

Minutes of the Development Review Commission September 27, 2016

Minutes of the regular hearing of the Development Review Commission, of the City of Tempe, was held in Council Chambers, 31 East Fifth Street, Tempe, Arizona

Present:

Chair Linda Spears
Vice Chair David Lyon
Commissioner Thomas Brown
Commissioner Angela Thornton
Commissioner Scott Summers
Commissioner Philip Amorosi
Commissioner Andrew Johnson

City Staff Present:

Ryan Levesque, Com Dev Deputy Director - Planning
Suparna Dasgupta, Principal Planner
Diana Kaminski, Senior Planner
Karen Stovall, Senior Planner
Cynthia Jarrad, Admin. Assistant

Absent:

Alternate Commissioner Barbara Lloyd
Alternate Commissioner Nicholas Labadie
Alternate Commissioner Gerald Langston

Hearing convened at 6:03 p.m. and was called to order by Chair Linda Spears.

Consideration of Meeting Minutes:

- 1) Study Session August 9, 2016
- 2) Regular Meeting August 9, 2016

MOTION: Motion made by Commissioner Amorosi to approve Study Session minutes for August 9, 2016 and seconded by Commissioner Brown.

Vote: Motion passes 6-0

MOTION: Motion made by Commissioner Amorosi to approve Regular Meeting Minutes for August 9, 2016 and seconded by Commissioner Johnson.

VOTE: Motion passes 6-0

The following items were considered for Public Hearing:

- 3) Request for a Development Plan Review consisting of a new three-story, four unit multi-family development, a Use Permit Standard to increase the maximum allowed building height from 30 feet to 35 feet and to increase the maximum allowed lot coverage from 35% to 41% for 1878 TEMPE (PL160210), located at 1878 East Southern Avenue. The applicant is Evon Delphi LLC.

PRESENTATION BY STAFF:

Obenia Kingsby, Planner I, gave a presentation about the project. This will be a multi-family use condominium project. The development consists of four three-story condo units, each unit with four bedrooms and a four-car garage. Staff recommends approval of the project subject to conditions. The project meets the development requirements under the Zoning & Development Code, as well as the requirements for both Use Permit Standards and the Development Plan Review (DPR). A neighborhood meeting was not required for this project. The attachments before the Commission tonight include email communications from two nearby residents with concerns about the project. The site is within the Alameda Character Area Plan, which encourages diversity, opportunities for aging in

place, demonstration of appropriate transitions between existing neighborhoods and new developments, and improved walkability. This development will comply with many of these Character Area Principles.

Commissioner Sumners asked if the trees proposed in the back of the project, facing the alley and the neighbors behind are required to be a specific size and type of trees under DPR Landscape conditions of approval, since this may alleviate some of the neighbors concern. Mr. Kingsby replied that adjacent to an alley in a residential area, the City requires a six foot wide landscape buffer, with a tree every twenty feet, but we don't have a regulation for a specific size or type of tree. A stipulation can be added to the project concerning the trees if desired.

Commissioner Brown stated that the Site Plan conditions call for an 8 foot high screen wall around mechanical equipment. Eight feet seems high to him. Mr. Kingsby replied that that height would not apply to this project; the stipulation can actually be taken out.

PRESENTATION BY APPLICANT:

Mr. Kueyson Yee of Evon Delphi LLC gave a presentation on the project. He explained that the location is in a parcel which will be infill. One of the developer's goals is sustainable and modern architecture, and each unit will be 4 bedrooms, 4 baths, with a 4 car garage. Key project objectives were to stay true to the Alameda Character Area plan and the concept of aging in place. The project will be a multi-generational space, in which extended families could live for long periods of time. Another goal was a net zero energy consumption building. In compliance with the barrier free access concept in the Character Area, there will be private elevators to each residence, ADA compliant door levers, hardware, power controlled blinds etc. In regards to the net zero energy consumption strategy, the project will utilize solar power, high efficiency appliances, energy saving doors and windows, etc., as well as CLT cross-laminated timber panels. They are looking for a 6% deviation in increased lot coverage; this will allow them to enhance their design layout. Along with asking for this deviation, they are "giving back" by planning more than the minimum 30% landscape coverage, putting in 40% instead. They are requesting the additional five feet in building height because of the shaft size required for the interior elevators. The increased building height also affects the way the timbers are cut, and allows for less waste on this product, which is in keeping with their sustainability concept.

