



Minutes of the Development Review Commission REGULAR MEETING November 10, 2021

Minutes of the **Regular Meeting** of the Development Review Commission, of the City of Tempe, was held in Council Chambers
31 East Fifth Street, Tempe, Arizona

Present:

Vice Chair Steven Bauer
Commissioner Scott Sumners
Commissioner Don Cassano
Commissioner Philip Amorosi
Commissioner Barbara Lloyd
Commissioner Michelle Schwartz
Alt Commissioner Linda Spears

City Staff Present:

Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Ambika Adhikari, Principal Planner
Diana Kaminski, Senior Planner
Lee Jimenez, Senior Planner
Jacob Payne, Planner I
Joanna Barry, Administrative Assistant II

Absent:

Chair Michael DiDomenico
Alt Commissioner Rhiannon Corbett
Alt Commissioner Charles Redman

Hearing convened at 6:01 p.m. and was called to order by Vice Chair Bauer

Consideration of Annual Report:

- 1) 2021 Annual Report

Motion: Motion made by Commissioner Cassano to approve the 2021 Annual Report and seconded by Commissioner Amorosi.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, Lloyd, and Spears.

Nays: None

Abstain: None

Absent: Chair DiDomenico

Vote: Motion passes 7-0

Consideration of Meeting Minutes:

- 2) Development Review Commission – Study Session 10/12/21
- 3) Development Review Commission – Regular Meeting 10/12/21

Motion: Motion made by Commissioner Sumners to approve Regular Meeting minutes and Study Session Meeting minutes for October 12, 2021 and seconded by Commissioner Cassano.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, and Lloyd.

Nays: None

Abstain: Commissioner Spears

Absent: Chair DiDomenico

Vote: Motion passes 6-0

The following items were considered for **Consent Agenda**:

- 4) Request a Use Permit to allow a massage establishment for **MOTHER IRIS MASSAGE** located at 410 East Southern Avenue. The applicant is Jessica Couch. **(PL210290)**

Motion: Motion made by Commissioner Cassano to approve the Consent Agenda and seconded by Commissioner Amorosi.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, Lloyd, and Spears.

Nays: None

Abstain: None

Absent: Chair DiDomenico

Vote: Motion passes 7-0

The following items were considered for **Public Hearing**:

- 5) Request a Use Permit to allow an expansion to an existing drive-through restaurant, and a Development Plan Review consisting of a building addition for **DUTCH BROS COFFEE**, located at 1037 South Rural Road. The applicant is Phnx Design, LLC. **(PL210292)**

PRESENTATION BY APPLICANT:

Mr. Bill Cantieri, Development Manager for Dutch Bros. Coffee, stated that in May of this year the Tempe Police Department contacted the Planning staff to advise that there had been some complaints about traffic backing up along Rural Road. Dutch Bros. set up a Zoom call with the City Attorney, Police Department, Planning staff, and other City of Tempe departments to discuss the issue and what could be done to resolve it. Several different ideas were presented at that time, one of which was that they were given permission to add signage along Rural Road asking customers not to queue in the street. This helped a little, along with their staff helping to direct customers to double-stack on the site and to get them off the road quicker. It was discussed that when this Dutch Bros. was built it was an adequate size for that time, however over the years, and with increased popularity and menu items, the demand has increased and outgrown the location's current size. They realized they needed to put more equipment into the building, however the only way to do that was to expand the size of the building. They are also looking for a location to put in another site to take the pressure off the current location. Along with the expansion, they will install a "runner door" where an employee can run drinks out to car windows if they are ready and give them to people, so they do not have to stop at the drive-thru window. When the notices were sent out regarding the expansion, they only received one call of concern from the owner of the Board & Brew located in The Wedge building next to the Dutch Bros. site who was unsure of the expansion. The owner of Dutch Bros. spoke to him and explained that the expansion was to help remove the backup on Rural Road and now believe he is in support of it.

