

**MINUTES OF THE
DEVELOPMENT REVIEW COMMISSION
STUDY SESSION
MARCH 12, 2013**

**HARRY E. MITCHELL GOVERNMENT CENTER
TEMPE CITY HALL – CITY COUNCIL CHAMBERS
31 EAST 5TH STREET
5:30 p.m.**

Commission Present:

Mike DiDomenico, Chair
Dennis Webb, Vice Chair
Peggy Tinsley
Paul Kent
Linda Spears
Ron Collett
Angie Thornton
Dave Maza (Study Session only)

Commission Absent:

Jim Delton
Dan Killoren

City Staff Present:

Lisa Collins, Interim Community Development Department Director
Steve Abrahamson, Planning & Zoning Coordinator
Ryan Levesque, Senior Planner
Diana Kaminski, Senior Planner
Kevin O'Melia, Senior Planner

Chair DiDomenico called the Study Session to order at 5:30 p.m. Each planner gave a brief overview of their case and answered general questions from the Commission. It was determined that Item Nos. 3, 4 and 5 would all be heard, Item No. 2 had been previously pulled from the agenda by the applicant.

The Study Session ended at 5:50 p.m.

Prepared by: Lisa Novia, Administrative Asst. II
Reviewed by: Lisa Collins, Interim Director Community Development Department



Lisa Collins, Interim Director, Community Development Department

MINUTES OF THE DEVELOPMENT REVIEW COMMISSION MARCH 12, 2013

Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 E. 5th Street, Tempe, AZ 85281
6:00 PM (5:30 Study Session)

Commission Present:

Mike DiDomenico, Chair
Dennis Webb, Vice Chair
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Commission Absent:

Jim Delton
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Diana Kaminski, Senior Planner
Kevin O'Melia, Senior Planner
Lisa Novia, Administrative Asst. II

Chair DiDomenico called the meeting to order at 6:00 p.m., which included the introduction of the Commission and City staff. Chair DiDomenico also gave brief procedural instructions to the audience for anyone who wished to speak on any of the cases scheduled to be heard.

1. CONSIDERATION OF MEETING MINUTES: 2/26/13

On a motion by Commissioner Tinsley and seconded by Commissioner Collett, the Commission with a vote of 6-0 (Commissioner Webb abstained) approved the minutes of February 26, 2013.

2. Request for a Development Plan Review consisting of a new retail/restaurant building and a Use Permit to allow for a drive thru for **DISCOVERY BUSINESS CAMPUS – SITE 5 (PL120396)**, located at 2010 East Elliot Road. The applicant is Gammage & Burnham PLC.

THIS CASE WAS BEEN PULLED FROM THE AGENDA

3. Request for a Development Plan Review consisting of a new hotel and a Use Permit to allow the hotel in the General Industrial District for **DRURY INN & SUITES (PL120404)** located at 1780 West Ranch Road. The applicant is Drury Development Corporation.

STAFF REPORT: [DRCr DruryInn 031213](#)

This case was presented by Kevin O'Melia and represented by John Dirnberger from Drury Development Corporation and Steve Bowser from Helix Engineering.

Mr. Dirnberger made a brief presentation on the history of the site and background on the 2008 submittal. The 2008 proposal was sidelined due to the economy. He indicated that since the 2008 submittal, Drury has purchased lot 5 next to this site and hopes to build a sit down restaurant which they feel would be a compliment to the hotel use. Mr. Dirnberger also stated that due to their desire to move forward quickly with the construction of the restaurant on lot 5, they wished to delete proposed driveway and the conditions of approval for the hotel project that are required to be done on that lot.

Chair DiDomenico asked if this design was similar to the one that was previously approved in 2008.

Mr. Dirnberger indicated it was slightly different with more brick on the exterior and less rooms than previously approved. The 2008 proposal had 210 rooms and 8 stories while this proposal has 180 rooms and 7 stories.

Chair DiDomenico called to the public, seeing no one who wished to speak, he closed the item to public comment.

Mr. O'Melia read into the record the following changes to the conditions of approval:

Condition No. 3 – Deleted.

Condition No. 6 - Provide 6'-0" wide public sidewalk along Ranch Road adjacent to Lot 6 , subject to criteria and standard details of Public Works Transportation Studies and Design Division.

Condition No. 7 - Provide upgraded paving at each Lot 6 driveway apron consisting of unit paving. Do not propose stamped concrete. Extend unit paving in the driveway from the back of the accessible public sidewalk bypass to 20'-0" on site and from curb to curb at the drive edges.

Condition No. 10 - Provide 6'-0" high access control metal vertical picket fence at exterior perimeter of swimming pool. Incorporate picket tops that extend above top rail in design of fence.

Condition No. 22 - Supplemental illumination requirements: Illuminate building entrances from dusk to dawn to assist with visual surveillance at these locations. Illuminate under entrance canopy from dusk to dawn minimum 4.0 foot-candles. Illuminate outdoor portion of pool deck from dusk to dawn minimum 0.5 foot-candles.

Condition No. 24 F – Deleted.

