

Minutes of the Development Review Commission REGULAR MEETING November 15, 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:

Commissioner Linda Spears – Interim Chair
Commissioner Don Cassano
Commissioner Barbara Lloyd
Commissioner Michelle Schwartz
Commissioner Joe Forte
Alt Commissioner Rhiannon Corbett
Alt Commissioner Robert Miller
Alt Commissioner Redman (in audience)

City Staff Present:

Jeff Tamulevich, Director, Community Development
Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Joanna Barry, Administrative Assistant II
Jennifer Daniels, Administrative Assistant II

Absent:

Chair Michael DiDomenico
Vice Chair Andrew Johnson

Hearing convened at 6:00pm and was called to order by Commissioner Spears.

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 10/25/22
- 2) Development Review Commission – Regular Meeting 10/25/22

Motion: Motion made by Commissioner Cassano to approve Regular Meeting minutes and Study Session Meeting minutes for October 25, 2022 and seconded by Commissioner Lloyd.

Ayes: Commissioners Spears, Cassano, Lloyd, Schwartz, and Forte

Nays: None

Abstain: Commissioners Miller and Corbett

Absent: Chair DiDomenico and Vice Chair Johnson

Vote: Motion passes 5-0

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

- 3) Request a General Plan Projected Land Use Map Amendment from “Commercial” to “Mixed-Use” for approximately 34.4 acres; a General Plan Projected Density Map Amendment from “No Density” to “High Density – Urban Core” (more than 65 du/ac) for approximately 34.4 acres; a Zoning Map Amendment from R1-6 and GID to MU-4 for approximately 46.27 acres; and a Planned Area Development Overlay to establish development standards and varying heights up to 129 feet, 2,100 dwelling units and commercial consisting of a multi-purpose entertainment facility, retail, restaurant, hotel and office uses for the **TEMPE ENTERTAINMENT DISTRICT**, located at 53 S. Priest Drive. The applicant is Snell and Wilmer. (PL220278)

PRESENTATION BY APPLICANT:

Mr. Nick Wood, Snell & Wilmer, provided the background of the proposed project and an overview of the request before the Commission. They are proposing a 16,000-seat state of the art arena. There will also be a practice facility that would be available for use by the public during the times that the Coyotes are not practicing, a theater, office/retail spaces, hotels, and residential. The entire project size will be 4,250,000 square feet. Mr. Wood noted that for each portion of the project he will be coming back before the Commission with a Development Plan Review (DPR). They filed their first DPR within the past week, and they will be coming back to the DRC within the next two months.

Mr. Wood provided a very detailed overview of how this proposed development originated. He proceeded to describe the site and what the proposed development includes within a site that totals approximately 46 acres and is basically a landfill. It is currently owned by the City of Tempe. If they can complete their negotiations with the City, there will be a Disposition and Development Agreement (DDA) that will come before the City Council at the end of this month. If that, plus the zoning and General Plan Amendment (GPA), is agreed upon they will also take it for a ballot referendum. If the voters approve the referendum, the applicant will then begin remediation of the site, which used to be a 40-foot-deep mine/aggregate pit. Over the years it has become filled with contaminated elements. There is now 1.5 million tons of debris and hazardous waste in this location and it is going to cost \$73 million just to remediate it. Also, even though they are not next to the lake, there is a levee along the river. As they work on remediation, they will have to work with the Corps of Engineers and Maricopa County Flood Control District to shore up the levee. They will also need to relocate the power lines and sewer lines on the site. Once all this is complete, things will begin to be built in phases, with the arena being the first item. Mr. Wood then explained how each of the other phases would proceed after the arena is built. He noted that the density for the entire site will be about 43 du/ac with heights up to 129 feet with the proposed Planned Area Development (PAD). Mr. Wood discussed other project details such as the lot coverage, parking plan, and traffic mitigation plans. He noted that they have gone through all the proposed stipulations from staff and are in agreement with all of them.

Mr. Wood stated that they have been doing a lot of community outreach all over the City since the June 2, 2022, City Council meeting. There have been about 30 meetings, including the neighborhood meeting held on October 15, 2022, that was attended by 35 people at the Canopy by Hilton in downtown Tempe.

