



Minutes of the Development Review Commission REGULAR MEETING November 8, 2022

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:

Chair Michael DiDomenico
Vice Chair Andrew Johnson
Commissioner Barbara Lloyd
Commissioner Linda Spears
Alt Commissioner Charles Redman
Alt Commissioner Robert Miller

City Staff Present:

Jeff Tamulevich, Director, Community Development
Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Lilly Drosos, Planner I
Joanna Barry, Administrative Assistant II

Absent:

Commissioner Don Cassano
Commissioner Michelle Schwartz
Commissioner Joe Forte
Alt Commissioner Rhiannon Corbett

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

The following item was **withdrawn from the Agenda**:

- ~~3) Request a Use Permit Standard to increase the maximum building height from 35 feet to 38 feet, and a Development Plan Review consisting of a new 68,454 square foot industrial warehouse building for **ALAMEDA INDUSTRIAL**, located at 1107 West Alameda Drive. The applicant is Dalke Design Group, LLC. (PL220124)~~
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The following items were considered for **Consent Agenda**:

- 1) 2022 Development Review Commission Annual Report
- 2) Request a Use Permit to allow a five (5) foot tall wall within the front yard setback for **SALIM RESIDENCE**, located at 1824 East Caroline Lane. The applicant is Sulafa Salim. (PL220190)

Motion: Motion made by Commissioner Miller to approve the 2022 Development Review Commission Annual Report and seconded by Vice Chair Johnson

Ayes: Chair DiDomenico, Vice Chair Johnson, Commissioners Lloyd, Spears, Redman, and Miller.

Nays: None

Abstain: None

Absent: Commissioners Cassano, Schwartz, and Forte

Vote: Motion passes 6-0

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

- 4) Request a Zoning Map Amendment from AG to R1-15, and a Preliminary Subdivision Plat for **THE CALIENDO RESIDENCE**, located at 1100 East Knox Road. The applicant for the Zoning Map Amendment is Burch & Cracchiolo, P.A., and the applicant for the Preliminary Subdivision Plat is Gilbert Land Surveying, P.L.C. (PL220039)

PRESENTATION BY APPLICANT:

Mr. Brian Greathouse, Burch & Cracchiolo, gave an overview of the request. He advised that the Caliendo family owns Lot 1 on the north and they sold Lot 2 on the south to the Flores family. The Caliendo's now want to combine the .172 acres ("SITE") with their existing property via a lot line adjustment. To do this, they are requesting the site be rezoned from AG to R1-15 and a Preliminary Subdivision Plat approved. These steps are required for the proposed lot line adjustment. They have received several statements of support for the project. One statement of support was conditioned on a stipulation being added to install a perimeter block wall between the two lots. Mr. Greathouse stated the Caliendo's are asking the Commission not to approve the request with that stipulation added. He stated there is no wall that currently exists between the two properties, no wall is required by the Tempe zoning & development code, it is not included as a requirement in the CC&Rs, and that the properties are outside of the Las Estadas, so they are not part of the HOA. There are perimeter walls around Las Estadas, with vehicle and pedestrian gates. The applicant does not feel there is a need for this excessive regulation. The Caliendo and Flores families can determine what barrier will go between the properties.

Chair DiDomenico asked if it was the intention of the Caliendo and Flores families to erect a barrier between the new property lines to prevent any vehicular traffic, pedestrians, or animals from crossing property line. It may not be a block wall, but rather something that visually does not block sight lines or prevent water from passing through. Mr. Greathouse stated that they do intent to install some type of barrier between the properties. He noted that they also heard from the neighbor on the west side of the site who was concerned that SRP would not maintain their access to the transformer on the Caliendo property. This is a shared transformer that SRP has an easement to that needs to be honored and not blocked off with a wall all the way down. Chair DiDomenico asked if at any time was there a CMU block wall between the two lots that was later removed. Mr. Greathouse advised that there was one about 12 years ago.

