. 22-DR-2009 NewPath Networks, LLC (H179-01) E. Cholla St & N. Miller Rd. (N. 76th St.)

13. 63-DR-2008 NewPath Networks, LLC (H190-02) 10593 E. Lakeview Dr.
14. 75-DR-2009 NewPath Networks, LLC (K702-02) E. Gelding Dr.
& N. 92nd St.

BOARD MEMBER BRANTNER MOVED TO APPROVE 6-DR-2009#2, FIRE STATION 8; 17-DR-2008, COMERICA BANK; 96-DR-2009, KIM COURTNEY'S SWIM SCHOOL; 82-DR-2009, CRICKET PHX-335 (PHX-999); 19-DR-2007#2, WOODMERE FAIRWAYS; 14-DR-2007#2, STARBUCKS AT SCOTTSDALE FIESTA; 10-DR-2007#6, SCOTTSDALE QUARTER – BUILDING G1; 102-DR-2009, BLOOM RESTAURANT; 22-DR-2009, NEWPATH NETWORKS, LLC (H179-01) E. CHOLLA ST. & N. MILLER RD. (N. 76TH ST.); 63-DR-2008, NEWPATH NETWORKS, LLC (H190-02) 10593 E. LAKEVIEW DR.; AND 75-DR-2009, NEWPATH NETWORKS, LLC (K702-02) E. GELDING DR. & N. 92ND ST. SECONDED BY BOARD MEMBER ORTEGA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

15. 84-DR-2009 NewPath Networks, LLC (K695-02) N. 102nd St.
and E. Charter Oak Dr.

Mr. Niederer reviewed the context and elevations for the project noting that the site location was discussed and adjusted in accordance with wishes of the neighbors. One neighbor offered to have the facility located on his property; however, the Ordinance does not allow wireless facilities to be located on private property of less than five acres.

BOARD MEMBER BRANTNER MOVED TO APPROVE 84-DR-2009, NEWPATH NETWORKS, LLC (K695-02) N. 102ND ST. AND E. CHARTER OAK DR. SECONDED BY BOARD MEMBER JONES, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

16. 59-DR-2009#2 Convenience Store

Mr. Bloemberg explained that the original case obtained DRB approval in June with a stipulation to return for separate approval for the color palette. In addition to the color palette, a new architect has taken over the case since the original approval and modified the proposed elevations.

Board Member Brantner felt that the new colors and changes to elevations were an improvement to the overall design.

Board Member Ortega felt the design had been improved, particularly the doorway arch and shading elements.

In response to a question by Vice-Chairman Edwards, Mr. Randy Carter explained that the dotted line indicated the service entrance.

BOARD MEMBER BRANTNER MOVED TO APPROVE 59-DR-2009#2, CONVENIENCE STORE. SECONDED BY BOARD MEMBER GERSTER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

17. 89-DR-2009 NewPath Networks, LLC (H598-01) N. 104th St. & E. Sunnyside Dr.

Mr. Niederer reviewed the aerial site plan and elevations and presented a photo simulation depicting the landscaping plan. He highlighted other stealth saguaro locations in the vicinity.

Mr. Tudaro noted that he did not get a response when he contacted the HOA about locating the installation on the private property. Relocating to 106th Street would move the installation outside of the network area. The requested location has been adjusted to provide greater separation from the homes in the area, and additional landscaping has been added to soften the view from the street.

Discussion ensued regarding the appropriateness of a streetlight installation in the area and the possibility of NewPath installing a new streetlight or light near the tennis courts.

Mr. Vance Richard noted that the HOA's greatest concern was the lack of communication from NewPath. He clarified that the community was not in favor of a faux cactus because there are no natural cactus in the area; the suggestion of a light near the tennis courts or along the street was brought forth by NewPath, not the community. He requested that the case be continued in order to provide an opportunity for NewPath to schedule a discussion with the HOA regarding the design and safety, as well as the company process and procedures.

Mr. Tudaro noted that all technical information was originally provided at the open house and has since been provided to the HOA along with the lease rate outline. He noted that the installation would present no health issues; RF exposure tested significantly below the Federal limits. He expressed concern about beginning negotiations with the HOA to locate the facility on a light pole on the HOA property, because open houses and community input would be required that would postpone the development of the entire network.

Board Member Ortega felt that the currently requested method and location in the right-of-way was an appropriate solution. It is beyond the purview of the Development Review Board to recommend locating the facility on HOA property.

In response to a question by Board Member Jones, Mr. Hadder explained that the City does not typically add street lighting on an ad hoc basis. The City has to be cognizant of street safety issues and considerations as well as potential liability issues related to allowing a private developer to install a single light fixture. Street lighting decisions are typically the purview of the traffic engineering department.

