

Jim Harris, Chairman
Lucas Still, Vice-Chairman
Mychal Gorden
Doug Hardy
John Kendig
Dan McGowan
Chad Nelson
Leo Biasiucci, Alternate
Christy Cunningham, Alternate
Allen Windholz, Alternate



Lake Havasu City
Police Facility
2360 McCulloch Blvd North
Lake Havasu City, Arizona 86403
www.lhcaz.gov

Planning and Zoning Commission Regular Meeting Minutes - Final

Wednesday, May 3, 2017

9:00 AM

1. CALL TO ORDER

Chairman Harris called the meeting to order at 9:00 a.m.

2. PLEDGE OF ALLEGIANCE

Chairman Harris lead in the Pledge of Allegiance

3. ROLL CALL

Chairman Harris asked to let the record reflect that Mr. Biasiucci did call ahead and was excused from today's attendance.

Present: 9 - Lucas Still, Mychal Gorden, Christy Cunningham, Doug Hardy, Allen Windholz, Jim Harris, John Kendig, Chad Nelson and Dan McGowan

Absent: 1 - Leo Biasiucci

4. MINUTES

Approve Regular Meeting Minutes of April 19, 2017

Mr. Kendig made a motion to approve the minutes as written, seconded by Mr. Gorden, and carried by the following vote:

Aye: 7 - Still, Gorden, Hardy, Harris, Kendig, Nelson and McGowan

Absent: 3 - Cunningham, Windholz and Biasiucci

5. CORRESPONDENCE AND ANNOUNCEMENTS

REPORT ON COUNCIL ACTION ON COMMISSION RECOMMENDED ITEM(S)

Mr. Schmeling thanked Chairman Harris and stated that at the last City Council Meeting, the Council appointed Leo Biasiucci as the newest member to the Planning Commission and as Chairman Harris indicated, Mr. Biasiucci called in ahead and said he has a prior commitment for this particular meeting but he is excited and very enthusiastic about joining the Commission. The City Council also approved two of the Commissions recent rezoning requests. One was on El Camino and the other one was adjacent to the South Pointe Condominiums on the southside.

Chairman Harris asked Mr. Schmeling if there were any nay votes on the El Camino rezone. Mr. Schmeling stated that there were and he believes that El Camino passed 6 to 1 and the South Pointe Condominium rezone passed 5 to 2.

Chairman Harris closed correspondence and announcements.

6. PUBLIC HEARING

[ID 17-1158](#) A Request for a Preliminary Subdivision Plat to Create a Condominium Subdivision of Eleven Airspace Units on Tract 2226, Block 12, Lot 15.

Mr. Schmeling thanked Chairman Harris and presented a PowerPoint slideshow and narrative including some of the following key points:

- Property location and description
- Current and historical zoning of the property
- Proposed preliminary plat of the units

Chairman Harris opened the meeting up for other questions of staff from the Commissioners.

Hearing none, Chairman Harris opened the meeting up to the applicant.

Applicant preferred not to address the Commission.

Chairman Harris opened the Public Hearing. Hearing none, he closed the Public Hearing.

Mr. Schmeling stated that Staff finds that the proposed preliminary plat meets the requirements within Title 13 entitled Subdivisions. Based on the findings, the Development Review Committee recommends that preliminary plat for Tract 2226, Block 12, Lot 15; 2950 Kiowa Blvd. N. be approved.

Mr. Nelson made a motion to approve ID 17-1158, a request for a preliminary subdivision plat to create a condominium subdivision of eleven airspace units on Tract 226, Block 12, Lot 15 with staff's recommendations, seconded by Mr. Still, and carried by the following vote:

Aye: 7 - Still, Gorden, Hardy, Harris, Kendig, Nelson and McGowan

Absent: 3 - Cunningham, Windholz and Biasiucci

[ID 17-1157](#) Amending Conditional Use Permit 15-00300006 To Revise Condition Requiring Removal of Buildings November 1 Through February 29 and Allowing the Addition of an Off-Shore Inflatable Island and a Food Truck

in Place of the Sandbar Grill

Mr. Schmeling thanked Chairman Harris and presented a PowerPoint slideshow and narrative including some of the following key points:

- Property location and description
- Brief recap of the adoption of the original conditional use permit
- Proposed changes to the current request

Chairman Harris opened the meeting up for other questions of staff from the Commissioners.