Vice Chair Bauer stated that he does not have an issue with them wanting to expand and speed up service, however he noted that this is a very difficult property as the only entrance is from Rural Road. He believes something more needs to be done about the Rural Road driveway. The staff report indicates Dutch Bros. will install "No Left Turn" signs into the driveway however he does not think that will help since people already should not be making left turns there, yet they do. He noted that a "porkchop" might work to focus the traffic out as right turn only and in right turn only. He is not sure that will even work and maybe a median will need to be installed in the left turn lane to eliminate the option to turn left onto the site. He also noted that if they did the double-queue driveway they will lose parking spaces and when things back up during their peak times traffic will not be able to exit.

Mr. Cantieri noted that Planning staff, along with Transportation & Engineering staff, brought up that concern and proposed that they eliminate parking spaces to create additional queuing. However, if they took out parking spaces to the north the most, they would be able to add is two cars. Vice Chair Bauer asked what the number is for walk-up customers compared to drive-thru customers. Mr. Cantieri advised that he did not know the number for this store, but overall, it is 85% drive-thru at their stores.

Commissioner Cassano noted that the driveway on Lemon Street shows no traffic entering or exiting and asked what would prevent someone from using the exit if they thought the line was too long. Mr. Cantieri stated there are signs advising people not to enter and that it is mostly used for people exiting with the Wedge restaurant center to the north. Commissioner Cassano also suggested putting in a curb on Rural Road that only allows right turns in/out. Mr. Cantieri stated that is like the “porkchop” suggestion made by Vice Chair Bauer and that they would not be opposed to adding that as a stipulation.

Commissioner Amorosi asked why the driveway that is exiting under the sails could not be widened so that two people could double-park while they wait for their drinks and be served by runners. City staff had asked them to explore that and it was shown that this would limit the turning radius and make it too sharp.

Commissioner Lloyd stated that if the Commission does move forward with approval that the stipulation for the “porkchop” should be added. She also asked what the timeline would be for construction and how they plan to manage the flow of traffic during that time. Mr. Cantieri stated that when they receive the building permits it would take about five weeks for the construction and that the location would be closed during that time.

Commissioner Sumners stated he shares concerns with other Commission members about the long-term viability of this location, but this is a step in the right direction and would be better than what is there today. He will be happy to support this.

PRESENTATION BY STAFF:

Mr. Lee Jimenez, Senior Planner, advised that over the past summer there were many internal and external meetings with City staff and Dutch Bros. to discuss some of the issues and concerns along with possible remedies. Dutch Bros. is optimistic that the addition of equipment and extra room for staff will allow them to speed up the drink output and mitigate the traffic concerns.

Staff received one phone call from a tenant of The Wedge expressing concerns of traffic backup. This person spoke with Dutch Bros. and it seemed to put them a little more at ease when advised that it would hopefully reduce the traffic backup on Rural Road. Staff advised that as a Condition of Approval that applicant will need to return to the Development Review Commission within nine months for a review after final construction.

Vice Chair Bauer asked about the nature of the discussions that Staff had regarding the “porkchop” idea. Mr. Jimenez stated that there was some agreement that this might work however resolving how to get customers through the drive-thru quicker was what was primarily reviewed. Mr. Jimenez suggested that if a stipulation is added for the “porkchop” it should state “if feasible” as he is not sure if the driveway is wide enough for one. Vice Chair Bauer stated this is a location where he would have liked to have seen a median added the entire length of the southbound queue lane.

Commissioner Amorosi asked that when staff asked for the double queue lane to the east of the building if they felt the turning radius would have been okay for two lanes or show how it would work. Mr. Jimenez advised that during the preliminary site plan review he did a sketch-up of how he thought it would work, however this would eliminate parking spaces.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Cassano requested that the added “porkchop” stipulation be added, if approved.

Motion: Motion made by Commissioner Cassano to approve PL210292 with added stipulation and seconded by Commissioner Amorosi.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, Lloyd, and Spears.

