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## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION October 28, 2014

Harry E. Mitchell Government Center  
Tempe City Hall - City Council Chambers  
31 E. 5<sup>th</sup> Street, Tempe, AZ 85281  
6:00 PM

### Commission Present:

Dennis Webb, Chair  
Paul Kent, Vice Chair  
Peggy Tinsley  
Ron Collett  
Linda Spears  
Angie Thornton  
David Lyon, alt.

### Commission Absent:

Trevor Barger  
Dan Killoren, alt.

### City Staff Present:

Ryan Levesque, Deputy Director  
Steve Abrahamson, Planning and Zoning Coordinator  
Diana Kaminski, Senior Planner  
Karen Stovall, Senior Planner  
Bill Kersbergen, Senior Planner  
Alex Smith, Development Specialist  
Cathy Hollow, Senior Traffic Engineer  
Steve Nagy, Administrative Assistant II

Chairman Webb called the meeting to order at 6:05 p.m., introducing the Commission and City staff. It had been determined in the Study Session that the minutes from the 10/14/2014 Development Review Commission meeting could be placed on the consent agenda, and that items #2, #3, #4, #5, #6, and #7 would be heard in the order of #5, #6, #7, #2, #3, and #4.

### CONSENT AGENDA

#### 1. CONSIDERATION OF MEETING MINUTES: 10/14/2014

Vice Chair Kent moved to approve both the Study Session and Regular Meeting Minutes from the October 14, 2014 meetings. The motion was seconded by Commissioner Tinsley, and passed with a vote of 6-0, with Commissioner Lyon abstaining due to absence from that hearing.

### REGULAR AGENDA

5. Request for a Zoning and Development Code Text Amendment for **GENERAL PLAN AMENDMENT VOTING (PL140346)**, consisting of changes to voting procedures when a development or project requests a change to the voter-approved General Plan. The applicant is the City of Tempe.

Ryan Levesque presented the item by reviewing the simple majority requirement when changes to the General Plan are made. He further explained that this was the City Council's intention to better recognize the importance of a voter approved document.

Vice Chair Kent asked Mr. Levesque what the current voting requirements were. Mr. Levesque clarified the types of amendments, and this item would affect minor amendments. Commissioner Spears further clarified the current voting requirements and types of amendments. Vice Chair Kent expressed concern with increased bureaucracy being applied to the General Plan Amendment Process.

Commissioner Collett then made a motion to approve the item, which was seconded by Commissioner Tinsley, and the motion passed with a vote of 5-2 with Vice Chair Kent and Commissioner Spears in the dissent.

6. Request for a Code Text Amendment for **BACKYARD ANIMALS (PL140362)**, consisting of changes within single-family to expand the allowance of certain animals subject to a use permit. The applicant is the City of Tempe.

Ryan Levesque presented the item by explaining that it was a Council directed initiative. He then went over the current animal allowance, and the allowance that the Code Text Amendment would make possible.

Chair Webb then called up the applicant, Catherine Otis, Irvine CA. Ms. Otis explained the design process and how that process brought them to the presented design.

Commissioner Collett clarified the types of animals that the Amendment would allow, which Mr. Levesque reviewed. Vice Chair Kent expressed concern that the Use Permit process could cause confrontation amongst neighbors.

Chair Webb then opened the hearing to public comment.

1. Debbie Guerrero, Tempe, expressed support for the item.
2. Julie Kent, Tempe, expressed support.
3. Nice Guerrero, Tempe, expressed support for the amendment.
4. Pam Newhart, Tempe, expressed support.

With no one else from the public wishing to speak on the item, Chair Webb closed the public comment portion of the hearing for the item.

Commissioner Spears clarified if minimum lot size requirements would be put into place for specific animals. Mr. Levesque read proposed criteria that would determine this, and how best practices would be exercised. Vice Chair Kent expressed that he would like to see more specificity. Mr. Levesque replied the Use Permit process would be on a case by case basis. Commissioner Collett clarified that the Code Text Amendment would not only apply to goats, which Mr. Levesque confirmed. Commissioner Spears expressed hesitation for support based on the obscurity of the conditions used to determine number of animals permitted on what size lot. Diana Kaminski clarified that staff had created a matrix that would determine # of animals per size of lot. Commissioner Collett expressed that he would not be in support of the Code text Amendment.