COMMISSION DISCUSSION:

Commissioner Lloyd stated that the land remediation was one of the positive aspects of this plan. With a price of \$72 million to complete it, she asked what would happen if they started the remediation and then it stalled out for some reason. She also asked if the intention is to purchase all phases in one acquisition. Mr. Wood stated if the project is approved, there would be a Committee Facilities District (CFD) formed by the City of Tempe. He proceeded to explain the process required for the bond sale for infrastructure improvements. If the project is approved and a DDA signed, Mr. Meruelo will deposit \$40 million (non-refundable) as earnest money, which will then be given to the Trustee. That money will be used to begin the remediation process on the arena parcel. Once it is cleaned up, the applicant will purchase that parcel and be credited for the \$40 million for that portion. As each portion of the 46 acres is remediated, they will then purchase it. Another \$10 million will be put up for phase 2.

Commissioner Lloyd noted that the applicant indicates that affordable housing is not viable for this location so they will be contributing to the Hometown For All program. She asked about the practicality of bringing workforce housing as a component. Mr. Wood noted that workforce housing is a defined use under Department of Housing and Urban Development (HUD), so it is based on income range that could be very difficult to meet. Commissioner Lloyd noted that in a previous community meeting, the applicant mentioned there was a potential medical office user that may be interested in this site, which would bring jobs to this location. She asked if that was still a viable prospect. Mr. Wood stated that they have a Letter of Intent from a very household name that intends to move their corporate headquarters onto the site. It is expected to bring 3,000 jobs to the site.

Commissioner Miller asked how many workers the applicant anticipates being onsite during the day, post-construction. Mr. Wood stated there would be 6,900 permanent jobs. Commissioner Miller asked if they had an idea of what the average wage would be for those workers. Mr. Xavier Gutierrez, Coyotes President & CEO, stated that

the range of the 6,900 jobs will include office jobs, service jobs, retail/food jobs, etc. They have not done a wage analysis at this time, but they are doing an analysis of the variety of jobs.

Commissioner Schwartz noted that parking and transportation are key concerns for the community. She asked if that will be part of the development agreement. Mr. Wood stated that is part of their discussions with the City. He advised that Dawn Cartier (CivTech) submitted a Traffic Impact Study (TIS) when they responded to the Request For Proposal (RFP). At that time, the study was based on the conceptual site plan submitted with the RFP. Now, they are working on a more comprehensive study that is specific to the conceptual plan that is for consideration for the Commission and City Council and certain provisions of the TIS are also going to be addressed with of the DDA.

Commissioner Lloyd asked if there was any reason that they could not park the entire project on the 46 acres instead of having it spill over and rely on adjacent parcels. Mr. Wood stated that because of the mixed types of uses, they feel they will be able to park themselves within the site itself, however they will also need to have backup.

PRESENTATION BY STAFF:

Ms. Suparna Dasgupta, Principal Planner, gave a brief overview of the request. She noted that the applicant will need to work with the City of Phoenix on the water line easement and the City of Tempe for the sewer easement along Priest Drive. A 14-foot transit easement has also been requested for this proposal for a future streetcar alignment. A neighborhood meeting was required and was held on October 15, 2022. A number of City staff were at this meeting and 35 members of the public attended. Discussions from the public included the following:

- Flight path questions.
- Noise from airplanes within the area
- Whether this will increase taxes for Tempe residents.
- Inter-Governmental Agreement between City of Tempe and City of Phoenix.
- The anticipation of major concerts and other events as a result of this development.
- Discussions about the team's history with City of Glendale.
- Discussion regarding other opportunities of events such as, Comic-Con International
- Implications of environmental issues on-site.
- Incorporating public art with the Rio Salado South Bank Multi-Use Path.

