

## **Amendments to Article XII, Personal Wireless Service Facilities (PWSF) Ordinance 2024-02 Planning Commission Discussion**

The Planning Commission clarified a few items during the public hearing on April 16, 2024. This included that the earlier health concern comment from a resident near Cosanti was general noting that the applicant must provide required documentation as part of the application submittal demonstrating that the submitted design will meet federal requirements and standards on safety and radiofrequency. Article XII, Personal Wireless Service Facilities, of the Zoning Ordinance (including the text amendment with Ordinance 2024-02) cannot require that a property owner accommodate a PWSF. Ordinance 2024-02 will provide a faster process on the Primary Sites. Property owners with a PWSF typically receive financial compensation from the wireless carrier via a lease or other contract between the two private parties which is not associated with the Town unless the private property owner is the Town.

The Planning Commission discussed the proposed PWSF amendments on April 2, 2024, and February 7, 2023. The Vice Mayor provided background on the PWSF amendment. During the discussion several items were clarified including that the five Primary Sites are expected to cover most of the gaps but coverage depends on cell providers and the owners of the Primary Sites investing in these improvements, the Town's effort is primarily assistance with streamlining process and waiving application fees where appropriate, the noticing on this managerial process occurred on the front end via the various Council meetings over the past couple of years on cell gap coverage and the Citizen Review Sessions/noticing for this text amendment (adding that the managerial process has a Town Council review component), and recapping the reason behind the amendment is to improve cell coverage

The Planning Commission discussed the proposed PWSF amendments on February 7, 2023. Highlights from this discussion included the following:

- PWSF Design. There were questions about the specific PWSF design at the five sites, particularly the Town-owned hillside location at 7012 N Invergordon Road and the Cosanti location at 5433 E Doubletree Ranch Road. Resolution 2022-23 provides some parameters (retaining wall PWSF that meets Town Hillside standards for the Invergordon site, concealed PWSF toward the center/middle with consideration of up to 30 feet at the Cosanti site, and faux chimney PWSFs on the other three sites), but the exact PWSF design will not be presented to the Town until the wireless carrier makes application.
- Designee. There was clarification on the Town Manager designee in the text of Section 1213 describing the application process. The Town Manager designee regarding PWSF is typically the Community Development Director. The Town Code and Town Zoning Ordinance has multiple places using the term designee without any added description.
- Right-of-Way. Discussion included an explanation regarding the use of the faux cactus and sites in the rights-of-way. This text amendment only applies to the process method for the five-specified PWSF that are on private property. The faux cactus network in the Town's right-of-way are small cell facilities that fall under Arizona Revised Statutes and Section 2-2-2(I), Small Wireless Service

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Facility Located in the Rights-of-Way, in the Town Code and originally approved via the Special Use Permit process.

- Build and Pay. The construction and payment for PWSF improvements are typically the responsibility of the wireless carrier. The Town's efforts included resident time such as through the Cellular Service Task Force, procurement of the 2018 and updated 2021 radiofrequency (RF) gap study that aided in the selection of the Primary Sites, multiple Town staff time in meetings, allowance to waive Town application fees in accordance with Section 6 of Resolution 2022-23, and other processing time efficiencies such as the proposed text amendment.
- Site Selection. The Primary Sites were the result of the commissioned RF study noted above and site canvassing through the Town's consultant (EWS), along with Town staff and other wireless carrier representatives. Any changes to the Primary Site locations would require amendment of Resolution 2022-23 by the Town Council at a public meeting.
- Colocation. Statement that there be multiple carriers on each site. This is already addressed. The text amendment retains the existing colocation provisions in Sections 1208 and 1209 of Article XII, Personal Wireless Service Facilities, of the Town Zoning Ordinance on the use of a single mount and/or site by more than one personal wireless service provider.
- FCC. The Federal Communications Commission (FCC) requirements are already addressed as the text amendment retains the FCC provisions in Sections 1206, 1207, 1208, and 1211 of Article XII, Personal Wireless Service Facilities, of the Town Zoning Ordinance.
- Staff Review Timeframe. Prior discussion included adding a Managerial PWSF time frame for Town staff review. If a time frame is considered, Section 1213(B) of Ordinance 2024-02 could include that the Town Manager (or designee) shall have 20 business days from the date the Managerial PWSF application is submitted to notify the applicant whether the application is complete. This timeframe is like the 20-day Town staff deadline for a Small Wireless Facility application and typical Town staff review time to review formal planning applications. Further consideration might include adding in Section 1213(C) of draft Ordinance 2024-02 a timeframe for the Town Manager (or designee) to either approve or deny a Managerial PWSF application from the date of a completed application (possibly 10 business days if there is no noticing, meeting, or similar requirements) or several days after any noticing. There are instances within the Town Code and Zoning Ordinance for Town review times such as 20 days for the Town to deem a Small Wireless Facility application complete in Section 2-5-2(l)(10)(b) of the Town Code, 75 days for the Planning Commission to take action on an Administrative Small Wireless Facility when complying with the objective design or alternate design standards, and 180 days for action on a Small Wireless Facility not meeting those standards that requires a Special Use Permit as outlined in Section 2-2-2(l), Small Wireless Service Facility Located in the Rights-of-Way, in the Town Code.