Commissioner Thornton expressed support and moved to approve the item, which was seconded by Commissioner Tinsley. Vice Chair Kent expressed that he would like to see a more finite list of what is and isn't allowable. The motion then passed with a vote of 5-0, with Commissioners Collett and Spears in the dissent.

7. Request for a Code Text Amendment for **PAD REFORM & PUBLIC INVOLVEMENT (PL140361)**, consisting of changes within the Zoning and Development Code that modifies the administrative and decision-making processes for zoning requests, and changes for greater outreach in the public process. The applicant is the City of Tempe.

Ryan Levesque presented by explaining that the idea behind the item was to gain more certainty in processing requests, avoid speculative zoning, and to create a more widespread public notification process in regard to mailings and neighborhood meeting requirements.

With questions of staff the Commission discussed with Commissioner Spears expressing that she believes the item improves the process by tying the development to the entitlement. Vice Chair Kent expressed that he thought the notification increase was a great idea, but with modern technology, should be achieved without a cost increase. Chair Webb expressed support as it would tie developers to their entitlements and approved projects will be the ones that are built.

Commissioner Tinsley moved to approve, which was seconded by Vice Chair Kent, and the motion was approved with a vote of 7-0.

2. Request for a Development Plan Review approval for modifications to an existing restaurant, including exterior televisions, roll-down security doors and screen wall changes for **PHILLY'S SPORTS GRILL (PL140229)**, located at 1826 North Scottsdale Road. The applicant is Bryon Russell.

Diana Kaminski presented the case by reviewing the addition of the outdoor screens, walls, patio and exterior rolls downs that COT Building Safety staff notified Planning Staff about. Ms. Kaminski then reviewed the proposed changes, and recommended approval with conditions.

Chair Webb clarified with Ms. Kaminski what the City Code stated regarding screens and speakers, to which Ms. Kaminski explained there was currently no code regarding such, but that it was in the process.

Chair Webb then called up the applicants, Barry Clark, Chandler, and Brian Russell, Tempe.

Mr. Russell explained the reasons behind the modifications they had made to their business and that they have received no complaints about the modifications, which had been in place for over a year. Mr. Clark continued that the large outdoor screen was a key asset to their business surviving in a competitive market. Mr. Clark also stated that the screen has been well received by the public, and it is helping them remain a neighborhood success.

Commissioner Spears confirmed that the applicant was aware of the conditions, which the applicant confirmed, and stated that he was willing to work with staff to make everything work out. Vice Chair Kent asked about other additions to their business they had planned, and recommended that they go through the correct process to implement those additions.

Chair Webb then opened the Hearing to Public Comment.

1. Lane Carraway, Tempe, expressed opposition due to lack of compliance on behalf of the applicant and impact to traffic safety.
2. Paul Dunham, Tempe, expressed opposition due to large outdoor screen not being constructed safely and distraction to traffic.  
Commissioner Collett asked Mr. Dunham what complaints he had heard regarding the business, to which Mr. Dunham responded that he had heard complaints that the large screen distracted drivers. Chair Webb asked Mr. Dunham if he was aware of the changes proposed by staff, and whether Mr. Dunham agreed with the changes. Mr. Dunham replied yes to both questions.

With no one else from the public wishing to speak, Chair Webb closed the public comment segment and invited the applicant back up.

Mr. Clark and Mr. Russell reproached the podium and reiterated that they were willing to do whatever it takes to work with staff to make everything compliant, and that they have not received any complaints about their large outdoor screen, speakers, or safety issues.

