



Minutes of the Development Review Commission REGULAR MEETING June 13, 2023

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
Commissioner Joe Forte
Alt Commissioner Charles Redman
Alt Commissioner Robert Miller

City Staff Present:

Jeff Tamulevich, Director – Community Development
Steve Abrahamson, Principal Planner
Mailen Pankiewicz, Principal Planner
Diana Kaminski, Senior Planner
Ty Templeton, Planning Technician
Joanna Barry, Administrative Assistant II

Absent:

Commissioner Don Cassano
Commissioner Michelle Schwartz
Alt Commissioner Rhiannon Corbett

Hearing convened at 6:07 p.m. and was called to order by Chair DiDomenico

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 3/28/23
- 2) Development Review Commission – Regular Meeting 3/28/23

Motion: Motion made by Vice Chair Johnson to approve Regular Meeting minutes and Study Session Meeting minutes for March 28, 2023 and seconded by Commissioner Spears.

Ayes: Chair DiDomenico, Vice Chair Johnson, Commissioners Lloyd, Spears, and Forte

Nays: None

Abstain: Commissioners Miller and Redman

Absent: Commissioners Cassano and Schwartz

Vote: Motion passes 5-0

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

- 6) Request a Planned Area Development Overlay to establish development standards and a Development Plan Review for a new 29-story mixed-use development with 380 dwelling units on 0.61 gross acres for **211 E. 7TH STREET**, located at 211 East 7th Street. The applicant is Berry Riddell. **(PL220305) APPLICANT HAS REQUESTED THIS ITEM BE CONTINUED TO THE JULY 25, 2023 DRC MEETING.**

Motion: Motion made by Vice Chair Johnson to continue PL220305 to a date to be determined. Seconded by Commissioner Spears.

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

Nays: None

Abstain: None

Absent: Commissioners Cassano and Schwartz

Vote: Motion passes 7-0

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

- 4) Request a Use Permit to allow internet-based car sales in the General Industrial District for **TEMPE MOTOR COMPANY**, located at 9229 South Hardy Drive. The applicant is Adrenaline Motorsports. **(PL230067)**
- 5) Request a Use Permit to allow a 5' 6" decorative screen wall in the front yard setback for **THE GILMORE RESIDENCE**, located at 326 East Broadmor Drive. The applicant is Gilmore Planning and Landscape Architecture. **(PL230091)**

Motion: Motion made by Commissioner Miller to approve Consent Agenda and seconded by Commissioner Lloyd.

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

Nays: None

Abstain: None

Absent: Commissioners Cassano and Schwartz

Vote: Motion passes 7-0

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

- 3) Request a Use Permit to allow tandem parking in the R-4 zoning district and a Development Plan Review for eight units located within two multi-family buildings on two lots for **BONNIE LANE APARTMENTS** located at 1116 and 1120 South Bonnie Lane. The applicant is Pathangay Architects, LLC. **(PL220270)**

PRESENTATION BY APPLICANT:

Mailen Pankiewicz, Principal Planner, advised the Commission that the applicant was agreeable to the two added Conditions of Approval relating to archeological/historic preservation. A copy of the stipulations was then distributed to the Commission for review.

Naveen Pathangay and Carlos Rayas, both of Pathangay Architects, introduced themselves. Mr. Pathangay stated he believes the owner would be agreeable to the added Conditions of Approval. He proceeded to give a brief overview of the project. He noted that one of the Fire Department's concerns was about circulation. He stated that Bonnie Lane is a dead-end street so they do not believe this project will affect traffic.

Chair DiDomenico asked if there was any usable space on the roof level or if it was all mechanical. Mr. Pathangay stated it was all mechanical. Chair DiDomenico asked if it was a for rent project and was advised that it was. He asked if the two lots would be combined into one and Mr. Pathangay stated they will remain as two lots.

Commissioner Miller referenced the dead-end street and noted there is no cul-de-sac or turnaround. He asked if the Fire Department had concerns about this. Mr. Pathangay stated that they worked closely with the City and talked to the different departments. He stated that trash and fire were the biggest issues, but they went through different options to make it work. Commissioner Miller asked how this site is separated from the properties to the south. Mr. Rayas stated there is existing fencing and some bushes.

Chair DiDomenico asked if they plan to leave the chain link fence and Mr. Pathangay stated he does not believe it is on their property. They will be putting a block wall around their property.

