



Minutes of the Development Review Commission REGULAR MEETING March 26, 2024

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 Andrew Johnson
Commissioner Don Cassano
Commissioner Barbara Lloyd
Commissioner Linda Spears
Commissioner Joe Forte
Commissioner Larry Tom
Alt Commissioner Robert Miller

City Staff Present:

Jeff Tamulevich, Director, Community Development
Ryan Levesque, Deputy Director, Community Development
Michelle Dahlke, Principal Planner
Diana Kaminski, Senior Planner
Karen Stovall, Senior Planner
Jacob Payne, Senior Planner
Lily Drosos, Planner II
Lucas Jensen, Planner II
Whitney Mayfield, Planner II
Joanna Barry, Administrative Assistant II

Absent:

Vice Chair Michelle Schwartz
Alt Commissioner Rhiannon Corbett
Alt Commissioner Charles Redman

Hearing convened at 6:11 p.m. and was called to order by Chair Johnson

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 2/27/24
Development Review Commission – Regular Meeting 2/27/24

Motion: Motion made by Commissioner Tom to approve Study Session minutes and Regular Meeting minutes for March 26, 2024 and seconded by Commissioner Lloyd.

Ayes: Chair Johnson, Commissioners Lloyd, Spears, Forte, and Tom.

Nays: None

Abstain: Commissioners Cassano and Redman

Absent: Vice Chair Schwartz

Vote: Motion passes 5-0

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

- 2) Request a Development Plan Review for a new two-story, single-family development consisting of 11 dwelling units on .56 acres for **ROOSEVELT 11 HOMES**, located at 606 South Roosevelt Street. The applicant is Palmer Architects Ltd. (PL240031)
- 3) Request a Use Permit to allow residential use in the CSS zoning and a Development Plan Review for a single-family residential development consisting of 12 three-story units for **RIO SALADO LOFTS** located at 2525 East Rio Salado Parkway. The applicant is Residential Pursuits Investments LLC. (PL230139)

- 4) Request a Use Permit to allow two (2) required parking spaces within the front yard building setback for **HASS RESIDENCE**, located at 1507 East Cedar Street. The applicant is Jeremy Hass. (PL230370)
- 5) Request a Use Permit to allow two (2) required parking spaces within the front yard building setback for the **SOTO RESIDENCE**, located at 1215 East Marny Road. The applicant is Canterra Construction. (PL230411)
- 6) Request a Use Permit to allow an expansion of an existing stadium use and a Development Plan Review for a 24,240 11,621 square-foot building addition for clubhouse space and a new 12,565 square-foot building for batting tunnels for **DIABLO CLUBHOUSE EXPANSION & SITE IMPROVEMENTS**, located at 2225 West Westcourt Way. The applicant is DWL Architects. (PL240010)
- 7) Request a Use Permit Standard to reduce the required street side setback from 25 feet to 20 feet for **RICHARDSON RESIDENCE**, located at 903 East La Vieve Lane. The applicant is Lavender Landscape. (PL240011)
- 10) Request a Use Permit to allow two (2) required parking spaces within the front yard setback for **BURCIAGA RESIDENCE**, located at 338 East Taylor Street. The applicant is Jose Henry Arrieta. (PL240034)
- 11) Request a Use Permit to allow a second story addition and a Use Permit Standard to reduce the side yard setback from 20 feet to 16 feet for **KEEFE JOINT TRUST**, located at 13030 South 71st Street. The applicant is Design Build Architecture. (PL240043)
- 12) Request a Use Permit to allow outdoor vehicle rental for **TESLA COLLISION CENTER**, located at 7015 South Harl Avenue. The applicant is Tesla, Inc. (PL240045)

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

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Forte, Tom, and Miller.

Nays: None

Abstain: None

Absent: Vice Chair Schwartz

Vote: Motion passes 7-0

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

- 8) Request a Use Permit to allow one (1) required parking space within the front yard building setback for the **LIN XIAO & JIN RESIDENCE**, located at 1727 South Shafer Drive. The applicant is Rezio. (PL240028)

PRESENTATION BY APPLICANT:

Zach Mykytiuk, Rezio (applicant), gave a brief overview of the request. He stated the owners want to enclose the garage to add an additional guest room, mainly so that the homeowner's father who lives internationally will have a place to stay when he comes to visit. Mr. Mykytiuk stated that they do not feel this request is detrimental and that it will be an asset and will increase the property value.