Board Member Gerster agreed that the solution was appropriate. He recalled that the case was previously continued for to allow negotiations between NewPath and the HOA.

Mr. Dean Hoffman reiterated that the HOA does not think a faux cactus is appropriate for the location because the existing landscaping consists of mesquite trees and Palo Verde. He noted that the HOA is not trying to stop the project but the homeowners would appreciate an opportunity to review alternatives.

Board Member Jones agreed that the faux saguaro was not appropriate for the character of the community.

In response to a suggestion by Vice-Chairman Edwards, Mr. Tudaro explained that a stand-alone pole is not considered a stealth structure. Typically if using a light pole the structure is a replacement, not a new installation. Vice-Chairman Edwards agreed that the faux saguaro was not appropriate for the area.

Board Member Gerster suggested using a pole installation with a solar panel attached that would be maintained by the community. Mr. Tudaro expressed concerns about a joint venture with the solar panel and he noted that the community is dark and might not want to have additional light poles in the area.

Mr. Niederer noted that several monument style designs were previously presented. Mr. Tudaro argued that monument installations are typically located in community entrances and are much more obtrusive than the saguaro would be.

In response to a suggestion by Vice-Chairman Edwards, Mr. Hadder confirmed that a flagpole would be permitted with a use permit.

**BOARD MEMBER JONES MOVED TO CONTINUE 89-DR-2009 (NEWPAT
NETWORKS, LLC (H595-01) N. 104TH ST & E. SUNNYSIDE DR. TO THE NEXT
MEETING IN ORDER TO PROVIDE OPPORTUNITY FOR NEGOTIATIONS.
BOARD MEMBER ORTEGA SECONDED THE MOTION. BOARD MEMBER
ORTEGA, BOARD MEMBER BRANTNER, AND COMMISSIONER OTTMAN
DISSENTED.**

Board Member Ortega commented that saguaros are commonly used and more aesthetically pleasing than a pole would be. The mechanical equipment can be located within the structure and additional landscaping will create a natural appearance. Third party agreements should only be used when necessary.

THE MOTION FAILED WITH A VOTE OF THREE (3) TO THREE (3).

**BOARD MEMBER ORTEGA MOVED TO APPROVE 89-DR-2009 (NEWPAT
NETWORKS, LLC (H595-01) N. 104TH ST. & E. SUNNYSIDE DR. AS
SUBMITTED. SECONDED BY COMMISSIONER OTTMAN, THE MOTION
FAILED WITH A VOTE OF THREE (3) TO THREE (3). VICE-CHAIRMAN
EDWARDS, BOARD MEMBER JONES, AND BOARD MEMBER GERSTER
DISSENTED.**

Commissioner Ottman commented that it would be problematic to start redesigning the network on an individual basis when the current proposal is within the Ordinance requirements. He was not convinced that continued negotiations with the HOA would result in a better solution.

Board Member Gerster noted that he would be in favor of a continuance, but that if no agreement is reached by the next meeting he will not be supportive of another continuance.

Board Member Jones agreed that an agreement should be reached before the next meeting. He commented that adding an additional natural cactus as part of the landscape would highlight the stealth cactus rather than conceal it. He reiterated that the faux cactus does not fit within the aesthetic character of the community.

BOARD MEMBER JONES MOVED TO CONTINUE 89-DR-2009 (NEWPATH NETWORKS, LLC (H595-01) N. 104TH ST. & E. SUNNYSIDE DR. TO THE NEXT MEETING. SECONDED BY BOARD MEMBER BRANTNER, THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO ONE (1). BOARD MEMBER ORTEGA DISSENTED.

18. 69-DR-2009 NewPath Networks, LLC (H343-02) east side of 100th St. north of 100th Pl.

Mr. Niederer reviewed the case specifics, noting that NewPath has a letter of authorization and has entered into an agreement with Scottsdale Ranch. Because of opposition from neighbors the site has moved from its original location and changed from streetlight installation to a faux saguaro installation.

BOARD MEMBER ORTEGA MOVED TO APPROVE 69-DR-2009, NEWPATH NETWORKS, LLC (H343-02) EAST SIDE OF 100TH ST. NORTH OF 100TH PL. SECONDED BY BOARD MEMBER BRANTNER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

Mr. Venker noted that a member of the public who arrived late to the meeting requested that item 84-DR-2009, NewPath Networks, LLC (K-695-02) N. 102nd St. and E. Charter Oak Dr. be reconsidered. The Board chose to maintain their decision.

Mr. Venker informed the Board members that the City Council would hear the appeal regarding the La Posada landscape plant list on August 25th.

ADJOURNMENT

With no further business to discuss, the regular session of the Development Review Board adjourned at 2:23 p.m.

Respectfully submitted,
A/V Tronics, Inc. DBA AVTranz.