
MINUTES OF THE DEVELOPMENT REVIEW COMMISSION January 13, 2015

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
Paul Kent, Vice Chair
Peggy Tinsley
Trevor Barger
Angie Thornton
Linda Spears
Ron Collett

Commission Absent:

Dan Killoren, alt.
Jerry Langston, alt.
David Lyon, alt.

City Staff Present:

Ryan Levesque, Deputy Director
Larry Tom, Principal Planner
Karen Stovall, Senior Planner
Steve Nagy, Administrative Assistant II

Chair Webb called the meeting to order at 6:00 p.m., introducing the Commission and City staff. It had been determined in the Study Session that the minutes from the 12/09/2014 Development Review Commission meeting, with changes could be placed on the consent agenda. Items #2, and #4 would be heard and item #3 had been moved to the January 27, 2015 Development Review Commission.

CONSENT AGENDA

1. CONSIDERATION OF MEETING MINUTES: 12/09/2014

Commissioner Thornton moved to approve both the Study Session and Regular Meeting Minutes from the December 12, 2014 meetings. The motion was seconded by Commissioner Collett, and passed with a vote of 6-0, with Vice-Chair Kent abstaining due to absence from that hearing.

REGULAR AGENDA

2. Request for Development Plan Review consisting of a new restaurant building for **TILTED KILT (PL140358)**, located at 1617 WEST WARNER ROAD. The applicant is Zaid Al-Mawsawi, Big Red Rooster Architecture.

Karen Stovall presented by reviewing the location, zoning and orientation of the property. Ms. Stovall also reviewed that the existing Use Permit for live entertainment is still be in effect for the new project. She continued by going over the site plan, landscape plan, and the elevations, the east side of which had had windows added by condition to break up the solid wall.

With no questions of staff, Chair Webb called up the applicant.

Zaid Al-Mawsawi, Phoenix, approached the podium. Vice-Chair Kent asked about access through the adjacent dirt lot, which Mr. Al-Mawsawi explained will have an access road along the north edge of the property and a concrete curb bordering the drive aisle to prevent cars from driving across the undeveloped portion of the lot.

Chair Webb asked the applicant why the project changed from 2-stories to 1-story. Mr. Mawsawi replied to a achieve the look of a pub over an office building. The owner intends to develop the office building on the west portion of the property in the near future.

Chair Webb then opened the Hearing to public comment of which there was none.

Commissioner Collett then moved to approve the project, which was seconded by Vice-Chair Kent and the motion passed with a vote of 7-0.

4. Request for an Appeal of the decision by the Hearing Officer to approve Use Permit ZUP14119 to allow the use of trucks in excess of five (5) ton capacity before 6:00 a.m. or after 10:00 p.m. for **DISCOVERY BUSINESS CAMPUS – DEVELOPMENT SITE 6 (PL140127)**, located at 7195 SOUTH SHUTTERFLY WAY. The appellant is Sherida Sowell.

Karen Stovall presented the appeal of the Hearing Officer decision. She reviewed the location of the site, the user that would be occupying the site and the Hearing Officer materials that were included in the packet the Commission had received.

With no questions of the staff, Chair Webb called up the appellant.

Sherida Sowell, Tempe, presented letters of opposition of the Use Permit to the staff on behalf of the surrounding neighboring communities, basing the said opposition on the noise that would be caused as a result of the Use Permit being issued. The applicant stated that she knows the use would be noisy; otherwise a Use Permit would not be required. She also stated that she understands the benefits of having the development, but also believes that healthy sleep patterns are important, and that the use would prevent such from being possible. Ms. Sowell went on to present the original site plans for Discovery Business Campus that had been presented to the neighborhoods, and pointed out the differences in the new plans. Finally, Ms. Sowell presented how the proposed use did not meet the Use Permit criteria.

Commissioner Collett asked the Appellant how long she had resided in her neighborhood. The Appellant responded she has lived there for 19 years. He then asked the Appellant what businesses had been on the site previously, to which Ms. Sowell replied, Motorola and Freescale.

Vice Chair Kent clarified that the warehouse where "truck bay" operations would take place would be enclosed, which Ms. Sowell confirmed. He then asked Ms. Sowell which aspect her biggest concern was, to which Ms. Sowell responded that the whole Use Permit was a concern to her.

Commissioner Thornton asked the Appellant if additional trees and truck access restriction signs would suffice in easing the Appellant's concern. The Appellant confirmed those would be steps in the right direction, as well as extending the height of the wall along the truck bay from 16 feet to 32 feet.

Commissioner Spears asked staff if there was a log of noise complaints that the city has received from other residents that lived close to General Industrial Zoning Districts. She also mentioned that she believed that staff tends to do a good job ensuring proper steps in noise mitigation are taken. Staff could not recall any logs of noise complaints received from residents that reside within GID District vicinities.

Commissioner Barger asked Ms. Sowell how long the west side of the site had been undeveloped. Ms. Sowell responded that it had been that way for as long as she could remember. Commissioner Barger then asked staff if there had been delivery truck restrictions for Motorola, to which staff replied there had not been. Commissioner Barger then asked if the noise from delivery trucks would lower home values, what effect does the freeway noise have on home values, being in such close proximity. Ms. Sowell stated that she was unsure, but she was willing to live with that as it was a trade-off for her having easy freeway access. Commissioner Barger stated the importance of such tradeoffs being calculated.