PRESENTATION BY STAFF:

Whitney Mayfield, Planner I, gave a brief overview of the request and advised the Commission that a neighborhood meeting was not required. Ms. Mayfield noted staff had a unique condition of approval that prior to a certificate of occupancy being issued, a real covenant shall be recorded restricting the use of one of the bedrooms from being rented or leased independently from the main residence. The covenant shall be binding to all subsequent owners.

Commissioner Spears asked how the covenant requirement would be enforced. Ms. Mayfield stated they have the requirement that the covenant be signed stating that the residence would be rented completely together, not separately. Commissioner Spears asked what happens if they violate the covenant. Ryan Levesque, Deputy Director

– Community Development, advised that covenant specifically has to do with one of the existing bedrooms that functions as a guest quarter where there is no internal ingress/egress through the main residence. The covenant would stop that portion of the residence from being rented independently. He noted that this does not affect any of the other rooms. Mr. Levesque stated that violations of the code are subject to Class 1 misdemeanor offenses. Staff will respond if they receive public complaints and address them with the property owner.

Commissioner Miller asked Ms. Mayfield to show them where the applicant wants to park the second vehicle. Ms. Mayfield displayed the site plan and advised the Commission that one of the required spaces will be met in the existing carport and the second space would be in the front yard setback, which is the driveway. Commissioner Miller asked if there were renters in property and this time and Ms. Mayfield advised that she has not confirmed if the residence is owner-occupied, or renter occupied, as it was not pertinent to the application or review. Commissioner Miller stated that based on the pictures the Commission was provided there are several vehicles there which is indicative of multiple people living there and parking on the street.

Commissioner Tom asked if they currently have tandem parking and was advised that was correct. Commissioner Tom asked if the Use Permit was required due to the expansion. Ms. Mayfield advised that the property was built in 1959 and at that time there was not a requirement for two parking spaces. Prior to this proposal the one parking requirement was met under the carport but now, due to the renovations that are being made to the house, it is considered legally non-conforming and must be brought up to code.

Commissioner Tom referenced Condition of Approval #3 that requires a covenant restricting the separate rental and asked how often the City requires that. Ms. Mayfield stated that in this circumstance during review staff noticed that the fourth bedroom had an external entrance from the main entrance and a kitchenette the was adjacent to the room. She advised that due to this situation staff required that the owner sign a guest quarters covenant to restrict it from being rented independently from the main residence. That covenant is currently required for guest quarters but sometimes there are circumstances where it is added as a unique condition of approval. Commissioner Tom asked for clarification that this is not typically added to single family internal bedroom units. Ms. Mayfield stated that it is typically a condition that is assigned to guest quarters but in this case, it is added because there is an external entrance. Commissioner Tom stated he did not see the external entrance and it was pointed out to him on the floor plan. Mr. Levesque clarified that even though there is an external exit from the building at the rear of the property it is the fact that there is no interior connection. He stated that typically room additions or kitchenettes are accessed through hallways or common areas through the main residence. Mr. Levesque noted that in this case there is a bathroom between bedroom #3 and the kitchenette area so to get into the house they have to go through a bathroom, a bedroom and then to the hallway. Due to the unusual condition staff thought it was appropriate to address and identify it so that it does not become a situation where you have a separate dwelling area that is occupied by separate renters.

Commissioner Miller asked if what is listed as bedroom #4 and the laundry are currently existing in the property and was advised that they were. Commissioner Miller asked if the condition is being put on part of the building due to the way it was built and was advised that was correct. Commissioner Miller asked if they had to come before anyone to get permission to build it that way. Ms. Mayfield stated that there was a building permit that was approved in 1999 for the addition of a bedroom, bathroom, sitting room, and laundry room.

Commissioner Tom asked if Condition of Approval #3 referenced just the addition not being rented out or the entire home. He then asked for clarification on which part is considered as the addition. Ms. Mayfield advised that bedroom #4 is the addition. Commissioner Tom asked if the applicant was in agreement with the condition and was advised that they were.