Mr. McGowan addressed Mr. Schmeling and asked if the City has jurisdiction over the raft in the water.

Mr. Schmeling's summarized responses to Mr. McGowan's question included the following key points:

- The City does not have jurisdiction of the water location of the floating barge
- The City currently has an agreement with the Bureau of Land Management giving the City authority over the areas adjacent to City beaches; Rotary, London Bridge and Site Six
- A condition was added suggesting that the applicant ensures that what they are proposing on the water is ok with all of the other agencies and the City will allow the other agencies to enforce their conditions as they see fit.

Mr. Still addressed Mr. Schmeling to clarify whether the applicant will provide proof of the assurances before the conditional use permit is issued; whether it be Arizona State Lands, Bureau of Land Management, or whatever other agencies are involved.

Mr. Schmeling stated that the applicant has stated that he has been in communication with the other agencies, but he has not asked for proof of the communication. If there is any concern by the Commission the requirement can be added to the conditions.

Mr. Still explained that it sounded like a condition so he wanted to find out how the City was going to enforce it.

Mr. Schmeling stated that once the Commission gets to the conditions, they will be read and can be tweaked if necessary.

Chairman Harris opened the meeting to the applicant.

Nicholas Rius, applicant and owner of Beach Shack Rentals and the Beach Shack Island, addressed the Commission and is happy to answer any questions the Commission has of him.

Mr. Kendig addressed Mr. Rius and asked the following summarized questions:

- Will there be an employee in charge of the bouncing barge
- Is there a certain number of participants that will be allowed on the barge at one time

Mr. Rius's summarized responses to Mr. Kendig's questions including the following answers:

- There is a certified lifeguard who will be stationed on top of the barge
- All participants will be required to wear lifejackets
- The barge can hold up to 50,000 pounds
- Up to 100 kids can be on the barge at one time

Mr. McGowan addressed Mr. Rius. His summarized questions and comments included the following key points:

- What distance will the barge be anchored from the shore
- What is the depth of the water where kids will be jumping off
- The conditions set forth in the current conditional use permit with relation to the approved location of the jet skis and boats
- The potential crowding and safety issues with outgoing and ongoing watercraft

Mr. Rius addressed Mr. McGowan's questions and comments. His summarized comments included the following key points:

- The depth of the water where the barge is anchored is approximately 12 to 15 feet
- The barge is anchored approximately 80 feet past the swimming area buoys
- The conditions set forth in the original conditional use permit are being followed currently
- The island, referred to as the Beach Shack Island, is 50 to 70 feet off the swimming area
- There have been colored pieces of foam placed as markers between the barge and the swimming area to keep boats and jet skis from entering the area
- The location and distance of the rental boats from the swimming area

Chairman Harris addressed Mr. Rius, asking for clarification on marking the area between the barge and the swim area. Chairman Harris's summarized comments and questions

included the following:

- Clarification that Mr. Rius is using colored foam noodles to delineate the swim area
- The foam noodles are being used to outline the area of the barge
- Was the placement of the noodles done so that boats cannot traverse the area

Mr. Rius addressed Chairman Harris and explained that the foam noodles were placed so nobody can come through there and it is safer for everyone. Mr. Rius further explained that because the barge is between the swimming area and the 100 feet where he puts the jet skis, boats can no longer come through the area and it is more protected, making everyone safer. He has also cleaned the whole beach and removed the rocks.

Mr. Kendig asked Mr. Rius how the kids get out to the inflatable area.

Mr. Rius stated they swim, otherwise, they are given paddleboards and everybody is wearing life jackets. So from shore he would say it's about 200 to 300 feet.