Commissioner Brown stated that he likes many of the details within the project, but the one thing he doesn't like is a three-story structure next to single family homes on the north side. He asked to see a section view to see a profile of the back, and what would be visible from the balconies of the project or from the homes. Mr. Yee and Mr. Kingsby looked to see if they had that type of drawing.

Commissioner Amorosi asked if the applicant had reached out to the neighbors living behind where this project would be, to see if they would like additional landscaping and/or higher walls to block some of the view. Mr. Yee said he was aware of some correspondence, but deferred to Mr. Kingsby. Mr. Kingsby stated that the neighbor that had been involved in conversation previously objected to the alley access, but he is unsure if the applicant has offered to do anything about adding trees or fence height for additional privacy.

Mr. Kingsby and Mr. Yee put the cross-section drawing up on the screen, which Commissioner Brown had requested.

Commissioner Thornton asked how many feet it is from the back of the proposed project to the fence, and then from the fence across the alley. Mr. Yee responded that the alley is sixteen feet, and it should be about 32 feet from the alley to their building.

Chair Spears asked that since the project is accessible in nature, are they also doing oversized hallways and doorways, or is it just the hardware features? Mr. Yee responded that hallways and doorways are oversized as well.

Chair Spears asked the price point for these units. Mr. Yee responded \$600-\$700,000.

Commissioner Johnson inquired about the footprint for the garage being for 2 cars, is there some type of mechanism? Mr. Yee responded that the lift feature moves the 2 cars subterranean, and then you drive the other 2 cars in.

Commissioner Sumners inquired about the size of the trees along the rear setback. Mr. Yee stated that the tree box size will be 36 x 36, for 65 to 100 gallon trees.

Commissioner Lyon inquired if they might be pricing themselves out of the neighborhood. Mr. Yee stated that they had discussed this at length, and this type of product basically doesn't exist at this point. When you "comparison shop," it is not out of sync with other homes that are sold for \$500,000. Also, with the multi-generational approach, most residents would be families who would be cost-sharing.

PUBLIC COMMENT:

Mark Beckwith, of 3208 S. Holbrook Lane, Tempe. He stated his concern that there is no alley ingress or egress, and there will be too much congestion on Southern, especially during morning and evening rush hours. He understands that neighbors would not want the alley used as an entrance or exit. He says the report and the presentation stated there would be no increase in vehicular traffic, but with sixteen extra cars in and out of this area, there will be. He was also concerned with 4-car garages, as this is not common within the neighborhood; very few homes have even a 3-car garage. He stated that he believes this could easily become a place for college students as well, which is not desirable. He also has issue with the shade trees planned, as they won't be mature and able to be used for screening at the back of the property for thirty years.

Gregory Katsaros stated he is a resident of Chandler, but that he owns the property at 1858 E. Southern, which is immediately adjacent to the west of the proposed project. He and his wife think the project is beautiful, but a three story building in the area of one story single family homes presents a privacy problem. He also is opposed to the request for additional lot coverage. The wall on the east side of his property leaves about 6" to the property line. If they utilize this space, he thinks the calculations might be bumped up to 42% rather than 41%. He also believes this building does not "fit" in the area, and is concerned about the construction, construction dust, etc. and how long construction will take. Four bedroom units lends itself to the possibility of a lot more than 16 people living there, so he is concerned about the high density.