Commissioner Miller referenced the same condition and asked for clarification on whether they could rent out the residence, but not the addition separately. Commissioner Forte noted that with the upcoming Accessory Dwelling Unit (ADU) code text amendment, that portion would be able to be rented separately. Ms. Mayfield stated that is the same condition for guest quarters where they could be attached or detached.

PUBLIC COMMENT: NONE

APPLICANT RESPONSE:

Mr. Mykytiuk clarified that the only work being done on the house is the enclosure of the storage room into a bedroom, living room, and office. He noted that the condition of approval is for a bedroom that was already built. Mr. Mykytiuk stated that all they are asking for with the Use Permit is for a parking space.

Commissioner Miller asked the applicant if the property was owner-occupied at this time. Mr. Mykytiuk stated he is speaking on two properties this evening and he misspoke earlier on this property, confusing it with the other one. He corrected his previous statements and advised that this property is currently rented by three PhD students.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Tom stated he is in agreement with the Use Permit request, but he has some hesitation with Condition of Approval #3 that restricts property rights.

Commissioner Cassano asked for clarification on whether the Commission is only voting on the Use Permit to require one parking space or if it is all the other items. Chair Johnson noted that it is for one parking space, however there is also the condition of approval requiring a covenant. Commissioner Cassano stated that the condition of approval has already been agreed upon between the applicant and staff so the Commission's role should just be to vote on the Use Permit request for parking. Michelle Dahlke, Principal Planner, clarified that the condition of approval is part of the Use Permit request.

Commissioner Spears stated that she also does not like having the covenant requirement included in the Use Permit as she does not know how it will be enforced. She noted that when the ADU guidelines are set this would be a perfect location for one.

Motion: Motion made by Commissioner Tom to approve PL240028 with the removal of Condition of Approval #3. Seconded by Commissioner Spears.

Ayes: Commissioners Cassano, Lloyd, Spears, Forte, and Tom.

Nays: Chair Johnson and Commissioner Miller

Abstain: None

Absent: Vice Chair Schwartz

Vote: Motion passes 5-2

- 9) Request a Use Permit to allow two (2) required parking spaces within the front yard building setback for the **XIAO & FENG RESIDENCE**, located at 1837 E Loma Vista Drive. The applicant is Rezio. **(PL240029)**

PRESENTATION BY APPLICANT:

Zach Mykytiuk, Rezio (applicant), noted that the presentation that he gave on the previous item was actually the one for this project. He gave a brief recap of the request.

PRESENTATION BY STAFF:

Ms. Mayfield gave an overview of the request for this item. She advised that as of 10:00 a.m. today, staff has received seven comments in opposition to the request and one in support.

Commissioner Spears asked for clarification that the additional parking spaces would be in the existing driveway and not in the gravel front yard. Ms. Mayfield advised that the parking would only be in the existing driveway.

Commissioner Lloyd asked if the applicant could still do the construction if the Commission denied the Use Permit for the parking spaces. Ms. Mayfield stated that when the applicant was going through building review the parking requirement is what prevented them from being able to move forward. She advised that this home was built before there was a requirement for two parking spaces and that anytime there is a new development or addition to a site

that is legally non-conforming it must then be brought up to code. Ms. Mayfield stated that the denial of the Use Permit could therefore result in the denial of the addition.

Commissioner Tom asked if the applicant could put the addition at the back of the home if the denial of the Use Permit prevented them from enclosing the carport. Mr. Levesque stated that as long as the carport could meet the two required spaces, and they are not in first 20 feet of the onsite front site setback, that it could be compliant.

Chair Johnson asked staff if the applicant could leave the carport intact and put the addition elsewhere on the property that does not impact those two parking spaces if the Commission denied the Use Permit request. Ms. Mayfield advised that was correct.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Lloyd stated that it does not look like there are any living quarters on the floorplan and that it is all just bedrooms, kitchens, and bathrooms. She is concerned that what is being proposed is not practical.

At their request, Chair Johnson allowed the applicant to make a brief comment. Mr. Mykytiuk clarified that the 27' x 19' space by the kitchen is the living area.

