

Minutes of the Development Review Commission October 11, 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 Philip Amorosi
Commissioner Andrew Johnson
Alternate Commissioner Nicholas Labadie

City Staff Present:

Ryan Levesque, Com Dev Deputy Director - Planning
Jeff Tamulevich, Interim Community Development Director
Karen Stovall, Senior Planner
Cynthia Jarrad, Admin. Assistant

Absent:

Commissioner Scott Sumners
Commissioner Angela Thornton
Alternate Commissioner Barbara Lloyd
Alternate Commissioner Gerald Langston

Hearing convened at 6:00 p.m. and was called to order by Chair Linda Spears.

Consideration of Meeting Minutes:

- 1) Study Session August 23, 2016
- 2) Regular Meeting August 23, 2016

MOTION: Motion made by Commissioner Amorosi to approve Study Session minutes for August 23, 2016 and seconded by Vice Chair Lyon.

VOTE: Motion passes 6-0

MOTION: Motion made by Vice Chair Lyon to approve Regular Meeting Minutes for August 23, 2016 and seconded by Commissioner Amorosi.

VOTE: Motion passes 4-0

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

- 3) Request for a Development Plan Review consisting of a new retail store for **GUITAR CENTER AT EMERALD CENTER (PL160300)**, located at 8550 South Emerald Drive. The applicant is Bret Ryan, LGE Design Group.

MOTION: Motion made by Vice Chair Lyon to approve a new retail store for GUITAR CENTER AT EMERALD CENTER (PL160300), located at 8550 South Emerald Drive. Motion seconded by Commissioner Amorosi.

VOTE: Motion passes 6-0

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

- 4) Request for a Use Permit Standard to increase the maximum building height from 50 feet to 60 feet and a Development Plan Review to add two parking levels to an existing four-level parking structure for **US AIRWAYS GARAGE EXPANSION (PL160320)**, located at 201 South Ash Avenue. The applicant is Huellmantel & Affiliates.

PRESENTATION BY STAFF:

Ms. Karen Stovall, Senior Planner, gave a brief presentation. This evening's request is to add two additional parking levels to the existing four-story parking garage. The parking spaces inside the garage would increase to 2,070 from the current 1,770. No other modifications to the site are being proposed. There are no landscape plans included, as there were no modifications requested regarding landscaping. However, staff has included a condition to replace some of the missing trees along Ash Avenue. The new addition to the garage will be constructed of steel, but will be finished with concrete and brick veneer, matching the existing structure. A neighborhood meeting was not required for this project; staff is recommending approval subject to the conditions listed in the report.

PRESENTATION BY APPLICANT:

Mr. Charles Huellmantel of Huellmantel & Affiliates gave a presentation. The garage currently is shared by three entities: American Airlines, the Gateway Building at 3rd and Mill, and the City of Tempe. The applicant is seeking to add two levels (299 parking spaces) to the garage. The current tenant, American Airlines, is now moving out of Tempe, and the new tenant is interested in utilizing the whole building. He presented slides indicating exactly where the expansion would take place and emphasized that they have made sure that all materials match, and therefore the addition would be consistent with the existing building.

PUBLIC COMMENT:

Mr. Greg Swick of 154 W. 5th Street in Tempe, #101, lives directly across 3rd Street from the parking garage. He stated that his concerns about this project are quality of life issues. First, this addition will take away the view of the sky that he currently enjoys. Second, the cleaning in the garage is done every Sunday morning, so he and his family listen to a vacuum cleaner for about 4 hours every Sunday, beginning at 8 am. He also stated that he is astounded the City would approve this project when the City is pushing for less parking and more use of public transportation. He stated that this site will have public transportation all the way around it, as light rail is currently on the south side, there will be a streetcar going up Mill Ave on the east, west on Rio Salado, and south on Ash Street. Therefore, why is staff approving this project?