Eric Stout of 1875 E. Geneva in Tempe. His home is about three houses north of this project. He is concerned about the construction impact and also that there are only about four owner-occupied homes in the area at this time, with the rest being rental properties. They already have a fraternity grouping across the street with many parties, and he is afraid this project might be similar. The homes directly behind this project would not be the only homes affected with a new three-story building so close, in terms of privacy. A large building like this will be clearly visible by many in the neighborhood, and the residents on the balconies will have a clear view of the entire neighborhood as well.

Commissioner Thornton asked Mr. Stout if he was aware of the balconies on the north side of this project, on levels two and three, and if he was concerned about privacy. He stated that he was not aware and had not seen plans until this evening. He stated that he was not as concerned about the second floor balconies because of the tree screening, but more about the third floor balconies.

APPLICANT RESPONSE:

Mr. Yee stated that they are in favor of making adjustments as needed, in response to the comments heard this evening. He disagrees that this project does not "fit" the community, as, even though most buildings there were constructed in the mid-eighties, they like the more modern design and feel it would help to progress the community. He stated that college students aren't typically in units that are very high-end, such as these will be; it's just not feasible for most students. He also stated that their construction timeframe would be 3-6 months per house, and if they can start all four residences concurrently, they could be finished in about 6 months.

Commissioner Amorosi asked the applicant what types of trees are planned for the third floor balcony. Mr. Yee stated that he was unsure of the species, but there would be at least 25 large trees. They plan for trees that have 3-4 feet of growth per year so they will grow quickly. Commissioner Amorosi asked if they had considered using frosted panels on the third floor balconies to help with privacy for the existing neighbors. Mr. Yee said that they liked the idea and would consider doing so.

DISCUSSION BY THE COMMISSION:

Commissioner Thornton stated that she's driven by the site, she knows the area, and the project architecture is beautiful and the attention to detail is commendable. She doesn't think it "fits" in the neighborhood and is concerned about the privacy issues. She was sorry to hear that the owners of the rental properties there seem to have not been present or heard from. Since she has these concerns, she will not support the project.

Commissioner Sumners stated that he's been to the site, with the drawings presented tonight, balconies will be about 40-50 feet away from the neighboring properties. There are only two properties directly affected, one has an inordinate amount of vegetation and privacy won't be a problem, and we have not heard from the other property owner. He appreciates the step down aspect in the back because of the neighborhood, appreciates the quality of the project. He is a bit concerned about the access on to Southern, but he will be supporting the project.

Commissioner Brown appreciated the architecture and the project, saying the effort and enthusiasm was very admirable. However, he is concerned about the three stories on the north side of the project. The possibility of the screening, etc., would be something he would encourage. He is not concerned about the proximity to commercial areas nor about access from Southern. Buyers will be aware of these issues and make a decision. He won't be supporting because of his concerns.

Commissioner Johnson commented that he appreciates the efficiency components of the project, and he believes the step-down height adjacent to the alley is a good step toward alleviating privacy concerns. He agrees with Commissioner Sumners about the trees on the north side by the alleyway, and stated perhaps a stipulation could be made as to size of those trees. He does not have a problem with the increase in the lot coverage, he thinks it is not excessive. He doesn't feel that the project necessarily "fits" in the neighborhood either, but that will not keep him from supporting the project.

Commissioner Amorosi stated that he likes the sustainability of the project, and hopes they will address the privacy concerns with some panels on the balconies. He thinks it is a forward looking project, that the applicant is definitely taking a risk, but looking to the future, since Southern is a main thoroughfare, there will probably be more density coming in future projects. He will be in support.

Vice Chair Lyon commented that it is a wonderful project, he is not concerned about privacy at all, based on his personal experience. He commends the applicant for the beautiful work, he will be supporting.

Chair Spears stated that although this is a great looking project, it is totally inappropriate and she wishes they would build it somewhere else. There's no residential on the north side of Southern Avenue from McClintock to Price and she doesn't think there will ever be. She does not think it is appropriate use of the property, and she does not support the Use Permits for increased lot coverage and building height. She will not be supporting.