PRESENTATION BY STAFF:

Diana Kaminski, Senior Planner, gave a brief overview of the request. There will be eight units located on two different lots. The tandem parking would be inside private garages. The applicant will be putting in an eight-foot wall on the south side. They are required to have an eight-foot wall on the west side; however, one is there as of today from the apartment complex to the west. Staff has asked the applicant to verify the condition and height of the wall. This will require coordination with the adjacent property so there is a unique Condition of Approval to make sure there is coordination so that this development does not impact the adjacent properties.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made by Commissioner Spears to approve PL220270 with an added archeological/historic preservation Conditions of Approval. Seconded by Commissioner Miller.

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

Nays: None

Abstain: None

Absent: Commissioners Cassano and Schwartz

Vote: Motion passes 7-0

- 7) Request a Planned Area Development to establish development standards and a Development Plan Review for a 27-story mixed-use development consisting of 281 units and 6,650 s.f. of commercial use on approximately .5 acres for **SKYE TEMPE** located at 780 South Myrtle Avenue. The applicant is Snell & Wilmer, LLP. **(PL230046)**

PRESENTATION BY APPLICANT:

Nick Wood, Snell & Wilmer, gave a presentation and overview of the request. He advised it is close to the light rail and the streetcar. Mr. Wood stated that they met with ASU when they designed this project, and they were very supportive of it. This will be a mixed-use development with 6,500 SF of ground floor retail.

Commissioner Forte asked Mr. Wood if he could speak to any sustainability aspects of the project. He noted he saw there were a few EV spaces but does not feel that would attract tenants in the long term. Mr. Wood stated that the electrical panels that will be installed will be adequate to add more EV stations in the future. They plan to start with 14 spaces and can add more if needed. He stated the applicant is also going for LEED certification on this building.

Chair DiDomenico asked about the expected timing of the project. Tom Steidl, Lamar Johnson Collaborative, stated the intent is to break ground in the late first quarter or early second quarter of 2024.

Commissioner Lloyd referenced the parking and stated she liked that the ingress/egress will be out of the alley. She asked about the anticipated traffic implications out on University Drive and Myrtle Avenue. Mr. Wood noted that this project is close to the light rail and the streetcar. He stated that having the entrance/exit coming in off Myrtle allows traffic to go in several different directions. They can use the alley to go north, or they can come out onto Myrtle and go either direction. He stated that City staff and the Transportation Department are satisfied with their report and how traffic will be managed from the site. Commissioner Lloyd asked if there have been any discussions about contributing to the Hometown For All fund. Mr. Wood stated there has not been any discussion about this.

Vice Chair Johnson referenced the outdoor dining area and asked if it was bisected by the sidewalk. Mr. Wood advised that it was. Vice Chair Johnson asked if the trees they are showing along University Drive are existing trees or are planned. Mr. Wood stated they are being replaced. Vice Chair Johnson advised there may be utilities under that area that will not allow trees to be planted above them, so they may have to go into planters.

Commissioner Redman stated he is concerned with the pedestrian activity, and it appears the only guaranteed sidewalk area is the eight-foot mandatory. He noted that since they will have trees or planters there is not a lot of sidewalk space. Mr. Wood stated the renderings were drawn to scale and there is a lot of room, especially at the corner space. Commissioner Redman stated the plan may be to scale, but he still has concerns for pedestrians. He noted that in the report there was a lot of concern about the trash collection and asked how that is being addressed. Mr. Wood stated that after discussions with staff they changed their original design so that the trash collection will now have more room to come in and maneuver around. To do this they had to redesign where they put the APS transformers, which led to losing some parking spaces on the second level. Commissioner Redman asked for confirmation that this building would not be used for student housing. Mr. Wood stated that the applicant's buildings are not student centric. They will not spend the money they plan on this building to fill it up with students.

Chair DiDomenico asked why there was just one three-bedroom unit in the project. Mr. Wood stated he was not sure but that it is most likely based on the design of the building since it is not a rectangle or a box. Chair DiDomenico referenced the drawing that showed the entrance to the corner market. He stated that to the left and right there are hard structured overhangs over the sidewalk and asked if they encroach into the public right-of-way or if the building is setback so far that they are not. Scott Hampton, Lamar Johnson Collaborative, stated they do overhang but they are removable. They have placed them low enough that they provide shade on the sidewalk because if they were up at 20 feet they would not provide any shade. Chair DiDomenico asked if they were lighted and was advised that they were.