The Commission then discussed the case. Vice Chair Kent addressed whether or not the rope lighting and exposed conduit on the exterior of the building elevation were compliant. Ms. Kaminski replied that the rope lighting was conditioned, however the exposed conduit was typically not allowed. Commissioner Tinsley clarified the large outdoor screen and speakers with Ms. Kaminski, who replied that those items would be required to be brought to the Hearing Officer for separate Use Permits. Commissioner Collett expressed that he was unclear on what the issue with the screen was, to which Ms. Kaminski replied that it required a separate Use Permit. Chair Webb expressed that he though staff did a nice job with addressing the issues present at the business, and that the changes would make it look better.

Commissioner Tinsley then moved to approve the case, which was seconded by Commissioner Thornton, and with a vote of 7-0 the motion passed.

3. Request for a Use Permit and Development Plan Review approval for a second residential unit added behind an existing house, with a parking arranged in tandem for **FARMER APARTMENT (PL140253)**, located at 1114 South Farmer Avenue. The applicant is Paul Fleager.

Bill Kersbergen presented the case by reviewing the request, the location, a condition modification and the public input that he had received.

With no questions of Staff, Chair Webb called up the applicant.

Paul Fleager, Tempe, addressed the Commission by explaining the project, that he was trying to better fit into the neighborhood as other properties have made similar alterations, and that he agreed with all of the conditions of approval.

Vice Chair Kent asked Mr. Fleager to clarify the orientation of the project, which Mr. Fleager did. Chair Webb asked if a car can fit in to the rear driveway from the driveway, which Mr. Fleager confirmed. Chair Webb clarified with staff that 4 cars were allowed to park on the property.

Chair Webb then opened the Hearing to Public Comment.

1. Jean Zurface, Tempe, expressed opposition based on the applicant crossing over her property lines.

With no one else from the public wishing to speak on the case, Chair Webb called the applicant back up to the podium.

Mr. Fleager further explained that he had a survey conducted and his project did not cross the property lines, and that it would be legally impossible for him to do so.

The Commission then discussed the item.

Commissioner Tinsley expressed that she was not thrilled with the idea of the project and that she was unsure on how she would vote. Commissioner Spears also expressed that she was not thrilled with the project, but that it did in fact fit the character of the area. Commissioner Collett expressed that he thought this should be considered a normal project for the area and cannot see any reason why it would be improper. Chair Webb expressed that he thought the whole thing to be an odd set up, but also believes it fits the character of the neighborhood.

Commissioner Collett moved to approve the project, which was seconded by Commissioner Thornton, and the motion passed with a vote of 7-0.

4. Request for an Amended Planned Area Development Overlay, a Use Permit to allow tandem parking, and a Development Plan Review consisting of a new 258 unit apartment development for **JEFFERSON TOWN LAKE (PL140234)**, located at 909 East Playa del Norte. The applicant is Charles Huellmantel, Huellmantel & Affiliates.

Karen Stovall presented the case by reviewing the location and zoning of the proposed project. She then reviewed the history of the PAD and current proposal for reform. She continued by reviewing the neighborhood meetings that were held, generalized the concerns that were expressed, and how the applicant addressed the concerns. Ms. Stovall also presented a letter of opposition that she had received from a law firm representing an adjacent neighborhood.

Linda Spear asked Ms. Stovall if staff was recommending approval. Ms. Stovall responded that staff was able to recommend approval of the new information at this time due to receiving the additional materials at the last minute.

With no other questions of staff, Chair Webb called up the applicant, Charles Huellmantel, Tempe.

Mr. Huellmantel explained how he would like to carry out his presentation and went on to explain how he had addressed the concerns brought up by staff and the public. He then invited up Alex Smith to address the concerns regarding the PAD reform, as one parcel was in question.

Mr. Smith explained the history of the parcel that was part of the PAD reform, and that it was in the process of being able to be developed for residential use. He then reviewed the process and what agencies and stakeholders were involved.

Mr. Huellmantel then went on to present the building elevations, amenities provided to tenants, and the process taken to arrive on that design.

With no other questions of the applicant, Chair Webb opened the Hearing to the Public.

1. Francis Slavin, Phoenix, approached the podium and explained that he was a lawyer hired to represent the adjacent neighborhood by its residents. Mr. Slavin continued that he would like to request more time to present his case.