As of 2:00 p.m. today, staff had received seven public comments; one in support, five in opposition, and one that neither supported nor opposed the proposed project. Staff also received a letter from the City of Phoenix stating that they believe the inclusion of new residential development within the 65 day-night average sound level (DNL) noise contour would violate the 1994 Inter-Governmental Agreement (IGA) between Phoenix and Tempe. The City of Tempe has determined that this project does not violate that IGA. Staff recommends approval of the project subject to all of the conditions. Staff recommends a total of 18 Conditions of Approval, out of which three are standard. The others were non-standards conditions that are going to be required, as part of the PAD. Ms. Dasgupta proceeded to read the non-standard conditions to the Commission, for the record.

PUBLIC COMMENT:

Mr. Steve Abrahamson, Principal Planner, read out loud for the record, all public comments received by the City. Below is a summary of the comments. The full comments are on file as public record.

Mr. Chad Makovsky, Director of Aviation Services, City of Phoenix – Opposed

- Project would violate the 1994 Intergovernmental Agreement between Phoenix and Tempe.

Maha Alshammari, Tempe Resident – Opposed

- Will increase crime.
- Will make Tempe an unaffordable place to live.
- Site should be made into a park where the community can gather.

David Sokolowski, Tempe Resident – Opposed

- Property should be used for affordable housing.
- Traffic congestion, especially since the streetcar will not be extended to the location.

Marlene Begay, Tempe Resident – Opposed

- Developer should fund their own facility.
- City is better off improving the city services like police, fire, schools, parks, libraries, senior centers, youth centers that serve all the citizens.

John Stevenson, Tempe Resident – Supports

- Environmental, social, and economic benefits from this development. Fantastic deal.

Kelley Carnegie, Phoenix Resident – Neither Support nor Oppose

- Please consider the residents of Tempe and Phoenix that live nearby.
- Forcing the movement of sky harbor's flight path to nearby locations is unacceptable. It will cause not only a constant nuisance, but a negative valuation factor for everyone in the new flight path.

Merrill Darcey, Tempe Resident - Opposed

- Tempe's new direction which will destroy the fabric of what's remaining in this city.
- Will conflict with all commercial properties with the additional traffic congestion and crime.
- Area will be unsafe and inconvenient for employees which will erode the commercial property tax base with the vacancy and abandonment of offices and businesses unrelated to any entertainment venue.

Jennifer Spade and Laurie Mitchell, Tempe Residents – Opposed

- Opposed to the requested zoning changes
- The super high density, huge heights of the proposed buildings in a flight path and thousands of new residents and guests in a very small space. This will cause major problems for our residents, students, and anyone just trying to get around this massive, proposed project.

Jay Dewitt, City of Phoenix representative – Opposed

- As an airport sponsor, the City of Phoenix is obligated to try to ensure development around Sky Harbor is compatible with airport noise. The IGA between Tempe and Phoenix prohibits residential in the 65 DNL. Since this development is within 65 DNL we object to requested action.

Debbi Hill and Mark Akerman, Tempe Residents - Opposed

- Opposed to this project density and height as well as the traffic that will be added to our already congested Rio Salado Parkway.

The following public comments were in person

Andrew Marwick, Phoenix Resident – Opposed

He stated he drove to the meeting the meeting tonight coming off the 143 at University to see how traffic would be. He had to wait at three lights to turn on Priest with no events being held at the time. The parking report is inadequate. The restaurants, arena, theater will all peak at the same time around 7:00/8:00/9:00 p.m. The residents living in the area will not want to pay their monthly rate and have shared parking. He asked how the internal circulation is going to work and how people are going to get to the development.

Tom Brown, South Tempe Resident – Opposed

He stated the existing zoning is obsolete from decades ago. We can agree on some type of mixed-use is appropriate. The images we have seen are not what we can expect to be built. The final decision will be made by City Council. No matter what is decided tonight, the final approval comes from Council in two weeks. He asked to send a message

that there are serious concerns and questions that have not been answered. He also asks that no housing be approved in the development as people should not live directly under a flight path.

Phillip Yates, President for Riverside Neighborhood Association – Opposed

On November 14, 2022, a neighborhood association meeting was held. The Riverside Neighborhood Association is adjacent to where the flight pattern is located. The neighborhood will be horrifically impacted in a number of ways. There will be traffic issues while the arena is being built. People will not park where they are supposed to park. At the November 10th meeting it was voted upon that the issue go to the County so we can get it on the ballot. So many people have objected to this project.