Commissioner Miller asked how far the northern upper residential portion of the building is set back from the southern. Mr. Hampton stated that it was set back about 15 feet. Commissioner Miller asked if it matched on the west elevations. Mr. Hampton stated that it was 20 feet on west elevation from the common property line. Commissioner Miller asked if any thought was given to having the parking be underground. Mr. Hampton stated that due to the width of the site there is only room for the ramps to go one direction, not two.

PRESENTATION BY STAFF:

Diana Kaminski, Senior Planner, stated there was a lot of discussion regarding the trash and making the circulation work off the alley and there are Conditions of Approval related to that. Staff and solid waste are both in support of the proposed changes to reorient the APS yard to the Myrtle side to alleviate the conflicts with the drive entrance into the garage. Ms. Kaminski proceeded to go over the elevations on each side of the building.

A neighborhood meeting was required and was held virtually on March 22, 2023. Comments from attendees included concerns about loss of views from existing residences, they wanted information on traffic impact analysis and expressed concerns about traffic, concern about the construction schedule and closure of Myrtle Avenue, need for a design that mitigates noise from adjacent commercial uses. Several people commented that they liked the overall design.

Staff is recommending approval subject to conditions that have been reviewed with the applicant. Staff approves of the requested change by the applicant to the Condition of Approval regarding solid waste plan. Ms. Kaminski went over the other unique Conditions of Approval.

Commissioner Miller asked if the applicant would be amenable to change the historic preservation Condition of Approval to reflect the two that were added to the previous case that was heard.

Vice Chair Johnson asked what parking was dedicated to retail and if there is an ability to accommodate food deliveries, such as from Uber. Ms. Kaminski stated that was one of the concerns staff had about the parking study. In the downtown area applicants are required to provide a model that shows how the property functions for all the uses on site, which includes a provision on public and customer parking. There is one existing on-street parking space on Myrtle Avenue that they will be retaining and proposing as their one public space. They have room behind the parking gate for employees and residents, but none for customers or the public. Staff asked if a valet service would be feasible, but the applicant is not proposing to do that.

APPLICANT RESPONSE:

Mr. Wood stated that as this site is not undisturbed land, since there is a structure onsite already, the applicant will not agree to the two archeological/historic preservations that were requested by Commissioner Miller. He stated that as it stands if a contractor finds anything while excavating, they are already required to stop everything contact SHPO.

Commissioner Miller stated that when the current building was constructed there were no requirements for doing that. He noted that the site is in an archeologically sensitive area and that the building is built to grade so there has not been a lot of disturbance of the subsoil.

Commissioner Miller asked Mr. Wood how they are going to handle people moving into the building, deliveries for retail, etc. Mr. Wood stated there is a 15-foot loading area in the alley. Commissioner Miller stated that if there is more than one delivery/move-in at a time it will end up causing disruptions on Myrtle Avenue.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Spears stated she feels this project is too big for this piece of property. She noted that the renderings do not show the proposed building to the west of the site. She appreciates the articulation on the Myrtle side, but the west side is a flat plane. The alley is already an issue and having big trucks go through it will compound that. It creates an issue with anyone walking on Myrtle as it will be a blind alley because the building comes right to the end of the street to the road. Regarding archeological/historic preservation, she noted that the current building is a slab construction that was built before the existing regulations, so she believes the two Conditions of Approval definitely need to be added.

Commissioner Lloyd stated there are a lot of things about the project that she likes, however she is concerned about the overall density for this location and believes it is too much for the site. This project, along with others that have come through, are impacting the quality of life in downtown, especially when it comes to traffic, pedestrian interaction, and multi-modal modes of transportation.

Commissioner Miller believes the project is very dense and is more fitting for Manhattan and will cause added traffic in the street. He is disappointed that the applicant did not agree to adding the two archeological/historic preservation Conditions of Approval and will instead react to them if they occur. He does not think this is the right project in the right place.

Vice Chair Johnson stated he feels the density is appropriate for downtown. He noted there are issues with parking downtown, but the applicant has added more than what is required and that should help with that. He stated there is a monotony of the types of projects they are seeing as there are three projects slated for this area that are similar in height and density.