Karen Stovall and Ryan Levesque intervened that such a decision would be up to the Commission. The Commission decided Mr. Slavin would be allowed the standard 3 minutes granted to everyone else from the public wishing to speak.

With that, Mr. Slavin expressed opposition due to the plan being wholly new, site having a residential restriction, and the need for a whole new process that would allow a better assessment by the neighbors.

2. Luke Licchinelli, Tempe, ceded his time to Buz Slavin.
3. Logan Healy, Tempe, ceded his time to their attorney.
4. Dorothy Sisneor, Tempe, expressed opposition due to being unclear of what the revised project entailed.

Commissioner Thornton asked Ms. Sisneor how much time she would need to review amended plans, to which Ms. Sisneor replied at least one month.

5. Paul Boyle, Tempe, expressed opposition due to the fact that he believed the development group misrepresented original proposed project.
6. Mike Rohan, Tempe, expressed opposition due to the devaluation that would happen to his home as a result.
7. Jeremy Glassman, Tempe, expressed opposition because of adverse effect to traffic and would like more time to review amended project.
8. Len Gaby, Tempe, opposed due to the proposed project due to it having a deteriorating effect on his quality of life.
9. Debbie Gaby, Tempe, expressed opposition to the project.
10. Paul Dunham, Tempe, spoke in favor of the project.
11. Mickie Colley, Tempe, expressed opposition due to increases in traffic it would cause.
12. Nancy Brown, Tempe, differed her opportunity to speak.
13. Bob Brown, Tempe, expressed opposition due to lack of clarity of amended proposal.

14. Paul Vecchia, Tempe, expressed support of the project.
15. Matt Drager, Tempe, expressed support of the project.
16. Joel Colley, Tempe, expressed opposition because of last minute nature of proposal.
17. Heidi Mather, San Diego, expressed support of the project.
18. Todd Bowden, Scottsdale, expressed support.
19. Rich Barber, Phoenix, expressed support for the project.
20. Sean Cunningham, Paradise Valley, expressed support for the project.
21. Lane Carraway, Tempe, expressed support of the project.
22. Brandon Everett, Tempe, expressed opposition due to lack of parking.
23. Darlene Tussing, Tempe, expressed opposition due to the overdevelopment it would create.
24. Eric Schroeder, Tempe, expressed opposition because of negative impact to his view.
25. Luke Chicknell, Gilbert, expressed he would like to see more time for review provided.

With no else from the public wishing to speak on the case, Chair Webb called the applicant back up.

Mr. Huellmantel confirmed that the neighborhood meeting was held on Columbus Day, which was in conformance with the Meeting requirements. He also added that his client had in fact met with the President of the opposing HOA and discussed the project. Mr. Huellmantel reiterated that his client had gone above and beyond what was required regarding notification and that they had strived to resolve the important issues. He then went on to review those specific changes and addressed Mr. Slavin's concerns regarding lot 3a, and Phoenix Aviation.

Vice Chair Kent asked Mr. Huellmantel how water drainage would be handled. Mr. Huellmantel confirmed a sufficient drainage plan would be engineered. Commissioner Thornton asked what rent would be, which Mr. Huellmantel replied roughly \$2/ft.

Mr. Huellmantel continued by explaining why he would be opposed to a continuance, and then reviewed the amended stipulations he would like added if the project were to be approved. Those stipulations included:

#### **PAD14013**

##### **CONDITIONS OF APPROVAL:**

1. Except as modified by conditions, development shall be in substantial conformance with the Jefferson Town Lake site plan, floor plans, building elevations, and landscape plan dated ~~October 27~~ September 29, 2014.
6. Prior to submittal of the first building permit, the developer must receive approval of the final Traffic Impact Study from the Public Works Department.
11. The developer shall provide vehicle parking equal to or greater 432 ~~than required by the Zoning and Development Code. With the requested bedroom mix in 258 units, a minimum of 466 spaces are required.~~