Commissioner Miller asked if the area that was designated as an office was a home office for the owner. The applicant advised that it was.

Motion: Motion made by Commissioner Tom to approve PL240029 and seconded by Commissioner Forte.

Ayes: Chair Johnson, Commissioners Cassano, Forte, and Tom.

Nays: Commissioners Lloyd, Spears, and Miller.

Abstain: None

Absent: Vice Chair Schwartz

Vote: Motion passes 4-3

- 12) Request a General Plan Projected Density Map Amendment from "Medium to High Density" (up to 25 du/ac) to "High Density – Urban Core" (more than 65 du/ac); a Zoning Map Amendment from CSS TOD to MU-4 TOD; a Planned Area Development Overlay to establish development standards; and a Development Plan Review for a new seven-story, mixed-use development consisting of 275 dwelling units and commercial uses on 2 acres for **APACHE AND MCCLINTOCK**, located at 1734 East Apache Boulevard. The applicant is Beus Gilbert McGroder PLLC. **(PL230218)**

PRESENTATION BY APPLICANT:

Paul Gilbert, Beus Gilbert McGroder PLLC, gave an overview of the request. He noted that with the ratification of the General Plan 2050, the General Plan portion of the request is no longer needed. Mr. Gilbert noted that this project received a letter of support from the Citizens for a Vibrant Apache Corridor (CVAC).

PRESENTATION BY STAFF:

Karen Stovall, Senior Planner, reiterated that due to the passing of the General Plan 2050, the General Plan Density Map Amendment request that was initially part of the application is no longer needed. A neighborhood meeting was held on November 8, 2023 and attended by nine individuals. Their concerns included the north setback, lack of step-back, and elevation on the north side of the building as it relates to the existing residential to the north. Concerns and questions were also raised regarding street frontage landscaping, anticipated types of retail tenants and when the existing businesses were expected to close. Ms. Stovall advised that staff received a phone call from a resident stating that the colors were too dark, that the project should not cater to students, and that there be a better mix of units. Two emails were received from residents stating that the north building setback was inadequate and that the design created cliff walls. Numerous suggestions were made to staff including providing changes in wall plane,

adding vertical trellises, and increasing the building setback. Ms. Stovall stated that the applicant has worked with staff and specific community member to address those concerns. Ms. Stovall stated they received a letter from CVAC stating their support, however they expressed concerns that there are too few two-bedroom units. One online comment card was received in opposition of the project stating that the development would impact the neighborhood to the north and that the proposed density is too drastic. Ms. Stovall advised the Commission on the unique conditions of approval for the request and stated that the applicant is in agreement with them.

Chair Johnson asked staff that when voting on the item they would have to amend the motion to remove the General Plan portion of the request. Ms. Dahlke advised that was correct and that whoever makes the motion read the motion without the general plan amendment portion.

PUBLIC COMMENT:

Charles Buss, Tempe Resident, advised that he lives behind this project and is the head of the University Heights neighborhood association and a member of CVAC. He stated that at the neighborhood meeting he expressed his concerns about the cliff wall appearance of the project. He stated that he worked with the applicant and his architecture team at a subsequent meeting and in some emails to try and alleviate the wall look of the project. He stated that he was the one that suggested dark colors, recessed masses, and light colors on the projecting portions of the building to break up the facade. He stated that the remaining issue he has is landscaping, particularly on the north side of the building that faces his neighborhood. He advised that the applicant agreed to put four trees on a portion of the north side of the building next to the dog run area. Mr. Buss stated that for the remaining 60% of the north side of the building he had proposed to the applicant that they put metal trellises at the property line, but they advised him that staff does not like that idea. Mr. Buss stated that this project was designed so intensely that the only landscaping area on the north side of the property is the eight-foot public utility easement which contains an underground gas line that prevents any trees being planted there. Mr. Buss stated that his most recent suggestion was to have a metal trellis on the north side of the building to create a green wall. He noted the developer is already planning to do this on the east and west sides.