Chair DiDomenico stated he agrees with Vice Chair Johnson about the appropriateness of the density of project for this area. He is sensitive to the impact the increase in density will have, especially since there are three projects slated for this area consecutively. He stated there is no recognition that at any one time there will be 5-10 rideshare vehicles circling the area looking for someone to pick up or dropping off food and he believes this needs to be looked at as part of the process. He stated that the density does belong in this area though, which is the reason for the light rail and the streetcar and why the downtown area was made into a public transit hub. He is concerned about this site and the Wells Fargo site happening at the same time.

Commissioner Spears stated she is not against the density, but rather how the density is planned and being told the space is too small to do any underground parking. She also referenced there not being any parking for Ubers, etc. With several of these types of developments going up in the area she feels staff and the City Council need to start prioritizing this.

Commissioner Miller stated it is assumed that the people in these high-rises will be using public transportation and stated that may not be the case based on the limits of where the light rail and streetcar can go. This building will bring a lot of traffic to an area that is not designed for it.

Commissioner Redman stated he agrees that we need density, but we also need to have open spaces. There needs to be a balance.

Motion: Motion made by Vice Chair Johnson to approve PL230046 to include modifications to the stipulations mentioned by staff and agreed to by applicant. Seconded by Commissioner Forte.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Forte.

Nays: Commissioners Lloyd, Spears, Redman, and Miller

Abstain: None

Absent: Commissioners Cassano and Schwartz

Vote: Motion fails 3-4

- 8) Request a General Plan Density Map Amendment from High Density up to 65 du/ac to High Density Urban Core more than 65 du/ac, a Zoning Map Amendment from Commercial Shopping and Service CSS to Mixed-Use Four MU-4, a Planned Area Development Overlay to establish development standards and a Development Plan Review for a new seven-story Mixed-Use Development for **THE MARSHALL AT TEMPE**, located at 1057 East Apache Boulevard. The applicant is Aptitude Development. **(PL230065)**

PRESENTATION BY APPLICANT:

Nick Wood, Snell & Wilmer, gave a presentation and overview of the request. He stated this is a boutique style student housing project with 479 beds mainly consisting of studios, one bedroom, and two bedrooms. There will be some four-bedroom units, but not as many as similar projects have. The four-bedroom units can be converted to two, two-bedroom units down the road if needed. None of the units will have balconies. There will be ground level parking as well as one level of parking below ground. The entryway to the building will be through the lobby. There are no other doors in this building for someone to come in from the outside. When someone visits, they will have to check in with security, who will then call up to the specific unit. There is easy access to light rail and streetcar, however there will also be shared cars for the tenants to check out and use to run errands. There will initially be two cars, but they plan to expand based on demand.

Mr. Wood stated the applicant agrees with the Conditions of Approval except for Condition #4, relating to parking ratio, and asked that it be deleted. He went over data on the parking counts for other student housing and noted the ratio of beds without parking is much smaller than any of the other projects. He stated that each one of the leases has a provision and parking is first come first served. If someone signs a lease and there is no parking, they are advised they cannot bring a car there.

Chair DiDomenico asked if they were planning to install strobes/audible signals at the ingress/egress points to alert pedestrians. Mr. Wood stated that they were.

Commissioner Spears asked if guest parking was provided. Mr. Wood stated there were 15 guest parking spaces. Commissioner Spears noted that Mr. Wood stated the property would have a secured entrance, however the retail portion appears to have outside access into the lobby area. Mr. Wood stated that the retail space has access from the street and into the lobby, however you would still need to go through security to access the building.

Commissioner Lloyd asked if the developer, Aptitude Development, would also be managing the student housing or if a third party would be involved when they are done developing it. Mr. Wood stated that the developer would manage it.

Vice Chair Johnson asked why the retail portion was so oddly shaped and Mr. Wood stated he did not know.

PRESENTATION BY STAFF:

Diana Kaminski, Senior Planner, showed the Commission a comparison of parking in the project area that staff had put together. She stated that the TOD established a ratio that staff considers to be appropriate for the area with a .5 per bedroom and .2 for guest parking per unit, and the waiver of some parking for commercial with a shared use of the guest and commercial customer parking. She stated the applicant is providing 168 spaces, but the TOD would require approximately 400 spaces. The average reduction in this part of the boulevard is a 29% reduction from the allowed TOD standard. The applicant is asking for a 58% reduction. Staff added Condition of Approval #4 to provide the applicant with some flexibility for how they would rectify this.

