
MINUTES OF THE DEVELOPMENT REVIEW COMMISSION December 09, 2014

Harry E. Mitchell Government Center
Tempe City Hall - City Council Chambers
31 E. 5th Street, Tempe, AZ 85281
6:00 PM

Commission Present:

Dennis Webb, Chair
Peggy Tinsley
Trevor Barger
Angie Thornton
Linda Spears
Ron Collett
David Lyon, alt.

Commission Absent:

Paul Kent, Vice Chair
Dan Killoren, alt.
Jerry Langston, alt.

City Staff Present:

Ryan Levesque, Deputy Director
Larry Tom, Principal Planner
Diana Kaminski, Senior Planner
Sherri Lesser, Senior Planner
Nancy Ryan, Project Manager
Steve Nagy, Administrative Assistant II

Chair Webb called the meeting to order at 6:10 p.m., introducing the Commission and City staff. It had been determined in the Study Session that the minutes from the 11/18/2014 Development Review Commission meeting, with changes could be placed on the consent agenda. Items #2, #3, #4 and #5 would be heard.

CONSENT AGENDA

1. CONSIDERATION OF MEETING MINUTES: 11/18/2014

Commissioner Barger moved to approve both the Study Session and Regular Meeting Minutes, with changes, from the November 18, 2014 meetings. The motion was seconded by Commissioner Tinsley, and passed with a vote of 4-0, with Commissioners Collett, Spears, and Chair abstaining due to absence from that hearing.

REGULAR AGENDA

2. Request for review and recommendation of the **KIWANIS/THE LAKES CHARACTER AREA PLAN (PL140424)**, dated December 2014 consisting of a character area map, principles, character elements, project priorities and a youthful element for the area generally bounded by US 60, Loop 101, Western Canal and Mill Avenue. The applicant is City of Tempe.
3. Request for review and recommendation of the **CORONA/SOUTH TEMPE CHARACTER AREA PLAN (PL140423)**, dated December 2014 consisting of a character area map, principles, character elements and

project priorities for the area generally bounded by Western Canal, Loop 101, City of Tempe south boundary and Kyrene Road. The applicant is City of Tempe.

Nancy Ryan presented the Character Area agenda items. She explained that these were the first 2 of 8 Character Areas that were included within the City of Tempe. Ms. Ryan continued by reviewing the public meeting process she had facilitated. She then reviewed the Character Area Plan contents, highlights, comments from the public and the results of those comments.

Commissioner Barger asked if these plans are guidelines or if they would need to be changed if something that came to the area was out of character to the area. Ms. Ryan replied that the Character Area Plans are to be used as a guideline to help people gain a sense of what would and would not fit into a given area. The Commission also discussed with Nancy Ryan other challenges implementing the Character Area plans may face moving forward.

Chair Webb asked Ms. Ryan what happens once the Character Area Plans are approved by the DRC. Ms. Ryan responded that the plans can begin to serve as guidelines to the DRC, developers, allow neighborhoods to come together and even be used as a marketing tool for realtors.

With no other questions of staff, the Commission discussed the Character Area Plans.

Commissioner Tinsley thanked staff and the public involved, and expressed that she thinks it makes for a great guideline. Barger seconded her appreciation, but noted that he saw a couple of items in the Corona plan that he saw as conflicting. The desire to have large lots but attract businesses that typically locate in areas with a greater mix of housing types that support these businesses; and the desire to have large lots but to have people age in place are different directions. Commissioner Lyon expressed that he saw the Plans as wish lists, and as such, made for great guidelines. Commissioner Thornton expressed that she loves the initiative taken on the Plans and was fully supportive of them. Chair Webb expressed that Nancy Ryan did a great job putting the Character Area Plans together.

With no on from the public wishing to speak on the items, Commissioner Tinsley moved to approve item #2. The motion was seconded by Commissioner Lyon, and the motion passed with a vote of 6-1, with Commissioner Collett in the dissent.

Commissioner Tinsley then also moved to approve item #3. The motion was seconded by Commissioner Thornton, and the motion passed with a vote of 5-2, with Commissioners Collett, and Barger in the dissent.

4. Request for an Appeal of the Hearing Officer Approval of a Use Permit for a second story balcony on a single story house at the **NUNES RESIDENCE (PL140286)**, located at 35 East Papago Drive. The appellant is Dawne Walczak.