MOTION: Commissioner Sumners moved to approve a new three-story, four unit multi-family development, a Use Permit Standard to increase the maximum allowed building height from 30 feet to 35 feet and to increase the maximum allowed lot coverage from 35% to 41% for **1878 TEMPE (PL160210)**, with one modification to the conditions. That is to apply the 36" box specimens and a minimum 1-1/2" caliper trunk requirement to the trees at the rear of the property (the alleyway). Motion seconded by Vice Chair Lyon.

VOTE: Motion passes 4-3, Commissioners Brown, Thornton, and Spears in the opposition.

- 4) Request for a Zoning Map Amendment from GID (TOD) to GID and a Use Permit to allow vehicle sales for **DANARI TEMPE LLC (PL160239)** located at 1401 South Siesta Lane. The applicant is Lewis Roca Rothgerber & Christie.

PRESENTATION BY STAFF:

Lee Jimenez, Senior Planner, gave a presentation about the project. The existing 25,592 square foot office/warehouse building located on the property was constructed in 1997 and has been used for permitted office/warehouse uses ever since. The property owner, Danari Tempe LLC, has leased the property to JSL Enterprises, Inc. to use for the storage, warehousing, distribution, wholesaling, and ancillary retail sales of vehicles. The use occupancy of this site has remained office/warehouse since 1997. Vehicle sales/rental is specifically identified within the General Industrial District (GID) as requiring a use permit which is not considered a legal non-conforming use, and is prohibited within the Transportation Overlay District (TOD). This property is projected as "industrial" on the General Plan 2040, and is the only GID zoned lot south of Wildermuth Avenue and east of River Drive that is prohibited from uses requested by the applicant because of the TOD designation. The applicant held a neighborhood meeting on August 17, 2016, with one member of the public in attendance. One email in support and one in opposition has been received, they were provided to the Commission this evening during the Study Session. Staff believes that both applications meet all the approval criteria for the Zoning Map Amendment and the Use Permit, and supports both requests.

Commissioner Johnson inquired about the opposition email in the packet, and the writer's concern that approving this request would make it more difficult for this property to be developed in the future. He inquired if staff agreed with that and could explain.

Suparna Dasgupta, Principal Planner, responded that if the property was to be redeveloped in the future, it would have the option of opting back into the TOD overlay zoning, so that does not prevent a redevelopment project from taking advantage of the TOD zoning in the future.

Commissioner Brown asked if there were tax savings consequences for the business if they are removed from the TOD.

Ms. Dasgupta responded that she was not 100% sure, but believes the tax is based not on the overlay district, but on the underlying district, which remains GID. Commissioner Brown asked if it is just based on appraised value. Ms. Dasgupta replied that the assessment and valuation is done by the Maricopa County Assessor's office so she is unable to respond to the question.

Chair Spears asked for clarification that if she understood it correctly the property is in a GID zone with a TOD overlay, then auto sales is not allowed but a property with GID zoning without the overlay still requires a use permit for auto sales. Mr. Jimenez affirmed that both those statements were correct.

PRESENTATION BY APPLICANT:

Mr. Michael Phelan of Lewis Roca Rothgerber & Christie LLP gave a presentation. He thanked staff for all of their assistance, and informed the commissioners that they are presenting tonight with the support of staff. He stated that the proposed area for this project has been developed since 1982, the current building was built in 1997. The reason the applicant is before the Commission tonight is because of the two-tiered request concerning the change of zoning and for the use permit for auto sales. The applicant desires in compliance with City codes, truthfully this property being in the TOD overlay was something they were unaware of. The nature of their business, being in the TOD overlay, and not having a use permit for auto sales, would put them into non-compliance. Therefore they come before the Commission this evening with these requests. They have conducted the required neighborhood meeting, there was only one person in attendance that evening. His concerns have been addressed, and he is now in support of the request. Mr. Phelan explained that in the owner's opinion, the TOD creates a cloud over the marketability of the property. The existing GID requires a use permit for vehicle sales and the TOD overlay actually prohibits the uses that are allowed under the GID, so they are left with trying to comply with conflicting laws. The applicants are supportive of the TOD, and will encourage their employees to utilize light rail, it is the technical restrictions of the