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- CUP Processing Time. The Commission inquired about the length of time to process a PWSF CUP as compared with the timing of a Managerial PWSF. Since 2000, there have been approximately 28 PWSF pre-application requests. 12 of these moved forward as a formal application and 4 required only building permit approval as they were maintenance improvements in substantial compliance. Pre-application review by Town staff is typically 15 to 20 business days. Once filed, a CUP takes on average 30 business days to deem the application complete. Scheduling a separate Planning Commission work session and the public hearing typically adds another 30 to 45 business days to account for preparing the meeting application and noticing material. This results in a typical CUP taking 4 to 5 months to complete after pre-application. Whereas a Managerial PWSF could take 1 to 2 months to complete after pre-application.
- Noticing. Several Commissioners commented that the Managerial PWSF process due to the significance of wireless facilities should include resident notification. If necessary, some suggestions by the Commission, among other possible vetting opportunities, included the following:
  - Have the Town Council review period allowing for at least three Town Council Members to appeal the Town Manager approval occur at a Town Council meeting. This could be on the consent agenda or as an action meeting. Reasons noted were that residents can sign up via AlertPV to be noticed on upcoming agendas and gives a public forum.
  - Reevaluate the CUP process. Ideas noted included combining the Planning Commission study session and action in one meeting. Resolution 2022-23 focuses on the managerial process.
  - Add to Section 1213 of Ordinance 2024-02 some type of notice provision within a period after application submittal, such as prior to the Town Manager decision and forwarding to the Town Council for their 7-day review (such as 10 or 15 days), or other point in the application process to seek comments from nearby property owners. Notice radius could be as determined by the Town Manager (or designee) or a specific radius given (e.g., 500 feet, 600 feet, 1,000 feet, or 1,500 feet are typical radius ranges on some planning applications). This notice could be in the Town of Paradise Valley Community Development Department mailing notification policy instead of within Ordinance 2024-02.



## Minutes – FINAL

### Planning Commission

*Chair Karen Liepmann  
Commissioner Robert Brown  
Commissioner Charles Covington  
Commissioner Timothy Dickman  
Commissioner Pamela Georgelos  
Commissioner William Nassikas  
Commissioner James Rose*

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Tuesday, April 2, 2024

6:00 PM

Town Hall Boardroom

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#### 1. CALL TO ORDER / ROLL CALL

Chair Liepmann called the meeting to order at 6:02 PM.

**Present –** Chair Karen Liepmann  
Commissioner James Rose  
Commissioner William Nassikas  
Commissioner Timothy Dickman  
Commissioner Charles Covington  
Commissioner Robert Brown  
Commissioner Pamela Georgelos

#### **STAFF MEMBERS PRESENT**

Community Development Director Chad Weaver  
Town Attorney Andrew McGuire  
Planning Manager Paul Michaud  
Town Planner Brandon McMahan  
Management Specialist Cherise Fullbright

#### 2. EXECUTIVE SESSION

#### 3. APPROVAL OR AMENDMENT OF MINUTES

A. 24-114 Approval of March 19, 2024 Planning Commission Minutes.

**A motion was made by Commissioner Georgelos, seconded by Commissioner Nassikas, to approve the March 19, 2024 minutes. The motion carried with the following vote:**

**Aye:** Chair Liepmann, Commissioner Dickman, Commissioner Nassikas,  
Commissioner Rose, Commissioner Covington, Commissioner Brown,  
Commissioner Georgelos

#### 4. PRESENTATIONS

## 5. STUDY SESSION ITEMS

### A. 24-108 **Citizen Review Session – Work Session – Proposed Amendments to Article XII, Personal Wireless Service Facilities Zoning Ordinance related to the process for site approvals.**

Vice Mayor Mark Stanton addressed the Commission, noting this was an overdue Council priority to improve cellphone service as a matter of public safety.