APPLICANT RESPONSE:

Mr. Huellmantel responded by stating that American Airlines leaving Tempe was a large impact on the area. There are currently 600-700 employees in the building, and the new tenant is a Fortune 500 company bringing 1500 employees. Many of those employees will be using public transportation. He stated the tenant will not sign the lease if there is not a garage expansion. He reiterated that it is a tasteful design; they are matching the existing façade as well as making additional improvements. Concerning cleaning being done on Sunday mornings, he did not feel that is a DPR issue. However, since on Sunday mornings they share access to the garage with the City, he would be happy to look into what they could do to change things to mitigate Mr. Swick's experience, yet still keep the garage clean. As to "blocking the sky view," that is simply part of living in the downtown area of any city. There is ongoing change, and these types of things happen. He stated he was happy to meet with Mr. Swick after the meeting to speak with him, and asked if the Commission had any more questions.

Commissioner Brown asked if the applicant had section drawings to see what "amount of sky" would be cut off by this addition. While the applicant looked for the drawing, he asked if indeed the office building to the north of the project was already taller than the garage, then perhaps this wouldn't be taking away blue sky at all. Mr. Huellmantel agreed that this is the case. Commissioner Brown then asked for clarification on the "cleaning" issue, who is cleaning this garage on Sunday mornings? Mr. Huellmantel responded that they have control of the garage during the weekdays,

and the City has control on evenings and weekends. He knows they share the expense of cleaning and assumes it is contracted to a third party. He reiterated that he cannot say at this moment what the solution will be, but that he will be in communication with the City to work out an alternative on the cleaning issue, so it is less obtrusive to the neighbors.

Mr. Huellmantel then produced the section drawings that had been requested, and spoke with Commissioner Brown briefly about them, affirming that the office building to the north is actually higher than what the garage will be with the new addition. The addition to the garage is on the north side of the building as well, so it should not affect the "sky" view of the neighbors.

COMMISSION COMMENTS:

Commissioner Labadie reiterated to the neighbor that based on the last part of the discussion, his view should not be affected any more than it already is.

MOTION: Motion made by Vice Chair Lyon to approve a Use Permit Standard to increase the maximum building height from 50 feet to 60 feet and a Development Plan Review to add two parking levels to an existing four-level parking structure for US AIRWAYS GARAGE EXPANSION (PL160320). Motion seconded by Commissioner Johnson.

VOTE: Motion passes 6-0

- 5) Request for a Code Text Amendment for **SIGN CODE REFORM (PL160329)**, consisting of changes within the Zoning & Development Code, Part 4, Chapter 9, Signs. The applicant is the City of Tempe.

PRESENTATION BY STAFF:

Mr. Jeff Tamulevich, Interim Community Development Director, gave a brief presentation, explaining that municipalities across the country will have to re-structure sign codes based on the 2015 Reed vs. Gilbert Supreme Court ruling, which makes it unconstitutional for signs to be regulated based on content. Therefore, the City of Tempe's Zoning & Development Code, Chapter 9, has had to be rewritten. This has been more than a year-long project but has now is before the Commission tonight. Although signs can no longer be regulated on content, they can be regulated on size, location, lighting, zoning, time restrictions, etc. The process involved in re-writing the code included the formation of two working groups, each of which studied the issues and made recommendations. The first study group focused on commercial signs, the second focused on non-commercial and political signs. Stakeholder meetings were also held to gather input and recommendations. The end result of the process is that the City's 49-page ordinance has been reduced to 3 pages. Mr. Tamulevich presented a sampling of the new Table, which will reference each sign type. The new sign code will take some getting used to, but there has been a lot of positive feedback about it already. In conclusion, he stated he would answer any questions.

Commissioner Amorosi inquired about Sign Type N, regarding signs in the right-of-way. The requirement states "no signs are allowed in right-of-way, except as authorized by state law, including 100 days prior to an election and fifteen (15) days after." He lined out the projected dates within the year in which political signs would be allowed if there were a primary and a general election. The way the requirement reads now, Tempe in essence could have signs in the right-of-way all year long, with the exception of about a week. He stated that neighboring cities are not this lenient; they follow the State guidelines of sixty (60) days prior to an election, and 15 days after. If the 100 days is enacted, it would cause considerable blight on our city, and citizens do not want this.