Nays: None

Abstain: None

Absent: Chair DiDomenico

Vote: Motion passes 7-0

- 6) Request a General Plan Density Map Amendment from Medium Density (up to 15 du/ac) to High Density Urban Core (more than 65 du/ac), a Zoning Map Amendment from General Industrial GID to Mixed-Use MU-4 (TOD) with a Planned Area Development Overlay to establish development standards, and a Development Plan Review for a new seven-story mixed-use development consisting of 200 dwelling units and 1,036 square feet of commercial uses for **FIRST AND FARMER**, located at 206 South Farmer Avenue. The applicant is Sender Associates, Chtd. (**PL210226**)

PRESENTATION BY APPLICANT:

Ms. Darin Sender, Sender Associates, Chtd., advised that this project was approved in substantially similar form in 2019. They were about to submit their building permits for the original office building right around the time that Covid hit. They have since chosen to change it from an office building to a residential building but keep the same type of look and volume. Ms. Sender gave a comparison of the number of people, cars, vehicle trips, and intensity of the previously approved office building versus the residential building showing that the residential use would be less intense, especially for vehicle trips. A traffic study by CivTech showed a 66% reduction in trips for the residential use as compared to an office building.

As a part of their neighborhood outreach, they held two formal meetings (one virtual / on in-person outside). Six neighbors attended the virtual meeting and seven were at the live meeting. A neighborhood project site was created for information and comments, but no comments were received. They had six meeting and many phone calls with the Riverside Neighborhood Association President beginning May 5, 2021 and continuing today. They also had a meeting with Riverside Neighborhood resident Mick Darcey. 174 notices were sent out for the neighborhood meetings and a second was posted on social media by the neighborhood. One phone call was received and was returned twice with two messages left.

Mr. Sam Gordon, Wexford, stated they purchased this property four years ago with original intent of developing an office building. After the approval in 2019 they began leasing efforts, however when Covid hit a lot of potential tenants advised they plan to have employees work from home. The project was put on hold and it was later decided that a residential building would be more appropriate for the area. They were able to include 10% of low-income housing and there will also be 1,500 square feet of commercial space for a neighborhood coffee shop or something similar.

Mr. John Kane, Architekton, gave an overview of the changes that were made when the project was converted to a residential building from the originally approved office building. They would like to use this project as a case study for green infrastructure, such as using a bioswale in the street for proper watering and aeration of the street trees. They will also be using a self-shading skin on the building that is designed to reduce the amount of direct solar insulation that hits it so that it shades itself. They were able to push the building further north than the original office and further east which enables a buffer for the residents to the west and south. They will have a circulation system around the entire property for external watering access to the planters.

Mr. Nathaniel Kirby, Colwell Shelor, advised that one of their goals was to use air-adapted plant materials for low water use. This material will contain a variety of colors and textures throughout the year to provide more appeal. He provided images and descriptions of what kinds of landscape they are proposing.

Ms. Sender stated they tried to keep this building within the same volume as when it was unanimously approved by the DRC and City Council in 2019 as an office building. The tallest point on the approved office was 83 feet at the elevator shaft. Since there is no elevator shaft overrun on the current building, its height will be 77.6 feet, 78 feet rounded up for the staff report. That matches the mechanical screening on the approved building, which was right around 74.5 feet, rounded up to 75. Compared to each other, the effective heights of the building are basically the mechanical screening part that you would see on all four sides of the building. The mechanical screening is about three feet taller on the current building and the current tiptop of the building is about five and a half feet shorter because they do not have an elevator overrun.

Regarding density and the precedence for this area, they realize this area is unique. This building will front on Farmer Avenue, will not touch Wilson and will not go through the block or access into the neighborhood. All access will be off Farmer Avenue. They feel this location is ideal for this density.

Ms. Sender requested that stipulations be added regarding a covenant for the workforce housing for 25 years, that the vertical building façade will be maintained by a professional landscape company under the direction of the Owner's property management company, and that the maximum building height shall be 78 feet to the top of the mechanical screening. They are requesting that General Plan Amendment Condition No. 1, along with Zoning Amendment and Planned Area Development Conditions No. 1 & No. 2 be deleted.

Ms. Dawn Cartier, CivTech, gave a brief overview of how they came up with the parking number for this building.

Commissioner Sumners noted that the density on the staff report states a request for 65 du/ac however the applicant is asking for relief from 45 du/ac. Ms. Sender clarified that they are requesting 65 du/ac.