Planning Manager Paul Michaud presented the item. His presentation addressed concerns raised by the Commission during previous meetings and summarized the process and ordinance edits.

Commissioner Dickman asked if gaps in coverage would remain after deployment of the five sites presented. He wondered if the wireless carriers were willing to work with the Town.

Mr. Michaud advised there could be various gaps, but coverage depends on the cell providers and the owners of the five Primary Sites investing in these improvements. Additionally, he noted that providers are still interested and have been in contact with staff.

Commissioner Nassikas asked about payment for the sites.

Mr. Michaud shared that the carriers would be looking to build and pay for the facilities while the Town is looking to help in the process aspect.

Commissioner Georgelos requested reasoning behind the waiver of the application fee. She wondered if this process would be applied to future sites.

Mr. Michaud noted that the Town was not in the business of building or paying for the sites but the ability to waive the application fee was available. He agreed decisions would be made on a case-by-case basis, but it would likely be granted for the five sites being discussed. Mr. Michaud noted that if another site was added to Resolution 2022-23, this requires going through the Council process to approve the site.

Commissioner Covington asked if any state laws applied to this item and if there was an impact looking at the rollout of 5G.

Town Attorney Andrew McGuire shared that there was a sweep through the state statues related to approval of Personal Wireless Service Facilities, but most of that was small cell. The ability to regulate large cell was still intact, but this type of process was addressing the Towns process for approval. As to 5G, he believed the carrier would be able to answer that question.

Commissioner Georgelos asked how our current process compared to other jurisdictions.

Mr. Michaud stated there was not much detail for comparison, but in Scottsdale and Phoenix much of it is done by right through the building permit process.

Staff discussed how agreements must be made with owners of the privately owned sites, and if they were no longer in agreement then the carriers would have to move onto the next site. The managerial process and process for community input were discussed.

No public comment was received.

**Presentation and Discussion only. No Reportable Action.**

**B. 24.125 Discussion on Minor Special Use Permit Amendment (SUP-24-01) Ritz Carlton Area C Lots 15-19 (7000 E Lincoln Drive)**

Town Planner Brandon McMahon presented the item. He briefly went over the process, notification, criteria to amend the 2015 SUP, setbacks, lot configuration and reduction, as well as lot size. Mr. McMahon presented a visual of lot ownership and numerous renderings.

Chair Liepmann corrected a detail within the presentation. It was clarified that Commissioners toured the Ritz on March 19<sup>th</sup>, 21<sup>st</sup>, and 22<sup>nd</sup>. Further, a notice of quorum was posted for the 21<sup>st</sup> when 4 members were present.

Commissioner Covington wondered if the covered area would exceed 550 sq ft.

Mr. McMahon confirmed it would not and noted it as part of the stipulations.

Commissioner Dickman asked what would happen with the lot that's already been built if the request was not approved today. He expressed a concern with the inconsistency.

Mr. McGuire shared that a permit issued in error would not stop the town from enforcing the correct rules, so depending on the direction given, staff could stop construction on the site then leave the decision as to what happens next with the developer and owner.

Commissioner Brown suggested that the Commission weigh in on the design itself, as that would be within their authority. He did not believe the permit issue was relevant to the Commission.

Chair Liepmann discussed details of the four lots included in the request which included two lots which have been built already and two empty lots. She requested input from the applicant as to which model would be built.

Richard Frazee with Five Star Development shared that both homes had building permits issued, but the second home permit did not accommodate the overhang being built.

Commissioner Georgelos asked about outreach to the other owners in area c. She asked if there were any letters of support.