A neighborhood meeting was held at The Moxy on May 3, 2023. No members of the public showed up for the meeting. Staff sent electronic notifications through other agencies as part of the General Plan notification process, but only heard back from the SHPO regarding the site, which led to the addition of the two archeological/historic preservation Conditions of Approval.

Commissioner Lloyd stated she is not sure if the retail portion is necessary or viable and asked if it was a requirement. Ms. Kaminski stated that it is required because it is a mixed-use project.

PUBLIC COMMENT: NONE

APPLICANT RESPONSE:

Mr. Wood had their Traffic Engineer from CivTech, Mike James, address the concerns about parking. Mr. James stated that this project will be student housing, whereas the other parking ratios include a mix of housing types across a wide range of developments. He stated the closest land use comparable to student housing is dormitories. He proceeded to go over what the parking ratios would be under that use.

Chair DiDomenico referenced Mr. Wood's earlier comment about being able to convert four-bedroom units into two, two-bedroom units. He stated that if these were converted to market-rate apartments down the road there would be no way to increase parking. Mr. Wood stated that with Uber, light rail, etc. there has been decline in personally owned vehicles and he expects that trend to continue so he does not see that as being an issue.

Chair DiDomenico asked staff what happens if there is a greater need for parking generated from this site than they built. He stated that if more cars show up there is no neighborhood for them to filter into. Ms. Kaminski stated it is not directly connected to the neighborhood, but she has seen students park several streets away and then take the Orbit to get where they are going. Ms. Kaminski addressed Mr. Wood's comparison of the Cul-de-Sac to this project and noted that staff did not use analysis from that project because it had a development agreement. Chair DiDomenico referenced the other projects that were listed that had more beds than parking spaces and asked if the City has seen that manifest into problems on the other side of Apache in neighborhoods. Ms. Kaminski stated that on certain streets they are getting continual complaints along with resident requests for permit parking. However, she does not have any information on how the other sites are functioning with parking.

Commissioner Forte asked what the development agreement for Cul-de-Sac looks like and if it could potentially be used for this project. Ms. Kaminski stated it is her understanding that the Cul-de-Sac is a phased project. Phase 1 must prove that it works, and if it does not then Phases 2 & 3 will need to add structured parking. The Marshall at Apache is a tight site so she is not sure how that would work.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Vice Chair Johnson stated he thinks the Conditions of Approval by staff are still generous as it relates to the other projects that are already in place and is in favor of maintaining them as written. He stated the focus needs to be on the ratio of parking versus units which is vastly different on this project to the others.

Chair DiDomenico stated he likes the look of the project and how it will fit in with the larger projects in that area. He hopes that it will add to the public transportation ridership.

Commissioner Spears stated she likes the design of the project. Parking is her main concern, and she hopes the applicant can continue to work with staff to address this.

Commissioner Lloyd also likes the design of the project. Regarding parking, she does not believe this will be a major issue considering the proximity to the light rail.

Commissioner Redman stated he has trouble voting for more parking. He would like to vote on it without Condition of Approval #4 being included. Chair DiDomenico noted there was a motion on the floor. If that fails, there is opportunity for another motion to be put forward.

Commissioner Spears stated she would like to have staff provide the Commission and City Council some type of information about the number of units that are being approved or projected in the downtown area so they can stop looking at this in a vacuum and can see what the real impact might be.

Motion: Motion made by Vice Chair Johnson to approve PL230065 and seconded by Commissioner Spears.

Ayes: Chair DiDomenico, Vice Chair Johnson, Commissioners Lloyd, Spears, and Forte

Nays: Commissioners Miller and Redman

Abstain: None

Absent: Commissioners Cassano and Schwartz

Vote: Motion passes 5-2

Staff Announcements:

Steve Abrahamson, Principal Planner, advised the Commission of the June 27, 2023 DRC meeting at the Tempe History Museum where they will hold the first and introductory hearing for the Tempe Tomorrow - General Plan 2050. There will not be a Study Session for this hearing.

There being no further business the meeting adjourned at 8:33 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Mailen Pankiewicz, Principal Planner