Commissioner Amorosi asked that if they are reducing parking for their tenants are they going to reduce it for the guests. Ms. Cartier advised that that the average parking rate data that they used included guest parking.

Commissioner Schwartz asked if solar panels are a part of this current design or if it is something that is planned for the future. Ms. Sender stated that it is both. The roof is solar ready with electrical outlets, etc. and is able to hold the weight.

Commissioner Lloyd appreciates the 25 years for the workforce housing but stated that if they could go 30 years she would prefer that. Regarding the commercial space, she inquired if that would be operated by a third-party tenant and what Wexford is willing to commit in terms of finishing the space out so that it gets activated and does not remain vacant. Mr. Gordon advised that the commercial space will be operated by a third-party tenant. Their goal is to have a neighborhood "mom and pop" type coffee shop. Some of Tempe historical art will also be displayed throughout the commercial space which will be part of the agreement with whichever tenant operates there. Commissioner Lloyd asked if there is a tenant improvement allowance that they are willing to put forth to ensure the spaces gets activated instead of sitting vacant for a few years. Mr. Gordon stated he does not have an exact number, however they really want to activate the street level and no expense will be spared to get the commercial space activated.

Commissioner Amorosi agreed with Commissioner Lloyd's comment regarding his preference for the workforce covenant to be 30 years rather than the requested 25. He asked if this had to tie in with the City Council approving a 30-year GPLET to go along with it. Ms. Sender advised they were initially approached for a seven-year lease, then a ten-year lease, and Mr. Gordon stated they would do 25 years. They recently heard a request for 30 years, however she stated that even the small rate GPLETs they are looking at here max out at 25.

PRESENTATION BY STAFF:

Mr. Ryan Levesque, Deputy Director – Community Development, went over the applicant's requested items. The maximum lot coverage has been reduced and the landscape area has been increased on all levels of the building site. Setbacks have been increased from the front, sides, rear, and south portions of the property. Staff participated in the neighborhood meetings. Staff has received a letter of support for the project from the public, one email of concern and opposition to the project. Staff received one phone call of concern regarding the height and density as well as blocking views for the residents in the area. Staff has a recommendation of neutral on this request and are looking for the DRC's recommendation and ultimate decision on whether to bring this item forward. Mr. Levesque then gave an overview of the Conditions of Approval.

Commissioner Sumners stated that the landscape on the project is spectacular, however he has a concern about the long-term maintenance and water intrusion and asked if, based on the GPLET, the City of Tempe bears responsibility for the maintenance of the building through the 25 years. Mr. Levesque stated that if a GPLET is sought and received then it is still ultimately the property owner's responsibility. He advised that this is why staff added the Condition of Approval regarding the maintenance of the landscaping.

PUBLIC COMMENT:

Mr. Philip Yates, Riverside Neighborhood Association President, stated this project started out being an office building that was seven stories and approved at a height 70 feet. He stated that this proposal is for apartments and the one thing that he did not see this evening was the apartments themselves. There is a big difference between apartments regardless of whether they are one, two, or three bedrooms as some do not have kitchens and some do not have bathrooms. He noted they have seen what the landscaping will look like and he has had multiple meetings with the applicant about how they are going to sustain all the plants and he was told they would "have somebody do it" but he was never given a genuine answer on who would take care of them. He noted the transition from being high at 70 feet then down into residential. He referred to the Architekton building that is on Farmer Avenue and 5th Street that is three stories high, so it is now going from three stories to 70 feet and that is not anywhere near being step down. He stated that the density of this project is ridiculous and they have not seen anything of this magnitude proposed to this area. He advised that these are houses that people have lived in for years and that needs to be taken into consideration. The applicant stated there would be some affordable apartments, but he feels there are already affordable apartments in Riverside. He stated that without knowing all of the changes to this area he would like to see this sent back to Planning because there is not enough for its description of being apartments.

Ms. Suparna Dasgupta, Principal Planner, read the following public comments into the record:

Edward Wong, Riverside neighborhood (phone message) – Opposed: "The building height is too tall - It should be providing a stepdown between the single-family residences. Opposed to the rezoning from office building to apartments - the City already has enough apartments. Traffic congestion at Farmer - currently, with the amount of construction along Farmer Avenue between 1st Street and 5th Street, this will add to more traffic congestion than what is currently being experienced by the residents."