Sherri Lesser presented the case by reviewing the appeal of the Use Permit and attachments provided to the Commission along with the staff report. Ms. Lesser clarified an error that had been made on the report regarding the staff recommendation, which in cases of appeal is 'no recommendation' and not 'recommend approval' as inadvertently included on the report.

With no other questions of staff, the Commission called the applicant up to the podium.

Mark Manoil, Tempe, approached the podium, representing the appellant. Mr. Manoil reviewed the reason for the appeal and presented images that were provided by the original Use Permit applicants. He then went on to present images taken by and representing the perspective of the appellant. Mr. Manoil also pointed out that throughout the Use Permit process; the definitions used to refer to the roof deck were inconsistent. Ultimately, the biggest issue with

the roof deck was the potential for invasion of the appellant's privacy and the negative effect this may have on their property value.

Commissioner Barger went on to clarify the appellants objections, and the available views the appellants may have onto the Use Permit applicant's property.

Commissioner Spears requested wording clarification on the roof deck, Diana Kaminski explained that the Hearing Officer referenced the word mezzanine, because it is structurally a part of a building but not livable space. In this case, the deck is outside, and attached to the building above the first floor, it is not livable space and is considered a balcony. A free-standing ramada with a roof used as a deck, would not require a use permit, it would be required; but because the deck is on the roof attached to the house, it requires a use permit.

Commissioner Thornton asked if there were any privacy laws pertaining to the case and Sherri Lesser replied that the appellant was referring to the Use Permit criteria.

The Commission then called up the Use Permit applicant, Kelli Nunes.

Ms. Nunes clarified the trustee issue brought up by the appellant. She went on to explain the reason for the purchase of the house, which was to retire in, and their purpose and desire to have a roof deck. She also noted that they had done everything in their power to go about remodeling the home in the right way.

Commissioner Collett clarified if the Nunes' had children, which they clarified they did, but except for one headed into the military, none to reside full time in the residence.

Commissioner Thornton asked how their offer to plant foliage to block the views was received by the neighbors, and Ms. Nunes replied that they had received no response.

Commissioner Lyon then asked what type of foliage they would be willing to plant, and Ms. Nunes replied a tall, fast growing type.

Chair Webb then opened the Hearing to public comment.

1. Alexander Hen, Tempe, tenant neighbor to the east, expressed support of the appellant, as he would also be losing privacy.

Commissioner Barger asked Mr. Hen if people from the zoo could see into his backyard. Mr. Hen replied yes, but from very far away. Commissioner Barger then asked if people can see in from area just past his rear property line, to which Mr. Hen replied that he was not sure if that area was for public or private use.

2. Jack Wohl, Tempe, expressed support for the appellant since he didn't think the deck would improve the applicant's view much, and was concerned with how deck would be used in the future.
3. Darlene Justice, Tempe, expressed support of the appellant.
4. Dawn Wolczyk, spoke as the appellant.
5. Claire Costello, Tempe, explained she was the designer of the project, and that everything was designed to fall within the limits outlined in the building code. She also explained that the proposed foliage would be more than appropriate in providing the privacy the appellants sought, and the project was not intended to encroach upon this.
6. Jon Nunes, Tempe, provided clarification on his family, specifically grandchildren, and kids for the Commission, and stated that they rarely visit. He also reiterated that the deck was not intended to view the neighbors.

Commissioner Collett questioned how much of a view would actually be gained from atop the roof deck.

Commissioner Lyon questioned the scale of imagery provided by the appellant.

7. Jeff Manoil, Tempe, expressed that he believed the images provided by the appellant to be to scale, and that he had not heard from the Nunes regarding foliage. He also expressed that he believes there is a violation of privacy and devaluation of property from the roof deck.

Commissioner Thornton asked Mr. Manoil if foliage would remedy his concern. Mr. Manoil responded that he doesn't believe foliage that would work exists. Ms. Thornton then clarified that according to code; the applicant could build a ramada, and achieve the same effect as a roof deck. Diana Kaminski confirmed they could build a ramada and that there was nothing in the code from preventing a ladder or stairs to be put against the ramada to stand on top.

8. Dawn Wolczyk, Tempe, expressed support of the appellant as deck would not be in character of the area and invade privacy.