PRESENTATION BY STAFF:

Mr. Lee Jimenez, Senior Planner, stated that through the neighborhood outreach process from September 7th to September 23rd, the applicant received four comments. Three were requests for more information, and one request was for more clarification on the items. During the public notification process, staff received 12 comments. Eleven were in support, and one was neutral but requested that a perimeter wall be installed as part of the conditions of approval for the rezone.

Chair DiDomenico asked if the applicant was in agreement with the conditions of approval as drafted by staff. Mr. Jimenez advised that they were.

PUBLIC COMMENT:

Mr. Phillip Fargotstein, Las Estadas HOA President, stated the HOA believes the walls on the southern and western portions of the new property line need to be of a block wall construction. They know a wall is going to be installed, but they believe it should be a block wall. He noted that Lot 1 is not part of the HOA property, however every home in the area has block walls that are about six feet tall. He stated that after 2011, the Caliendo's removed the south wall of Lot 1. Since they are not an HOA member, the HOA was not consulted on this and had not authority over it. He noted that Las Estadas is comprised of over 50 homes in the million-dollar price range, and that security and consistency are very important to them. He stated that all of these homes have block walls on the rear and sides. With regard to SRP access, he stated they could put in a gate for this. He would request it be locked with an SRP approved lock so SRP can access it any time, and that it be the minimum size required by SRP. He stated that while Lot 1 is not part of the Las Estadas gated community, they still get the benefits of the gated access. He does not feel it is too much to request that the walls match the surrounding properties.

Chair DiDomenico noted that other fence types, beside a block wall, can provide a relevant sense of security for the Las Estadas neighborhood. He noted that it does not appear that where this fence would go will be visible by anyone else's property aside from the Caliendo and Flores properties, and that those properties to the east with block walls would not be able to see what type of wall butts up to them on the west. Mr. Fargotstein stated that the perimeter walls were put in by the developer in the early 1990s, including the south wall on Lot 1 (which was later removed). He agrees there are other fences that could be installed, however he would like consistency and restoring what was there before it was taken out.

Mr. Rod Lenz, Tempe resident, stated for the past 7½ year he and his wife have been the owners of Parcel #308-02-124 in the Las Estadas HOA that borders the southeastern portion of the Flores property. He noted that in the mailer that was sent out, it was identified as Lot 2 in Exhibit 1. They find the Caliendo's request to amend the zoning map from AG to R1-15 for Lot 1 to be consistent with the dominant zoning of the area and they fully support it. Mr. Lenz stated he is a former Las Estadas Board Member and opposes any request from the HOA regarding requirements for the fencing, mainly because neither Lot 1 or Lot 2 are members of the HOA and as such are not subject to HOA jurisdiction.

Chair DiDomenico asked Mr. Lenz to repeat his APN so he could look up their location in relation to the properties. They are on the most southern and eastern border of the Flores property, with frontage along Knox.

APPLICANT RESPONSE:

In reference to Mr. Fargotstein's comment about all the homes in the area having block walls, Mr. Greathouse stated that Las Estadas was an infill subdivision that went in where there were a lot of larger lots. These lots were then surrounded by other large lots. He noted that Las Estadas is regulated and is required to have block walls, however the surrounding properties chose what type of walls they wanted. The Caliendo and Flores families simply want the right to choose what type of wall they install and not have Las Estadas restrictions placed on them. He agreed with Mr. Fargotstein's comment that Las Estadas had no authority when it came to tearing down the wall 12 years ago. He is also unaware of any reports showing criminal activity since the wall was torn down, so it does not justify a block wall being installed due to security concerns.