Justine Yates, Riverside neighborhood – Opposed: Ms. Justin Yates stated she and her husband, Philip, have had multiple meetings with the developer regarding the project. She stated that Farmer Avenue is an extremely narrow street already with three smaller but very densely built residential homes and that anything that is east of Ash and especially on the east side of Farmer should be considered a neighborhood buffer zone. She went over the timeline of their interactions/meetings with the developer and some of the concessions the developer was willing to make in the Riverside neighborhood in order to get resident support for this development. She believes that Riverside has been greatly abused by projects that should not have been built in the first place and that this is the largest project to this date that is being proposed in a neighborhood buffer zone. The roads, livability, views will all be limited and will endanger our quality of life by not sticking to the general zoning and amendment laws, that were passed by voting from the community. She is greatly opposed to this project and thinks that it asks too much, and the developer stands to profit, and the neighborhood stands to lose. (This is a summarized version. A complete copy of Ms. Yates' comments that was read out loud on the record is also archived in the project file).

RESPONSE FROM APPLICANT:

Ms. Sender noted that in working with the staff and the City they came to conclusion that this is a unique location and such a wonderful project that it bears looking at. She stated that she is surprised at the letter today from Justine Yates as they spent the past six months talking with them and responding to requests for speed humps, permit parking assistance, construction parking, and that they limit parking on residential streets. The applicant is quite surprised to the response today as the Yates seemed to be in approval. As to Mr. Wong's comment about the building height, Ms. Sender stated he mentioned them to her at the neighborhood meeting and she advised that the height for tonight's request is basically the same as for the approved office building. They do have a setback on two sides, the west and the south. The traffic for this building as opposed to the approved office building is 66% less. It fell beneath the threshold for a traffic study, but they conducted one anyway. Regarding parking, the TOD standards were drafted back in 2006 and a lot has happened in Tempe since then which is why she believes her ITE numbers are more accurate because they take into account current transit options.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Vice Chair Bauer stated that he appreciates the applicant's efforts to work with the neighborhood, and it is clear it has been an open process. However, there are a handful of issues: One is height, which in his opinion was resolved previously when this project was approved as an office building. Regarding the density, Vice Chair Bauer stated he looks at it more as intensity and he appreciates CivTech doing the traffic study because he sees intensity as something that is going to cause problems with the neighborhood. The office use would have a higher traffic intensity than the residential building. He is a bit concerned about parking, but it will be difficult for people to park in the neighborhood.

Commissioner Spears pointed out her concern about rezoning to residential. She stated that at some point the City needs to have land available for development so that people that are moving here can work here. Regarding the setbacks and neighborhood stepdown, before the projects were approved for the First and Farmer groups, the neighborhood setback was Ash Avenue. Now it is being pushed back to Farmer Avenue. She wonders if when the next development comes it will get pushed back to Wilson. She does not support the project from a rezoning standard.

Commissioner Lloyd agrees that Commissioner Spears has a valid point in terms of having land available for employment hubs. However, as this site is only an acre and a half there is not a lot that could be built there in terms of employment. Commissioner Lloyd stated that when she initially looked at this case, she felt that the 130 du/ac was extreme and out of context for the neighborhood. She feels the applicant did a good job comparing the office building that was originally approved there to what is being proposed now and demonstrating the reduced impact from traffic on the neighborhood. She noted if these apartments were three or four bedroom her opinion might be different, however the mix of studio and one-bedroom apartments shows the different impact it will have on the neighborhood. Most of her concerns have been addressed and this looks like the next step in sustainable development for the City.

Commissioner Amorosi stated he lives off Apache Boulevard in the TOD corridor and they are right next to a seven-story apartment complex and they see no cut-through traffic because the driveways go out onto Apache and when people exit they are planning to go out of the area. He stated the parking numbers are definitely outdated as you can look at several apartments on Apache Boulevard and the parking lots are not even full. He believes the applicant's numbers are probably more accurate. With people moving here the City is going to need density and he prefers it be similar to the quality of this product.