Mr. McGowan addressed Mr. Rius. His summarized statements and questions included the following key points:

- Who is going to supervise the barge from shore and in the water
- Are there going to be height, weight, age limitations for participants
- Operating this barge should require really good insurance and a lot of supervision
- Can a circle of buoys be placed 20 feet around the entire barge
- Would there be a charge for use of the barge

Mr. Rius addressed Mr. McGowan. His summarized comments included the following:

- He does have insurance
- On big weekend and holidays there will be a minimum of 1-2 employees on the barge
- There will be a limit to the number of kids allowed on the barge at any one time
- The attraction is very nice and family oriented
- Noodles can be added to surround the barge
- Two additional employees have been hired since the addition of the barge
- The sole job duties of the new employees is to supervise the barge
- All participants are required to wear life jackets

Chairman Harris addressed Mr. Rius and asked if the person working on the barge would be a certified lifeguard.

Mr. Rius responded to Chairman Harris and explained that the employee is a certified

lifeguard, but based on insurance requirements, they do not have to be a certified lifeguard.

Mr. Schmeling addressed the Commission adding the following summarized key points:

- The placement of the original 2015 conditional use permit conditions for Beach Shack Rentals in the staff report
- The original condition that all buildings shall be removed by November 1st through February 29th
- The new request to allow the facility to remain on the beach during the off-season

Mr. Rius expanded on his request with the following summarized key points:

- Removal of the structure is difficult and requires a tow truck to enter onto the beach
- It is a wood structure that has suffered damage due to the annual off-season movement
- The structure, if allowed to stay during off-season, will not be a nuisance
- The cost to replace the structure should it break is \$12,000
- It would be helpful to leave the shack and some of the boats at the location during the off-season

Chairman Harris addressed Mr. Rius clarifying Mr. Rius's request to leave the shack and some boats at the site. Mr. Rius explained that he would like to leave some boats down there in addition to the shack, but the shack is the main concern.

Mr. McGowan addressed Mr. Rius. He asked if Mr. Rius currently moves all of the boats and the shack on November 1st.

Mr. Rius stated that he does remove everything currently.

Mr. Kendig addressed Mr. Rius. He asked the following summarized questions:

- Will the food truck be driven off and on the premises every day
- Are there shade areas provided around the food truck
- How far are the restrooms from the food truck

Mr. Rius addressed Mr. Kendig. His summarized comments include the following:

- At the present time, visitors to the beach have no local access to food or water
- Many people have approached Mr. Rius asking if his business sells food and drinks
- The concept is to have a trailer on site that looks like the existing shack
- The area will have picnic tables and umbrellas so it will be nice for families

- The idea is not to have a truck moving every day, but to have a structure that will stay on location.

Chairman Harris responded to Mr. Kendig's question regarding the distance of the restrooms. He stated that the restrooms are less than 100 yards.

Mr. Schmeling added that the restrooms are located on City park property.

Mr. McGowan addressed the Commission. His summarized comments include the following key points:

- The nomenclature of the food truck is not what is being discussed
- This discussion is about another shack
- There are licenses and many restrictions related to operating a food truck

Ms. Garry addressed the Commission stating that at this point in time the food vehicle is conceptual. The applicant is asking to have the food vehicle placed in their permit in the event they are able to find somebody to locate there and provide those amenities. At that time they would be required to provide the site plan and all of the requirements. They would have Health Department and all of those things come into place. At this time it's conceptual. The applicant does not have a site plan. They do not have a vendor to provide us so they are just trying to get this into their conditional use permit. But the condition that the Commission will see in just a minute is that once they have that available they will have to submit that into the City for approval, all of the reviews, and to make sure they have all of the permits. At this time, it's purely conceptual.

Mr. Nelson addressed Mr. Rius asking if the conceptual food truck or vehicle could be a food trailer rather than a truck.

Mr. Rius explained that he has the idea to put a food truck or trailer on the location. He is requesting that the City allows him to do that, and if it is approved, he will put things in process. Obviously he will have to go through all of the regulation, make sure everything is good and come back to the Commission to request the permit.

Ms. Garry stated that what she envisions is something like the shack by the Chevron. Not like a food truck that you would see or envision when you think of a food truck, but more like what we see at the Chevron.

Chairman Harris clarified by adding that this is a trailer on jacks.

Ms. Garry explained that she calls it a food vehicle. The Commission will see in the

conditions it is called a food vehicle and not a traditional food truck.

Mr. Rius addressed the Commission explaining that in addition to the food trailer, it is his plan to add some picnic tables and umbrellas so that people can actually sit down.