Condition No. 26 - Top dress planting areas on Lot 6 and Lot 5 with a rock or decomposed granite application with a minimum 2" uniform thickness for Lot 6 and a dust and erosion control agent for Lot 5. Provide pre-emergence weed control application and do not underlay rock or decomposed granite application with plastic. Do not insert rip-rap or other large rock into landscape unless each piece is secured in a concrete substrate.

Vice Chair Webb asked if staff could assist in getting resolution to the back up of traffic from the exit ramp at Warner Road. The two lane off ramp is fairly short and traffic stopped at the I-10 off ramp at Warner Road tends to back up onto the freeway. Currently there is no right turn on red allowed onto Warner Road.

Mr. O'Melia indicated that traffic increase due to the addition of Drury Inn had been discussed with the City's Traffic Engineering staff and this specific issue did not come up.

Ms. Collins indicated that staff will be happy to speak with Traffic Engineering in regards to this case, as well as the Emerald Center as a whole and how this, and future, development s will impact traffic.

Commissioner Collett stated that he didn't feel that Drury should be punished for traffic issues due to their development and that this needs to be addressed by the Traffic Engineering staff or City Council.

Chair DiDomenico indicated that no conditions of approval were being placed on this case due to the concerns over traffic. The Commission is merely bringing these concerns forward to City staff.

On a motion by Commissioner Collett and seconded by Commissioner Tinsley, the Commission with a vote of 7-0 approved this Development Plan Review and Use Permit as recommended in the staff report, with modified conditions of approval as read into the record.

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4. Request Appeal of the Hearing Officer's Decision for a Use Permit Standard to increase the wall height in the front yard from 4 feet to 6 feet for the **DUBOIS RESIDENCE (PL120421)** located at 2122 East Balboa Drive. The appellant is Dawn Sinclair.

STAFF REPORT: [DRCr_DuboisResidence_031213](#)

This case was presented by Diana Kaminski and represented by Dawn Sinclair, appellant. Mark Randall and Neil Burrs also spoke as appellants.

Ms. Kaminski gave a brief presentation on the case.

Ms. Sinclair addressed the Commission. Ms. Sinclair asked if the Commission would take a more balanced approach than the Hearing Officer. She indicated that the Hearing Officer approved the case based on four of the five criteria being met. She stated that these criteria don't apply to a wall and asked that the Commission give weight to the issues that do matter in this circumstance. These issues would be incompatibility to the neighborhood, impact on home values and neighborhood opposition. Ms. Sinclair also stated that the Hearing Officer has not approved a wall of this nature in the past and in driving Tempe, does not see a wall similar to this anywhere. She also stated that five realtors are in opposition to this case, two live in the neighborhood, three do not.

Mr. Randall stated that the wall will obscure vision and will have a safety impact on the openness of the neighborhood. He also stated the wall would be a detriment to the neighborhood and its values.

Mr. Burrs also spoke in regards to the amount of traffic that the neighborhood incurs and Balboa is one of the last streets in the residential street category and receives lower than 500 trips per day.

Ms. Sinclair urged the Commission to reverse the Hearing Officer's decision. She stated there are other ways to insure privacy that would be more compatible with the surrounding neighborhood and the traffic counts have shown that traffic is not an issue.

Chair DiDomenico opened the hearing to public input.

Four additional residents of the neighborhood spoke in opposition of the case in regards to a decrease in neighborhood property values, safety and visual concerns, a precedent on the possibility of more walls and the effect on the character of the neighborhood.

Chair DiDomenico closed the hearing to public input.

Ms. Sinclair stated that although there is no proof that the wall will decrease property values, five realtors, three who don't reside in the neighborhood, have all stated their concerns as it relates to the effect the wall will have on the area.

Commissioner Collett (inaudible).

Ms. Sinclair indicated that the Goodwin home was there before any other home was in the neighborhood but should not be used as a model to the rest of the neighborhood.

Commissioner Kent asked if Ms. Sinclair would find a 4' wall acceptable. She stated there are many ways to create privacy without running a 6' wall from the home to the street, across the front and back to the house.

Ms. Sinclair indicated that a 4' wall would be a different look and would probably not have the same negative effect.

Mr. Burrs stated that Mr. Dubois stated to him that he didn't adequately consult with his wife prior to purchasing the property and she will not move in if the wall is not built. Mr. Burrs also indicated that he would not have bought his home if the wall had been constructed at the Dubois home prior to him living there, he enjoys the views he has from his front porch.

Commissioner Kent stated that he didn't feel it was appropriate to accept hearsay as part of the testimony.

Commissioner Collett stated he doesn't feel the wall fits in with the neighborhood, it's not appropriate and doesn't think it's necessary as traffic doesn't appear to be a valid concern.

Vice Chair Webb stated that the wall is not compatible with the neighborhood.

Chair DiDomenico stated that he agrees that this wall is not compatible with the neighborhood and it will affect the quality of life for the neighbors on both sides.

Commissioner Tinsley agreed that it is not compatible with the neighborhood.

Commissioner Kent indicated the wall is not compatible with the neighborhood.