Commissioner Sumners agrees with Commissioner Amorosi and sees this project being part of the solution. With the population of Tempe increasing, we would like people who work here to live here, not drive here to work and then leave. This will help solve that.

Commissioner Cassano expressed his concern that things will spread further. The residents of Tempe and the City Council approved the General Plan several years ago that looked at the types of zoning and where it should occur. As these developments occur along Farmer Avenue, he feels we should pay attention in case it moves further west. He likes this project but expresses concern of future projects seeking this type of density west of Farmer Avenue.

Commissioner Schwartz agrees with Commissioner Amorosi regarding the parking but is a little concerned with the density. In this type of environment, you typically see more amenity spaces within the complex. However, the pros outweigh the cons to her for this project.

Motion: Motion made by Commissioner Amorosi to approve PL210226 with modifications to conditions of approval:

Deleted:

GENERAL PLAN AMENDMENT CONDITIONS:

1. The General Plan Density Map shall be amended to conform to High Density Limited (up to 45 du/ac); the development shall conform to the maximum density of 45 dwelling units per acre.

ZONING AMENDMENT AND PLANNED AREA DEVELOPMENT CONDITIONS:

1. The Zoning Map shall be amended to conform to the above General Plan amendment, to allow up to 45 du/ac to be integrated into a mixed-use development.
2. The parking shall comply with the Transportation Overlay District ratios for residential uses.

Added by Applicant:

1. Wexford will covenant to include 20 low-income housing units for a period of 25 years that will have rents affordable for those whose incomes are between 60% and 80% AMI pursuant to the City's Affordable and Workforce Housing Rent Limits, tied to a proposed 25-year Rate GPLET to be approved by the City Council via development agreement.
2. The vertical plantings on the building façade will be maintained by a professional landscape maintenance company under the direction of the Owner's property management company.
3. The maximum building height shall be 78' to the top of mechanical screening.

Motion seconded by Commissioner Sumners.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, and Lloyd.

Nays: Commissioner Spears

Abstain: None

Absent: Chair DiDomenico

Vote: Motion passes 6-1

- 7) Request a recommendation of design and placemaking principles for **PAPAGO/NORTH TEMPE** (Character Area 1) Plan dated November 2021, which generally encompasses all the City land north of the Loop 202 Freeway. The applicant is the City of Tempe. **(PL210310)**

PRESENTATION BY STAFF:

Mr. Ambika Adhikari, Principal Planner, gave an update on the request. This is the third time that this item has been brought before the Commission. There was previously a brief introduction held and then it was brought again before the Commission during a Study Session. Today's presentation is a summary of the draft plan. This process began in March of 2021. Staff conducted 12-15 different meetings, including boards and commissions, spoke with hundreds of members of the public, and conducted three major surveys. This plan is based on the input that was received from the public as well as the DRC and other boards and commissions. Staff went to the Work Study Session of the City Council on August 30, 2021 and received the green light from them. This plan is a policymaking/advisory type of plan to create a safe, sustainable, walkable, and attractive space that values its open spaces, environment, and historic and cultural resources, and land uses that support community needs and aspirations. If recommended for approval by the Commission, the plan will go to the City Council on December 9, 2021.

PUBLIC COMMENT:

Vice Chair Bauer commended the staff on the plan.

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made by Commissioner Cassano to approve PL210310 and seconded by Commissioner Lloyd.

Ayes: Vice Chair Bauer, Commissioners Cassano, Amorosi, Sumners, Schwartz, Lloyd, and Spears.

Nays: None

Abstain: None

Absent: Chair DiDomenico

Vote: Motion passes 7-0

Staff Announcements:

Ms. Suparna Dasgupta, Principal Planner, advised the Commission that the next meeting will be on December 14, 2021.

There being no further business the meeting adjourned at 8:39 p.m.

A handwritten signature in black ink, appearing to read 'Suparna Dasgupta', is written in a cursive style.

Prepared by: Joanna Barry, Administrative Assistant II
Reviewed by: Suparna Dasgupta, Principal Planner