Mr. Nelson asked Mr. Rius if all of these amenities are on his real estate, not on the City's real estate.

Mr. Rius confirmed.

Chairman Harris opened the public hearing.

Mr. George Sharma, 25 year resident of Lake Havasu City, addressed the Commission. His summarized comments included these key points:

- The applicant is not doing anything differently than Nautical Inn
- The land is leased; therefore, the applicant does not have permanent structures
- The applicant is doing a great job cleaning up the beach and keeping things in order
- He is in favor of this request and asks the Commission to support it

Scott Smith, resident of Lake Havasu City, addressed the Commission. His summarized comments included the following key points:

- He feels the island makes the beach safer and supports it
- The noodles placed around the island is a great idea

Mr. Schmeling thanked Chairman Harris and stated that staff finds that the proposed conditional use permit meets all the requirements set forth in 14.05.04(G). Based on the findings, the Development Review Committee recommends that land use action 17-1157 be approved with the following conditions:

Condition one: No more than 30 feet of total signage allowed. The majority of signage should be placed at the intersection of McCulloch and Sire Peter Studd Drive on Island Inn property. Directional signs and temporary signage such as blade banners and pennants are prohibited. That is a condition that is in the current conditional use permit.

Condition two: The 10 by 12 building used as a sales office shall be closed between November 1 and February 29 annually but will be allowed to remain in place for the entire year.

Condition three: The inflatable island structure, the food truck, and all temporary

accessory items such as chairs, tables and shade structures shall be removed by November 1 through February 29.

Condition four: Limit the jet skis to no more than 14.

Condition five: Launching of any watercraft from the location is prohibited.

Condition six: Fuel storage or re-fueling of equipment from the location is prohibited.

Condition seven: No boat or jet ski shall be moored within 100 feet of the west end of the designated swim area.

Condition eight: All conditions that deal with water areas, outside the City jurisdiction, shall be subject to BLM and other applicable agencies' review. Applicant shall obtain any permits required by the BLM or any Federal, State or County agency.

Condition nine: Prior to placement and operations of a food trailer or food establishment of any type, applicant must receive approval from the City. Applicant must submit the type and location of the food trailer or establishment prior to installation on the site. Applicant must also obtain all necessary permits and licenses for the sale and handling of food items prior to operation. The food trailer or establishment may only operate from the approved location.

Chairman Harris asked if the applicant understands the conditions being placed and if the applicant is in agreement with them.

Mr. Rius indicated yes.

Mr. Still addressed Mr. Schmeling. He had the following summarized key comments and questions:

- Will there be any use that will eventually max out the available parking at the location that concerns staff
- If the Arizona State Land lease for the property is not renewed or the property is split into two, does that impact the Development Review Committee's decision on this conditional use permit
- Are there any provisions the Commission needs to add to the stipulations on this permit that protects the City

Mr. Schmeling addressed Mr. Still and explained that the City has not experienced any issues with parking. That park is traditionally short on parking anyway, but obviously the

City welcomes individuals to utilize that area, not specifically just the park but all of the shoreline areas as well. People will park where they have to park. Since this is in affiliation or association with the Island Inn there is always the opportunity to park up the hill and walk down if people choose to do so. So the City has never put any stipulations on the conditional use permit with regard to parking.

Mr. Schmeling stated that in the event that the Arizona State Land lease was not renewed, we would have to look to the new owner or the new lease holder to determine whether or not they still agreed with allowing this conditional use permit. The owner would at that point have the ability to go in and modify the beach with permanent structures and apply to the City.

Ms. Garry stated that any permanent changes would have to come back to the City anyway. The creation of any permanent structures would then force any parking issues to be addressed and other issues to be specifically addressed.

Mr. Schmeling added that if there were permanent buildings and uses proposed they would have to go through the City process as well, one being design review in which case the City would review that for all of the necessary improvements, landscaping, and parking. In this particular case this is considered more temporary because none of the uses are really permanent. Conditional use permits are all small uses, although a food truck or trailer could generate just as much traffic, in theory, as a full blown restaurant depending on the size of the restaurant. At this point if a proposed permanent structure was proposed for that area, the City would have to accommodate that with additional parking.