Mr. Frazee explained that notification had been completed as required by the SUP Amendment process. Additionally, there had been direct dialogue with each of the lot owners and no objection or resistance to the request. He shared that he did not have letters of affirmation today but there had been no response to the outreach letter. Mr. Frazee clarified there was no request to increase the livable square footage of the homes. It was noted that the ground level amenities would not be impacted by the request.

Commissioner Dickman shared a concern with timing of the project.

Mr. Frazee noted work was ongoing and there was an intent for the hotel to be wrapped up by the end of 2024.

At the request of Georgelos, Mr. Frazee described the configuration of the homes and how the encroachment would impact view corridors.

**Presentation and Discussion only. No Reportable Action.**

## 6. PUBLIC HEARINGS – LEGISLATIVE ACTIONS

### A. 24-099 Discussion and Possible Action on Minor Special Use Permit Amendment (SUP-24-01) Ritz-Carlton Area C Lots 15-19 (7000 E Lincoln Drive)

Chair Liepmann opened the Public Hearing at 7:18 PM

Public comment was received by the following citizens: Michael Shoen and Andy Gordon. Both speakers expressed opposition and Mr. Gordon shared a photo to show the visual impact.

The Public Hearing was closed at 7:26 PM.

Mr. Frazee addressed concerns raised during public comment.

Commissioner Georgelos asked if there was anything that could be done design wise to minimize the effect of the setback encroachment.

Architect CP Drewett agreed the design could be modified to lessen the visual impact. He believed the request was a result of an additional road being added to the layout.

Mr. Rose expressed an interest in citizen input.

Community Development Director Chad Weaver informed that the project was noticed and tonight would be the opportunity to provide comment.

Mr. McMahon noted that this process required notification to surrounding properties within 1,500' and the citizen review hearing was not required but encouraged.

Mr. Michaud clarified that intermediate amendments required a citizen review hearing, but this request was for a minor amendment. The applicant had fully met the notifying requirement.

Without objection, the public hearing was reopened, and Carol Gordon provided comments. Mrs. Gordon expressed opposition.

Mr. Drewett spoke as to the alternatives for building design.

The need for an executive session was discussed.

**A motion was made by Commissioner Dickman, seconded by Commissioner Georgelos, to go into executive session on items 24-099 at 7:50 PM.**

Discussion only. No Reportable Action.

**Without objection, the Commission came out of executive session on item 24-099 at 8:09 PM.**

Additional comments were received from the Commission.

**A motion was made by Commissioner Covington, seconded by Commissioner Rose, to approve item 24-099 subject to stipulations. The motion carried with the following vote:**

**Aye:** Chair Liepmann, Commissioner Nassikas, Commissioner Rose, Commissioner Georgelos, Commissioner Covington, Commissioner Brown

No: Commissioner Dickman

## 7. ACTION ITEMS

### A. 24-096 Discussion and Possible Action Horseshoe Estates Lot Split (LS-24-01) 7300 E Horseshoe Road (APN: 174-30-023A)

Town Planner Brandon McMahon presented a summary of the request. He shared information related to the process, background of the sites, code criteria, roadways, traffic, utilities, paving, drainage, and public comment.

Commissioner Dickman asked if sewer was available in the area.

Mr. McMahon stated there was no sewer available and the properties would be on septic.

At the request of Commission Georgelos, Mr. McMahon confirmed that all requirements have been met.

**A motion was made by Commissioner Dickman seconded by Commissioner Nassikas, to approve item 24-096 subject to stipulations. The motion carried with the following vote:**

**Aye:** Chair Liepmann, Commissioner Dickman, Commissioner Nassikas, Commissioner Rose, Commissioner Georgelos, Commissioner Covington, Commissioner Brown

### B. 24-075 Selection of Chair per Section 2-5-2 of the Town Code.

Mr. Michaud explained that the Town Code required the Election of Chair during the first meeting in April. He briefly discussed the process.

**A motion was made by Commissioner Rose, seconded by Commissioner Dickman, to elect Chair Liepmann to another term as Chair of the Planning Commission. The motion carried with the following vote:**

**Aye:** Chair Liepmann, Commissioner Dickman, Commissioner Nassikas, Commissioner Rose, Commissioner Georgelos, Commissioner Covington, Commissioner Brown

## 8. STAFF REPORTS

## 9. PUBLIC BODY REPORTS

## 10. FUTURE AGENDA ITEMS

Mr. Michaud noted that the next meeting scheduled for April 16<sup>th</sup> would include one item, the scheduled hearing for the Personal Wireless Service Facilities (PWSF) item discussed earlier.