TOD that they are opposed to. This property “barely touches” the TOD overlay, and this puts them at a disadvantage in comparison to neighboring businesses, as they are subject to many more restrictions. In the request for the use permit, he pointed out that the vehicle sales will be carried out in a very specific way, through internet sales. American Leasing and Sales already does this in the City of Tempe, and has been doing so for nine years, at the current location on University. There is no vehicle inventory outside the building. This use will not be detrimental to the neighborhood in any way. There would be many benefits of this approval, it would bring new investment to the area, improve the property, bring eyes and ears to oversee and protect the neighborhood, and generate sales taxes for the City on the retail sales. The benefits of this project far outweigh anything that would be considered as detrimental.

DISCUSSION BY THE COMMISSION:

Commissioner Sumners inquired as to the details of what happens at this business, how the vehicle sales actually take place.

Mr. Jim Lichty, the Lessee of the property, explained how the internet sales take place and how the vehicles are delivered to the site, and then picked up when purchased. He stated that the process is so quiet that they had a neighbor at the University location that did not know they did vehicle sales until six years after they had been there. Also, they had looked to expand at their present location but it was not feasible because of construction and structural issues in that building.

Commissioner Amorosi said he had looked at the American Leasing and Sales website and it is advertised on the website that they are moving. He was surprised, as he was unaware that this was a “done deal.” He then questioned the delivery of the vehicles by 18-wheelers, and where those would park, if they had room to turn, how many per day, etc. Mr. Lichty explained that it would be like any other large delivery truck; they would come down Wildermuth and onto Siesta to curve onto Cedar St. As they load and unload, there is plenty of room on the property to do so. Commissioner Amorosi then asked what entity would track the 15% ancillary sales number, how the City would be certain they are abiding by that number. Mr. Lichty said that they could certainly look at his records of the last 9 years of sales, and preponderance of the 100 to 125 vehicles sold per month never even come to their warehouse, but rather go from a pick up to a drop off point.

Ms. Dasgupta clarified to the Commission that the 15% requirement applies to the square footage of the total space that can be utilized for retail sale, and not to the number of vehicles sold as part of this operation.

Chair Spears asked if they provide vehicle financing within their operation. Mr. Lichty said there are no auto loans taking place at all.

Mr. Phelan reiterated that there is no inventory sitting outside in this type of operation, no huge balloons, fliers, anything of that type.

PUBLIC COMMENT: None.

COMMENTS BY THE COMMISSION:

Commissioner Amorosi stated that the point of creating the TOD was to transition the old Apache Blvd into a more pedestrian-friendly area. Although this is taking longer than expected, Eastline Village and other projects have been approved, along with some properties having been vacated. This means there is opportunity there for more residential / mixed use business along the light rail line. There are currently a dozen auto uses that have been grandfathered in from the old Apache Blvd. He disagrees with the applicant saying that this is the only use available, as under the GID permitted land uses, even with the TOD designation, this property could be a medical center, a computer center, charter school, general offices, etc. There is no need to add another auto sales establishment and take away the TOD overlay. He will not support it, as he feels it perpetuates the thought that Apache Blvd is for auto sales and not for other uses.

MOTION: Commissioner Thornton moved to approve a Zoning Map Amendment from GID (TOD) to GID and a Use Permit to allow vehicle sales for **DANARI TEMPE LLC (PL160239)** located at 1401 South Siesta Lane. Motion seconded by Commissioner Lyon.

VOTE: Motion passes 6-1, with Commissioner Amorosi in the opposition.

STAFF ANNOUNCEMENTS: None.

There being no further business, the meeting adjourned at 7:38 pm.

Prepared by: Cynthia Jarrad



Reviewed by:
Suparna Dasgupta, Principal Planner, Community Development Planning