APPLICANT RESPONSE:

Mr. Gilbert stated that they tried to accommodate concerns by putting landscaping on the south and east sides, but it is difficult for them to extend the landscape metal trellises on the north side. Mr. Gilbert asked his architect to come up and address the landscaping.

Peter Koliopoulos, Circle West Architects, gave a brief overview of the façade and landscaping for the building.

Commissioner Lloyd asked why the applicant could not put in more trees to provide a buffer along the north side from the parking garage entry to the dog park area. Mr. Koliopoulos stated there was not any room in that section to add any trees due to the public utility easement (PUE). He stated that based on comments and meetings, they put an eight-foot wall along that area.

Chair Johnson asked if the PUE extended the fulling length of the north property line and was advised that it does. Chair Johnson noted that they have trees on the west end. Mr. Koliopoulos stated that they were able to move the dog wash building and bike park building to the south five or six feet to allow those trees. Chair Johnson asked for clarification on whether the trees were in the PUE area and was advised that they were not.

Commissioner Miller asked the applicant why they could not do the green wall trellis effect on the north elevation. Mr. Koliopoulos stated that they could not physically introduce that element on the north elevation due to the layout and overall design and scale of the building, etc. Commissioner Miller asked for more explanation for why they could not physically do that, such as whether it was not structurally possible. Mr. Koliopoulos stated that it was partially structural but that it would also diminish the overall efficiency of the floor plans relative to the overall layout. Commissioner Miller asked why that is not the case on the southeast corner. Mr. Koliopoulos stated they addressed that particular corner in the beginning and how they laid out the building from a design standpoint and where that vertical garden is on the southeast corner. Commissioner Miller asked if the layout of the inside of the building dictated what they could do on the outside of the building. Mr. Koliopoulos stated that in part that was correct.

Chair Johnson asked if the trellis element is as simple as putting mesh on the side of the building or if there was a lot more to it. Mr. Koliopoulos stated there would be much more to it such as layering of architectural details and programming from a functional standpoint as far as drainage, irrigation, etc.

Commissioner Tom asked if there was a way to move the trash enclosure down to match the dog run and bike area so additional trees could be planted along that north property line. If not, he asked if they could plant trees in the landscape area between the trash enclosure and the building. Mr. Koliopoulos stated that they could not move the trash enclosure down because the truck criteria for access. He stated they could probably add trees between the refuse enclosure and the building. Mr. Gilbert stated they would be agreeable to put trees in this area.

Commissioner Miller asked if it was an economic decision to have more one-bedroom and studio units in the project and if it ties to the target market they are looking at. Kurt Waldier, Beus Gilbert McGroder PLLC, stated they are not targeting students on the project which is part of the reason that they have more studios and one-bedrooms units. He noted that because students have less disposable income, they typically like to bunk together in two- or three-bedroom apartments. Mr. Waldier stated that they are targeting more of the working professionals for this project.

Commissioner Miller asked if any thought was given to doing underground parking versus above ground. Mr. Koliopoulos stated that in the original plan they never considered any underground parking due to the cost associated with it. Commissioner Miller noted they have a lot of bicycle parking and asked if that was targeted to a specific market. Mr. Waldier stated that based on an analysis of census data only 50% of people commute by vehicle. Commissioner Miller asked if it would make sense to reduce the amount of parking spaces they have based on that. Mr. Gilbert stated they are complying with the urban standard in the area, so they felt comfortable with that ratio.

Commissioner Lloyd stated she liked the design and density and noted she would have supported less parking.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Chair Johnson stated it is a nice project and that the applicant worked with the community. He noted they did not hit every single question or request that came to them, but he appreciates the flexibility in working with the community. He is in support of the project and would support an added condition for the applicant to work with staff on adding tree(s) to the area south of the trash compactor.

Motion: Motion made by Commissioner Lloyd to approve PL230218 with the removal of the General Plan component and addition of a stipulation that the applicant add trees, as feasible, in the area south of the refuse enclosure. Seconded by Commissioner Cassano.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Forte, Tom, and Miller.

Nays: None

Abstain: None

Absent: Vice Chair Schwartz

Vote: Motion passes 7-0

Staff Announcements: NONE

There being no further business the meeting adjourned at 7:55 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Michelle Dahlke, Principal Planner