Chairman Harris stated that all of that is going to be subject to ownership of the lease. The owners are going to dictate who can and what can be done on the property, and the conditional use permit may go away based on the allowance of the business by the new owner or the existing owner.

Mr. Gorden stated he would like to make a motion but is sure other folks may have some comments. The uses as proposed are consistent with the uses that have been there. This is a common set-up of most beach towns, resort towns things of that sort. This is a good amenity for this city. This is nothing but positive for the activity on the lake and as long as structures are maintained, the beach is maintained and it follows City code, if there is an issue Code Enforcement will deal with it. I commend the applicant for bring this forward and the investment is a good thing for the City and I'd like to make a motion to approve.

The motion was seconded by Mr. Hardy.

Chairman Harris opened the table for discussion.

Chairman Harris started by addressing condition of number three, the November 1 through February 29. He explained that he wouldn't have any heartburn in allowing that structure to stay over the course of that time as long as it is kept maintained regularly and not let go during the off-season months.

Mr. Nelson addressed the Commission asking if they should address the water and approval of the inflatable structure.

Ms. Garry clarified that the Commission is not approving the inflatable structure being used out on the lake. What the Commission is approving is beaching it at the beach. That is part of the applicants conditional use permit. So any time that the inflatable structure is touching the land, that is when it would be applicable. The City has no jurisdiction when it leaves the shore. So as far as it not being there through November until whenever, that's more what the Commission is regulating. Once it is out in the water, the City has no jurisdiction to regulate that.

Mr. Nelson requested clarification on condition number three and the use of the term food truck. Then in a later condition the term food trailer is used.

Ms. Garry explained that the conditions were changed to say food trailer to be consistent with the words that we used for the Chevron and it is not traditionally a food truck that was in mind. The subject above was just not changed. The Commission is going to be consistent in any resolutions and in the conditions just not in the subject.

Mr. Schmeling added that because of the lack of information that was provided in the application, the food truck was described it as such because that is the way it came in on the application.

Chairman Harris addressed Mr. Rius and asked if he had anything else he would like to say.

Mr. Rius addressed the Commission. His summarized comments include the following key points:

- He is in direct contact with the Sheriff's office with regards to the island
- They have not indicated they have a problem with the island being there
- The participants on the barge seem to be happy and having a good time
- He is now placing stickers on the glove box compartments of the jet skis and

boats so customers can see and read 'no wake means no throttle'

Ms. Garry stated she thinks it is important to note on the records that the applicant has been operating the inflatable for some time under a temporary use permit and to the City's knowledge no other entity or agency has complained about that or brought any concerns forward about that. So it is out there, it is visible, and it has been in use. The City has no record of that being an issue to date.

Mr. Nelson pointed out that the conditions have nothing stating the boats being left on the beach on the off-season.

Chairman Harris stated that the boats are to be removed on the off-season, asking Mr. Schmeling if that is correct.

Mr. Schmeling stated that it was the City's intent to have the boats and jet skis removed during the off-season. It was in the original conditions, but if the Commission is going to allow the shack to remain, the Commission may want to make specific provisions in the conditional use permit. It was the City's intent to have those jet skis and the boats removed during the off-season November through February.

Mr. Nelson stated he does not want the applicant to be under the impression that if the Commission passes this that they are approving that those boats can stay.

Chairman Harris asked if Mr. Schmeling could read the motion back for clarity of whether or not the November 1 through February 29 is an issue.

Ms. Garry stated the motion just included staff's recommendations so as under staff's recommendation, and the understanding of what that means, the temporary shack structures can stay but everything else goes. Now if the applicant is requesting that the boats or the jet skis be allowed to stay, the applicant needs to come back and reiterate that and specifically request that. The Commission can do that at this time and then the Commission needs to specifically discuss that and determine whether or not, and how, the Commission wants to include that in the conditions. At this point it states in those conditions that everything is removed except those shacks.

Mr. Schmeling stated that condition number three reads that the inflatable island structure, the food trailer and all accessory items, including chairs, tables and shade structures, shall be removed by November 1 through February 29. It does not specifically state the jet skis and the pontoons; however, the applicant is supposed to be ceasing operations for those months.