Chair Webb asked the Appellant what she believed lowered property values the most, power lines, freeways noise, or delivery truck noise. Ms. Sowell stated that she was not sure.

With no other questions of the Appellant, Chair Webb called up the Use Permit Applicant.

Lindsay Schube, Phoenix, introduced the team working on the project from Shutterfly, and Gammage & Burnham. She then proceeded to give a presentation on the site plan and landscaping and the 16' and 8' high walls that will be installed to help with delivery truck noise mitigation. Ms. Schube also indicated that they would be willing to install signage restricting truck access to the north loop road. They have not conducted a noise study, as the parameters are not in place, but a condition requires that they return in February of 2016 for a review.

The Commission then asked and discussed logistical issues that may produce disruptive noise to the surrounding neighborhoods with the applicant. The applicant explained that as factors outside of their control could delay deliveries, they needed to be able to accept shipments and send out deliveries on an as needed basis, which could at times happen overnight.

Chair Webb then opened the Hearing to public comment.

1. Sid Frede, Tempe, representing Camelot Village, expressed support of the appeal and that Shutterfly should be able to figure out their logistics to avoid overnight deliveries.

Commissioner Barger asked if the residents or the neighborhood board were opposed to the Use Permit, Mr. Frede clarified that he only spoke for the board. Chair Webb had Mr. Frede also clarify that the closest home in Camelot Village was approximately 500' from the site.

2. Debbie Overton, Tempe, expressed opposition to the Use Permit that would allow overnight deliveries.

Commissioner Barger asked if there were any circumstance that overnight deliveries would be acceptable. Ms. Overton replied that she simply did not want her sleep disrupted from overnight deliveries.

3. Timothy Overton, Tempe, expressed opposition to the Use Permit because noise and nuisance from overnight deliveries falls outside of normal use for GID.
4. Wade Carter, Tempe, expressed opposition to Use Permit because of noise and nuisance from overnight deliveries.

Chair Webb asked Mr. Carter if he thought that since he was in the area first, no one should occupy the site. Mr. Carter replied that he thinks a possible occupant should better assess if a site is well-suited to their needs. Chair Webb then asked if Mr. Carter was aware of the zoning of the site when he purchased a home in the area. Mr. Carter stated that he wasn't.

Chair Webb then called the applicant back up.

The applicant reiterated their logistics needed to accommodate variables outside of their control that could cause delays to meet the delivery expectations that customers pay for.

Chair Webb then asked for the applicant to clarify the landscape plan and show where the trees would be placed. Manjula Vaz, Phoenix, approached the podium to explain that trees would be put in at the end of construction in order to avoid damage to them during construction. Chair Webb then inquired about modeling a noise study, which the applicant explained it would be difficult to replicate accurately.

Commissioner Barger clarified how many trucks per night the Use Permit would allow. The applicant explained that 8 trucks per night would be a worst case scenario, and that they would like to have the Use Permit in place before a

problem should arise.

Vice Chair Kent asked if the 16' sound wall was solid, which the applicant confirmed it would be.

Rob Lane, Phoenix, clarified that the north 8' wall currently has opening to allow emergency vehicle access during construction, but those would be closed upon completion of the construction.

Vice Chair Kent and Commissioner Thornton discussed potential decibel levels, and how decibels reduce over distance. They also asked staff what the decibel limits were for GID between the times the Use Permit would apply to. Staff responded that the decibel limit at night was 60.

Commissioner Barger clarified the need for the Use Permit in the specific application. Karen Stovall clarified that the Use Permit is required due to the General Industrial Overlay District, which is triggered when a GID zoned property is adjacent to a single-family land use. Ryan Levesque continued that the overlay was adopted by City Council in the 1990's.

The Commission then discussed the project amongst themselves.

Commissioner Barger expressed that he could appreciate the work done by the applicant to help mitigate potential noise, and that sometimes a little extra noise needs to be allowed in order to allow companies that are beneficial to the City to operate. He then urged Shutterfly to continue to be a good neighbor, and expressed appreciation that Shutterfly was asking for permission, rather than forgiveness later. Commission Collett expressed that he appreciates the situation; however he believes that the wall, the distance, landscaping, and review in February 2016 have convinced him to be in favor of the Use Permit. Commissioner Spears expressed that she thought the review time table to be reasonable, and urged residents to notify Tempe and Shutterfly of any noise complaints. Commissioner Tinsley agreed with the other comments made by the Commission and added a stipulation restricting truck access to the north loop road. Commissioner Thornton expressed that she had seen many instances where people believe problems will arise and they never do. This made her inclined to give Shutterfly a chance. Commissioner Webb acknowledged that the Use Permit is not a permanent thing, and that he understands the concern of the neighbors. Vice Chair Kent agreed with the Commission and expressed appreciation for the noise mitigation efforts that had been put forth by Shutterfly.

Commissioner Barger clarified the procedure of adding the stipulation added by Commissioner Tinsley. Ryan Levesque replied that they would be able to do so upon denial of the appeal.

Commissioner Tinsley moved to deny the appeal, with the addition of a stipulation prohibiting delivery truck access on the north loop road. The motion was seconded by Commissioner Barger and passed with a vote of 7-0.

The meeting was adjourned at 8:00 p.m.

Prepared by: Steve Nagy, Administrative Assistant II
Reviewed by: Larry Tom, Principal Planner



Larry Tom, Principal Planner