With no else from the public wishing to speak, Chair Webb closed the public comment section of the hearing and called the appellant back to the podium.

Mr. Manoil reviewed the subdivision layout and what the Hearing Officer used to pass her decision. He also clarified the scale used by the appellant in the pictures they had presented.

With no other question of the appellant, the Commission discussed the case.

Commissioner Collett did not agree with the deck, saw it as an infringement of privacy, and did not see how much more view could be achieved as a result of building it. Commissioner Spears appreciates the appellants concerns, but saw it as out of the scope of the Commission to decide on matters of privacy. Chair Webb felt that the original Use Permit decision violated 2 of the Use Permit criteria by lowering home values and not being compatible with existing surroundings. Commissioner Tinsley did not see the compatibility of the roof deck with the surrounding area and could not express support. Commissioner Barger noted that the properties in the area are view oriented, and there was nothing stopping people from climbing onto their existing roofs. Commissioner Spears also noted the orientation of the views, and that it was clear there was no intention for the Nunes to view their neighbors. Commissioner Thornton thought the design was fine, and would not support the appellant. Commissioner Barger then clarified the process if there would be any intensification of the use of the roof deck, to which Ms. Kaminski responded that new Use Permit process would have to take place.

With no other comments amongst the Commission, Commissioner Collett moved to approve the appeal of the Hearing Officer's decision. The motion was seconded by Commissioner Tinsley, and the motion passed 4-3, with Commissioners Spears, Barger, and Thornton in the dissent.

5. Request for a General Plan Density Map Amendment from Medium Density (up to 15 du/ac) to Medium-High Density (up to 25 du/ac), a Zoning Map Amendment from Multi-Family (R-2) to Single-Family (R1-PAD) with a Planned Area Development to establish development standards and a Development Plan Review for fifteen new two-story townhomes on 1.09 acres, for **4TH STREET WEST (PL140205)**, located at 1301 West Fourth Street. The applicant is Tom Gosciski, TPG Holdings.

Diana Kaminski presented the project by reviewing the details, location and changes that would result from approval of the request.

With no questions of staff, the Commission called the applicant up to the podium.

Tom Gosciski presented his proposal by reviewing the building elevations and the parking arrangements.

Commissioner Barger asked the applicant how he would compare this project to his previous project in Tempe. Mr. Gosciski replied that there would be less glass, less brick, but similar quality, and that this project would be 3 stories instead of 2. Commissioner Barger asked why the reduction in glazing, to which Mr. Gosciski replied that it came down to cost in the type of windows used, and that other elements would make up for the fewer large windows throughout the project.

Commissioner Spears expressed that she did not like the look of the project as it was very institutional looking.

Chair Webb asked if the cost of glazing would offset the profit that much. Mr. Gosciski explained that it could, and that there was glass in other areas that were not revealed in the elevations he had presented. He then explained where additional windows would be, providing light to come into units, and allow for views from within. He pointed out that windows were clustered at corners to create a larger panoramic affect inside.

With no one from the public wishing to speak on the case, the Commission discussed it amongst themselves.

Commissioner Barger expressed that he likes other project he has seen from Mr. Gosciski, and would like to see such expanded to streets that need improvement. Commissioner Barger noted that this project could be the first step in that direction, and suggested the Commission grant some leeway to the design, as it is the first one that may lead the rest of the area to follow in improvement.

Commissioner Spears reiterated that she did not like the design, it looked like an apartment, not a single family owner occupied product.

Commissioner Tinsley expressed understanding of Commissioner Spears' concern, but also agreed with Commissioner Barger's approach. Diana Kaminski asked for direction on which colors the Commission wanted to modify. Commissioner Tinsley deferred to staff to work with the applicant. Chair Webb and others recommended removal of the yellow tones, for a richer earth tone palette.

Commissioner Tinsley moved for approval, with an additional condition to work with staff to modify the yellow colors in the palette, this was seconded by Commissioner Lyon. The motion passed with a vote of 6-1, with Commissioner Spears in the dissent.

Ryan Levesque then formally introduced Larry Tom as the new Principal Planner that would be working on cases going before the DRC.

The meeting was adjourned at 8:25 p.m.

Prepared by: Steve Nagy, Administrative Assistant II

Reviewed by: Diana Kaminski, Senior Planner



Diana Kaminski, Senior Planner