Mr. Rius addressed the Commission. The following are Mr. Rius's summarized key points:

- Currently all of the jet skis, boats and the shack are being removed every November 1st
- He is requesting to leave the shack and possibly some boats, but the main request is for the shack to remain
- All contents in the shack will be removed during the off-season
- He would also like to request leaving the island during off-season
- Removal of the island requires a lot of teardown and additional work
- The island, if left, will be non-operational

Mr. Gorden stated that he likes to get peoples input, but he thinks the boat should go in the off season. He understands the issues with tearing down the barge. Mr. Gorden personally does not have an issue if the barge was tucked away on the north side or the west end of the beach there out of the way. His only concern is if leaving the barge poses any liability issues.

Ms. Garry stated that her concern about allowing the barge, or the inflatable, to stay year round, is there is no one around to oversee it. The applicant is not going to have workers there monitoring it. The barge could cause an attractive nuisance, even if the barge tucked away and the City is allowing access to it. Not directly, but indirectly to something that is completely and totally unsupervised. Potential liability is not necessarily for the City; maybe a little bit if we are allowing it knowing that it could cause an issue and I am surprised that the applicant would want to leave it out. I don't know if the applicant has had that discussion with their insurance carrier about an attractive nuisance.

Chairman Harris requested Mr. Rius to approach the podium and address the Commission's concerns.

Mr. Rius approached the podium and stated the main activity on the island is from on top and kids want to jump on what is called the blob. Obviously, like right now it's very windy, and the blob is taken down. So during November 1 through February, when we are not operational, the air is taken out, it is folded back up and put it in the back of the truck and take it home.

Ms. Garry asked Mr. Rius if he has any way to secure the barge. Like if you pull it up on the shore is there some fencing or some area that you can pull it into to secure it? That would be a possibility.

Mr. Rius explained that it would be easy. They can even put fencing around the barge, on

the barge because it is all steel around it.

Mr. Gorden addressed the Commission and stated that personally there are a lot of concerns there. Unless the applicant is proposing a fenced storage yard in which the barge would be secured above the shoreline, the Commission should stick to the original intent of the original conditional use permit. That being everything is removed with the exception of the actual shack structure.

Mr. Still addressed the Commission and stated that he would echo Mr. Gorden's comments and he would ask Chairman Harris if the Commission can revise, or if Mr. Gorden can revise his original motion to revise condition number three slightly to get the trailer in there and the boats being removed so we are on the same page.

Mr. Gorden stated he does not have a problem clarifying number three to include those items.

Mr. Gorden made an amended motion to approve based on staff recommendations with the one exception of modifying condition number three to state that the inflatable island structure, food trailer, all rental equipment, boats, jet skis, including all temporary play items, chairs, tables, shade structures be removed between November 1 and February 29, seconded by Mr. Hardy, and carried by the following vote:

Aye: 7 - Still, Gorden, Hardy, Harris, Kendig, Nelson and McGowan

Absent: 3 - Cunningham, Windholz and Biasiucci

7. CALL TO PUBLIC

None

8. FUTURE MEETING

Mr. Schmeling stated that there are a couple of items for the next regularly scheduled meeting on May 17, 2017. The June 7, 2017 regularly scheduled meeting has been canceled due to someone else utilizing this room; however, staff has had a request that has come in and we have secured the room for May 31, 2017.

Chairman Harris asked Mr. Schmeling what day of the week is May 31, 2017. Mr. Schmeling responded that it is a Wednesday. There is one additional Wednesday in May so its the same two week gap, meaning the Commission had a meeting today, the Commission will have a meeting on the May 17, 2017, and traditionally we would skip that extra week in there and have a meeting on June 7, 2017 which would then be the first Wednesday in June; however, because the room is not available, staff canceled that meeting a couple months ago actually, and since then we have had an application come

in. Rather than have the applicant wait until the June 21, 2017 meeting, staff secured the room for the May 31, 2017 and we will have a short meeting that day.

Chairman Harris stated for the record Mr. Still will need to chair the May 31, 2017 meeting because he will be out of town.

Mr. Hardy stated that for the record he will be out of town also.

9. ADJOURNMENT

Chairman Harris adjourned the meeting at 10:03 a.m.

Jim Harris, Chairman

Diane Libby, Recording Secretary