David Pollack – submitted a card to speak but was a left prior to public comment portion.

APPLICANT RESPONSE:

Mr. Wood stated that they are taking this to the ballot themselves, based on these requests being approved by the Commission and then the City Council, so that everyone can vote on it. Regarding safety concerns that were expressed, Mr. Wood stated they are providing in the DDA for a police substation onsite so there will be police presence at all times. He noted this project is located in the far, upper left portion of the City which is an appropriate location. Most of the activities will be coming in and off the freeways around the area. They will work with police during major events to prevent traffic from entering the communities to the south of the project. Mr. Wood stated that all of the private element of the plan, including the arena, is privately financed. The only bond proceeds that are going to be used will be to do the remediation would be to move the power lines, clean up some title issues, etc. The developer will be putting all of the \$2.1 billion worth of private real estate as collateral security for payment of those bonds. With regard to comments about the airport, Mr. Wood went over sections of the IGA and explained how this development is in compliance.

Commissioner Lloyd asked if there was a difference in the decibel level being measured on the proposed development site versus the existing multi-family units at Marina Heights. Mr. Wood advised the decibels are measured from inside the buildings. They will need to make necessary improvements to each building to achieve the level of noise attenuation.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Cassano noted there is a lot of concern that this project is being fast-tracked. He stated that if the items are approved tonight, there will be two opportunities for the public to interact when it goes to the City Council. If they move it forward into further negotiations, the applicant has indicated they will get it on the ballot for a May 2023 vote. He asked the applicant if this was set in stone, or just something they would “like” to do. The applicant advised that it was cast in stone. Once the DDA is signed, they are compelled to collect petition signatures on all three items. Commissioner Cassano asked how many signatures would be required to get it on the ballot. Mr. Wood advised that it would require 10% of the number of people who voted in the last election where a Councilmember or a Mayor was elected. In this instance, they will only need to collect 2,120 signatures.

Commissioner Miller stated that many of the Conditions of Approval speak specifically to the development itself as part of the PAD to essentially affect the zoning request and whether some of them should be addressed with the future applications, rather than now with the PAD. Ms. Dasgupta stated that the PAD is considered a zoning action and that these are development standards and requirements that are going to be recorded conditions for compliance with future Development Plan Review applications.

Commissioner Lloyd referred to a public comment that stated the City has no plans to extend the streetcar and asked if Ms. Dasgupta could address it. Ms. Dasgupta stated that there has always been an intent to extend the streetcar. With every project the comes in along Rio Salado Parkway, whether it is on the north or south side, the City is reserving 14 feet of transit easement because they do not know the alignment at this time. They may or may not need it, depending on when the feasibility studies are conducted but the City intends to extend the streetcar to this location.

Commissioner Miller referenced Condition of Approval No. 16 that relates to the WWII POW barracks. He asked if it would also be appropriate to ask for a determination as to the potential archeological impacts that might occur within the site, rather than have the project go forward only to be stopped due to if something is dug up that was not anticipated. Ms. Dasgupta stated this was researched by the City's Historic Preservation Officer and mapped. Mapping indicated that the closest archeologically sensitive area is at least 300 feet away from the site, therefore no archeological monitoring is needed.

Motion: Motion made by Commissioner Lloyd to approve PL220278 and seconded by Commissioner Schwartz

Ayes: Commissioner Spears, Cassano, Lloyd, Schwartz, Forte, Miller, and Corbett

Nays: None

Abstain: None

Absent: Chair DiDomenico and Vice Chair Johnson

Vote: Motion passes 7-0

Staff Announcements:

Ms. Dasgupta thanked Commissioner Spears for being the Interim Chair for this meeting, and also thanked Alternate Commissioners Miller and Corbett for participating. She advised that the next DRC meeting will be on December 13, 2022.

There being no further business the meeting adjourned at 7:57 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Suparna Dasgupta, Principal Planner