Commissioner Lloyd asked that, aside from being regulated, what was the opposition to building a block wall. She also noted that there were several letters of support for surrounding neighbors for the rezone but asked if they had any opinion on what the wall structure is made out of. Mr. Greathouse stated that he is not aware of any direct issues with the structure of the wall. Mr. Greathouse noted that despite Mr. Fargotstein stating he had the HOAs support, they have not seen any meeting minutes or any official act from the Board on the issue. Regarding the applicant's opposition to the block wall, he stated they want the private property rights and flexibility to do what they want to do on their property. He also referenced the complexities with working with SRP, where the easements are located and if they would need to be changed, and where the gate would need to go.

Commissioner Spears asked for confirmation that there is no public access to these properties besides driveways on either side. Mr. Greathouse stated that was correct. She also asked if the wall on the east of Lots 1 & 2 go up to the other adjacent property owners and was advised that it does.

Vice Chair Johnson asked for clarification on whether either Lot 1 or Lot 2 were part of the HOA. Mr. Greathouse stated that neither property was a part of the HOA. He advised they are outlying parcels that are not a part of that plat. He believes that in 1995, when the property was platted, that the developer worked with that property owner to provide them access to the community. Vice Chair Johnson asked if both houses predate the Las Estadas community and was advised that they did. He asked about the gate on the driveway and Mr. Greathouse advised there is a gate on the north end of the driveway on the Caliendo property. Vice Chair Johnson asked if the adjusted property line is completely outside of the HOA and was advised that it was.

Commissioner Miller noted that it was stated there was a block wall about 12 years ago that separated the two lots but was later removed. He asked what was the purpose in removing the wall. Mr. Greathouse advised that the

Caliendo family had owned both properties and wanted a bigger yard. Commissioner Miller observed that at one point the property extends all the way north up to Terrace, between the HOA properties and another large property to the west. He asked if it was correct that the original property line extended to that property, at least in part. Mr. Greathouse stated he was not sure, and that when it was platted in 1995 it just stated "unsubdivided" on a portion of it. Commissioner Miller asked if the Caliendo house predates the development/HOA and was advised that it did. Mr. Greathouse stated that the plat was in 1995, the re-plat was a couple of years later, and the subdivision probably did not go in until the late 1990's/early 2000's. Commissioner Miller noted the house was built in 1995 and it had a block wall that was later torn down to create a single property. He asked if the Caliendo family owned both properties at that time and was advised that they did. They later decided to sell Lot 2, which is the property on Knox, to the Flores family. Due to the parcel boundaries that date back many years, they could not simply do a lot line adjustment without adjusting the zoning, which is why they are here before the Commission today. Commissioner Miller asked if there is any reasoning why the block wall is not a good idea, such as if the Caliendo family ever wanted to take the Lot 2 property back. Mr. Greathouse stated that could happen in the future, although they do not foresee that right now.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Chair DiDomenico noted for members of the public that the Commission is the recommending body for this request, but that the City Council will make the final decision. Chair DiDomenico asked the applicant if they were okay having this item voted on by six Commission members, or if they would prefer to wait until there are seven members present. The applicant requested to proceed with vote with six members present.

Motion: Motion made by Commissioner Spears to approve PL220039 as proposed by staff and seconded by Commissioner Lloyd

Ayes: Chair DiDomenico, Vice Chair Johnson, Commissioners Lloyd, Spears, Redman, and Miller.

Nays: None

Abstain: None

Absent: Commissioners Cassano, Schwartz, and Forte

Vote: Motion passes 6-0

Commission Announcements:

Chair DiDomenico stated there will be a special DRC meeting held on November 15, 2022, to hear the Tempe Entertainment District request. He noted that both he and Vice Chair Johnson would be unavailable for that meeting. He suggested that Commissioner Spears perform the role as Chair for that meeting. Ms. Suparna Dasgupta, Principal Planner, noted this item will be put on the November 15th agenda and that discussion would be held during the Study Session to determine who would chair the Regular Meeting.

Staff Announcements:

NONE

There being no further business the meeting adjourned at 6:47 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Suparna Dasgupta, Principal Planner