#### **DPR14200**

##### **CONDITIONS OF APPROVAL**

17. Except as modified by conditions, development shall be in substantial conformance with the Jefferson Town Lake site plan, ~~floor plans,~~ building elevations, and landscape plan dated ~~October 27~~ September 29, 2014 and floor plans dated September 29. Any additions or modifications may be submitted for review during building plan check process.
23. A minimum 8 foot ~~10 foot~~ wide route that is compliant with the Americans with Disabilities Act (ADA) shall be provided from Playa del Norte to the multi-use path adjacent to Tempe Town Lake. This shall also serve as a bike path. No improvements may adversely impact the structural integrity of the levee. The design for crossing the levee with this route is subject to review and approval by the Flood Control District of Maricopa County and

City of Tempe.

24. ~~In lieu of a typical 26-foot fire access easement,~~ a minimum 20-foot fire access easement plus, where possible, a minimum of three feet vertical clearance on each side (total of 26 feet) shall be provided along the east side of the building. As approved by the Tempe Fire Department and as shown on the October 27, 2014 site plan.
30. Parking Garage:
  - a. At the gate, provide a method of turnaround for users who are denied access. This must allow a car to turnaround without requiring cars behind it to backup.
  - b. Minimum required parking dimensions shall be clear of any obstructions.
  - c. At the ends of dead-end drive aisles, provide a designated turn-around space, minimum 8'-6" clear in width (locate on left side if available), including 3'-0" vehicular maneuvering area for exiting. Turn-around area shall be clearly demarcated.
  - d. Provide a minimum 2'-0" of additional width beyond standard parking space size for spaces adjacent to a continuous wall.
  - e. Stripe tandem parking spaces to clearly delineate each space as 8.5' x 18'.
  - f. ~~For lack of driver visibility, the parking space to the southwest of the up/down ramp shown on the preliminary gate location plan (floor level C) is not approved. Relocate this parking space and provide a minimum 10-foot separation between the nearest parking space and the edge of the ramp.~~
32. Metal rooftop elements shall be finished with the color Ink Blotch ~~instead of the proposed clear anodized metal.~~
47. The plan shall ~~be modified to~~ provide an alternative tree type and planting location to maintain a clear 26-foot area where possible, including and beyond the 20-foot fire access easement along the east side of the building. The fire access lane shall be in general conformance to the fire lane exhibit dated October 27, 2014, ~~September 26 2014.~~

Paul Kent then asked about fire and ADA access, which Ms. Stovall confirmed would conform with the requirements. Commissioner Spears called for more information on traffic from City Staff. Cathy Hollow approached the podium and explained that the project would likely add about 3% of a traffic increase, which that area would be able to handle. Vice Chair Kent asked what affect that would have on the traffic rating for that area, which Ms. Hollow replied it would go from a B to a C.

Vice Chair Kent then asked for elaboration on lot 3a. Mr. Smith reproached the podium and clarified that the residential restrictions placed on lot 3a were in the process of being lifted.

The Commission then discussed the project.

Commissioner Thornton expressed that she likes the project; it seems to meet the criteria the Commission looks for along the lake and has met her expectations. Commissioner Collett expressed that he would like to see some retail added to the ground floor, but he did not see too much of a traffic impact from the additional units, and that the neighbors should not dictate the project too much. Commissioner Spears expressed that she relies on staff, but the project does look good and that she would be in support of it. Vice Chair Kent expressed that he thought it was a good project and that he would be in support of it. Commissioner Lyon expressed that he sees a project that meets requirements and is in support of it. Chair Kent expressed that he echoes the other Commissioner's views on the project, and was not sure if giving the neighbors more time would serve their purpose. He continued that he thought it was a well done project, fits the need of the area, and is of high quality. Commissioner Tinsley, though sensitive to the concerns of the neighbors, moved to approve the project, which was seconded by Commissioner Lyon, and the motion passed with a vote of 7-0.

The meeting was adjourned at 9:35 p.m.

Prepared by: Steve Nagy, Administrative Assistant II  
Reviewed by: Diana Kaminski, Senior Planner

A handwritten signature in black ink, appearing to read "Diana Kaminski", written in a cursive style.

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Diana Kaminski, Senior Planner