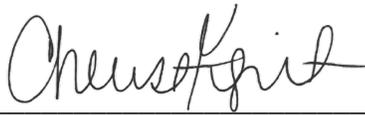
## 11. ADJOURNMENT

Motion for adjournment was made at 8:26 PM.

**A motion was made by Commissioner Georgelos, seconded by Commissioner Nassikas, to adjourn the meeting at 8:26 PM. The motion carried with the following vote:**

**Aye:** Chair Liepmann, Commissioner Nassikas, Commissioner Georgelos,  
Commissioner Rose, Commissioner Covington, Commissioner Dickman,  
Commissioner Brown

**Paradise Valley Planning Commission**

By:   
Cherise Fullbright, Secretary



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Minutes - Final

### Planning Commission

*Chairman James Rose*  
*Commissioner Thomas G. Campbell*  
*Commissioner Charles Covington*  
*Commissioner Pamela Georgelos*  
*Commissioner Karen Liepmann*  
*Commissioner Kristina Locke*  
*Commissioner William Nassikas*

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Tuesday, February 7, 2023

6:00 PM

Council Chambers

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#### 1. CALL TO ORDER

Chairman Rose called the meeting to order at 6:00 p.m.

#### **STAFF MEMBERS PRESENT**

Community Development Director Lisa Collins  
Town Attorney Andrew McGuire  
Planning Manager Paul Michaud  
Senior Planner George Burton

#### 2. ROLL CALL

**Commission Members Covington (arrived at 6:05 p.m.), Georgelos, and Nassikas attended remotely.**

**Present** 7 - Commissioner Thomas G. Campbell  
Commissioner Charles Covington  
Commissioner Pamela Georgelos  
Commissioner Karen Liepmann  
Commissioner Kristina Locke  
Commissioner William Nassikas  
Commissioner James Rose

#### 3. EXECUTIVE SESSION

None

#### 4. CITIZEN REVIEW SESSION ITEMS

- A. [23-041](#) Proposed amendments to Article XII, Personal Wireless Service Facilities Zoning Ordinance creating a managerial or similar process for certain Personal Wireless Service Facilities as directed in the Town of Paradise

Valley Resolution 2022-23 to close the gaps in cell coverage.

Ms. Collins presented the staff report. The Town of Paradise Valley has passed a resolution directing staff to create a managerial process for Personal Wireless Service Facilities for five specific sites. This process is like the Managerial Special Use Permit process and will replace the Conditional Use Permit Planning Commission approval for those sites. The Town Council recently discussed closing the gaps in cell coverage. The resolution is a result of efforts between the Town, Engineering Wireless Services (EWS), and the wireless carriers to improve cell coverage within Paradise Valley while preserving aesthetics and providing the greatest coverage and capacity with the least visible infrastructure. The resolution provides siting and design guidance for Personal Wireless Service Facilities at the identified five locations, with guidelines for number, location, height, setback, and design. Ms. Collins detailed each location.

Commissioner Campbell asked what the structure's design would be for the Invergordon location and if it would be visible.

Ms. Collins stated it would be integrated into a block retaining wall. The antennas would blend in and not extend above the hilltop. There was no specific design at this time.

Commissioner Campbell noted that the design standard was a faux cactus at one time and asked if that was an option. This and the Cosanti locations concerned him. He asked if the Planning Commission would be involved in the Invergordon site.

Ms. Collins noted that a faux cactus could be used if that was the best design to camouflage the Personal Wireless Service Facility. She replied that the Planning Commission would not be involved with this site, but the Town Council would be. She added that the Personal Wireless Service Facility application still must comply with all the requirements in the Zoning Ordinance and there would be considerable review. She detailed the process of going through the Town Manager and Town Council.

Commissioner Liepmann asked what the criteria for choosing these sites involved. She asked if a particular cell carrier will be the applicant for each case. Additionally, she asked who would build a wall at the Invergordon site.