On a motion by Commissioner Collett and seconded by Commissioner Kent, the Commission with vote of 7-0, approved the appeal, overturning the Hearing Officer's Decision.

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5. Request for a Code Text Amendment within the Zoning and Development Code incorporating special use standards for **FRATERNITY/SORORITY HOUSES (PL130052)**. The applicant is the City of Tempe.

STAFF REPORT: [DRCr FraternitySororityHouses 031213](#)

This case was presented by Ryan Levesque. Mr. Levesque indicated this code amendment, as defined in the Code, allows fraternity and sorority houses in the R-3 and R-4 districts with a Use Permit. This proposed amendment is intended to create special use standards in that section of the Code and identify clear parameters and define what determines a requirement for the Use Permit process. For example, if 50% or more are occupied by fraternity/sorority members, this would trigger the Use Permit process for a fraternity/sorority house.

Commissioner Collett asked how this will be enforced.

Ms. Collins indicated that staff will be talking to the property owners and managers of apartment buildings and working with our Code Enforcement group, as well as the University. The idea is to make people aware that the requirement is out there and yes, at times it may be tough to enforce but there will be consequences when the laws of the City and the University are broken.

Commissioner Collett stated that unless the City is going to require every organization to abide by these rules, the City is discriminating against these groups.

Ms. Collins indicated that a Use Permit is already required by the Code for fraternities and sororities, so a determination has already been made that these uses require different regulations and more regulatory measures. In districts where these uses are already allowed by Use Permit, this will give the fraternities and sororities a specific set of criteria to follow and a specific way to determine if they are classified as a fraternity or sorority. Currently, if a fraternity or sorority takes over a hotel or apartment complex 100%, they are required to get a Use Permit, without this text amendment being in place.

Chair DiDomenico asked if this amendment was brought forward at the Council's request.

Ms. Collins indicated that the City Council has subcommittees that meet on various topics and one of the issues that came out of those meetings was loud parties and the disruptions that happen around and near the University. We do recognize that loud parties can occur with or without a fraternity or sorority, the Police Department is bringing forward amendments to the loud party ordinance, so any disruption can be taken care of. The Committee asked for clarification on those conditions in the Zoning and Development Code and tighten those conditions up. The process and/or criteria isn't any different for the use.

Chair DiDomenico stated that he understands the intent but feels it's discriminatory and that the City is going in the wrong direction.

Ms. Collins clarified that in this amendment, fraternities and sororities are not being classified, this has already been done in the Zoning and Development Code.

Chair DiDomenico stated that he feels this is putting the burden on the property owner where it isn't now.

Commissioner Tinsley asked if it should read "50% of the same fraternity or sorority."

Commissioner Spears stated that she feels there is a difference between the members living in one place versus displaying their fraternity symbols, etc.

Ms. Collins stated that a discussion during a Study Session might be helpful and Tempe is in a unique situation compared to other cities. She also indicated that this has been in the Zoning and Development Code for many years and if an apartment building rented to a fraternity, it would be up to her, as the Zoning Administrator, to interpret the code and make an opinion as to whether or not a Use Permit would be required and it would be brought forth before the Hearing Officer. A Use Permit doesn't guarantee approval, it is a way in which we can work with Police and Fire to enforce security and safety. The use is currently in the Code and requires a Use Permit and this amendment would help property owners and fraternities and sororities to assist them in following the rules.

Chair DiDomenico questioned the numbers of members required for this determination and whether or not that constitutes an issue or not. He stated that the landlords should not have to act as police.

Commissioner Tinsley suggested looking at other cities in Tempe's situation.

Commissioner Spears is concerned regarding the language "any" fraternity. She indicated she would

understand better if it specified "a" fraternity and it being called their fraternity house or sorority house.

Commissioner Collett made a motion to deny with Commissioner Spears seconded, further discussion ensued.

Commissioner Collett stated that he doesn't feel it's within the City's purview to make the fraternity or sorority house distinction.

Ms. Collins asked if Commissioner Collett would see the issue differently if the apartment complex was owned by a fraternity because the City has had issues with the Police Department not being allowed on the property because it was a private residence.

Commissioner Collett indicated that the issue is the 50% requirement. If the fraternity buys the property, then it's a fraternity house.

Chair DiDomenico stated there is a difference between renting to fraternities and sororities and renting to allow the use of the property for meeting and displaying symbols, etc.

Commissioner Spears indicated she was willing to withdraw her second on the motion if staff will go back and revisit the language and she asked if the attorneys have reviewed it.

Ms. Collins indicated that the City Attorney's office has reviewed it and Police and Fire have also been consulted. She also stated that it is a complicated issue and ASU would like to have them back on campus. This is a measure to try and clarify and deal with the situation.

On a motion by Commissioner Kent and seconded by Commissioner Tinsley, the Commission with a vote of 6-1 (Commissioner Collett dissented) continued the item.

6. ANNOUNCEMENTS

No announcements.

The meeting was adjourned at 8:00 p.m.

Prepared by: Lisa Novia, Administrative Asst. II

Reviewed by: Lisa Collins, Interim Director Community Development Department



Lisa Collins, Interim Director, Community Development Department