Ms. Collins replied that the five selected sites provide the most coverage where the Town has gaps, and it would be a particular wireless carrier. Whoever applied to do the Personal Wireless Service Facility at Invergordon would also do the construction based on the plans reviewed and approved by the Town.

Commissioner Liepmann was concerned that the proposed amendment stated that the Town Manager reviews or designee. She would like it to be more specific, for example, "staff designee."

Commissioner Locke asked if they considered sites that were right-of-way or public easements.

Ms. Collins replied there were several small cells that were approved before her time at the Town in the right-of-way. All the faux cacti are small cells. She added that the five proposed sites are all on private property. The resolution has been amended a few times. The purpose of this meeting is to get input on the language within the text amendment. She responded to a question from Commissioner Locke that they wanted to see multiple carriers on each site.

Commissioner Nassikas asked who would pay for the construction at these sites.

Ms. Collins responded that the Town would waive the application fee and that the carrier would cover all the other costs. The Town Council would review the application and verify it meets the qualifications.

Commissioner Campbell was concerned that the surrounding residents would not be properly notified before installation.

Commissioner Liepmann agreed and wanted the Town Council to review the Managerial Personal Wireless Service Facility as an agenda item in their meetings.

Commissioner Georgelos asked who provided the list of sites to the Town Council for consideration.

Ms. Collins replied that EWS worked with the Town and looked at the sites that could close the gaps in coverage.

Commissioner Georgelos expressed that she was concerned about the proposed managerial amendment process in that unless appealed by three or more members of the Town Council the application is approved. She continued that this streamlined process would mean the review would be complete and final without any further notice or review. She felt that the proposed managerial process provides very little in terms of notice, and the issues regarding wireless facilities is significant in the Town. She was not in favor of moving forward with the proposal in this manner and felt that there should be a vetting process other than just the Town Manager or their designee.

Commissioner Locke agreed with the other Commissioners. She wanted to add language about compliance with the Federal Communications Commission (FCC) guidelines.

Ms. Collins replied that the FCC review is a requirement. She acknowledged the comments and concerns raised by others but explained that the proposed changes did not allow for any reduction in the submittal and that there are federal guidelines that must be met. She acknowledged that the Town staff received some input, but it was mainly focused on timing constraints faced by the carriers and health concerns. She suggested that this item come back to the Planning Commission with more information on how the Town Council is informed about these managerial amendments and provide assurance that the

Council will not be sidestepped. The idea behind the proposed changes is to move quickly and meet all code requirements while addressing the concerns raised by citizens over the years regarding coverage. She emphasized that there may be some locations where this solution would help resolve those concerns, but it was not meant to suggest that more managerial amendments would follow. She added that other Personal Wireless Service Facilities may occur and these will be reviewed via the Conditional Use Permit process.

Chairman Rose stated that he wanted the residents to have input regardless of the outcome. He made suggestions for streamlining the process.

Commissioner Liepmann brought up making the timeline in Section 1213.A and Section 1213.C of the proposed text amendment to including a timeframe and it be consistent.

Ms. Collins commented on the objective that once the application was complete, it could be reviewed within days. If it was approved, the Town Manager would send the managerial application to the Town Council.

Commissioner Georgelos asked if the Planning Commission could see examples of a situation where Personal Wireless Service Facility approvals were not made or not continued due to funding. She did not like the proposed process. She wanted clarification on what was driving the timeframe.

Commissioner Campbell suggested they could streamline the Conditional Use Permit process. He reiterated that the proposed managerial process impacts public input opportunity and thinks residents will express concerns after these structures are constructed.

Commissioner Georgelos agreed.

Commissioner Covington asked if the purpose of streamlining the process was to benefit the applicants or the Town.

Ms. Collins replied that it would benefit both, with the purpose to close coverage gaps.

Chairman Rose opened the Citizen Review Session. Ms. Brady, a resident, asked if the only Town owned site was the Invergordon site and whether this allowance applied to all Town-owned property

Ms. Collins replied the Invergordon is the only Town owned site of the five sites and the managerial process applied only to these five sites.

**No Reportable Action**

## 5. STUDY SESSION ITEMS

- A. [23-009](#) Discussion of Scottsdale Plaza Intermediate Special Use Permit  
7200 N Scottsdale Road (SUP-22-02)