Mr. Tamulevich responded that these were recommendations coming from the Council working group. If this Commission would like to make its own recommendations to Council, staff will take those recommendations back to Council. He stated he agrees with Commissioner Amorosi's numbers, and that there is the possibility that political signs could be up for most of the year.

Chair Spears asked for clarification of who made up the Council working group, whether it was just Council members, or if members of the public were involved. Mr. Tamulevich responded that the group consisted of staff members and two City Council members.

Commissioner Brown asked who were among the stakeholders that were consulted. Mr. Tamulevich responded that the most recent meetings were: one with the Downtown Tempe Association, one with the Chamber of Commerce, and one with Arizona Sign Association. In March of this year, stakeholder meetings took place for the Commercial portion of the Code. These were again with Arizona Sign Association, Downtown Tempe Association, Chamber of Commerce, some additional sign companies and some residents.

Commissioner Brown then stated that he agreed with Commissioner Amorosi's assessment of the political signs being on the landscape for too long, but that he also has issue with forty square foot signs. He fears that too much signage takes away from the visual aspect of the streetscape. He asked the rest of the Commission if any of them felt as he did, in that smaller signs would be fine.

Chair Spears commented that speaking from having served on the City Council, that was one of the most often-heard complaints from the commercial community and also from residents, that one cannot find a business when driving by, that is one of the reasons monument signs have become common and popular. They help clientele find the businesses, and therefore businesses can thrive. It has always been a "hot-button" issue to be able to adequately advertise that your business is there, and she doesn't feel that the signage will be that much bigger under the new ordinance.

Commissioner Brown stated that sign makers benefit from larger signs, and they would have participated in the stakeholders meetings. He believes that if all businesses are on the same playing field, then once their clientele identifies where they are, then it is no longer a problem, and it should not negatively impact those businesses. He then asked about portable signs in the right of way, and what can be done about them, as they seem to have gotten out of hand.

Mr. Tamulevich responded that based on Reed vs. Gilbert, there currently is not an ordinance to enforce. Therefore, City staff puts itself in jeopardy each time it goes out to enforce anything regarding this type of signage. He explained that these signs fall under Sign Type Q, and that under the new ordinance, City staff will have the ability to enforce restrictions on those types of signs, as at that time, they will be illegal.

COMMISSION COMMENTS:

Vice Chair Lyon stated that he was on board with changing the "100 days" to 60 days regarding political signs, but is not on board with the 40 square foot signs being too big, he thinks the requirement is fine as is.

Commissioner Johnson stated that he commends staff for taking this on so quickly after the Reed vs Gilbert ruling. He agrees with Commissioner Amorosi on lead times for political signs before elections being too long.

PUBLIC COMMENT: None.

MOTION: Motion made by Commissioner Amorosi to approve **SIGN CODE REFORM (PL160329)**, with the stipulation to change the timing of political signs in Sign Type N from 100 days to 60 days. Motion seconded by Commissioner Labadie.

VOTE: Motion passes 6-0

MOTION: Motion made by Commissioner Brown to limit the sign size in Sign Type D and F to 24 square feet rather than 40 feet. Motion seconded by Vice Chair Lyon.

VOTE: Motion fails, 5-1, with Commissioners Spears, Lyon, Amorosi, Johnson, Labadie in dissent.

Mr. Ryan Levesque, Community Development Deputy Director – Planning, requested a vote on the remaining element of the Sign Chapter in its entirety. He stated it may have been unclear in the first vote, which included the information regarding changing the timing on political signs.

MOTION: Motion made by Vice Chair Lyon to approve **SIGN CODE REFORM (PL160329)**, with the stipulation to change the timing of political signs in Sign Type N from 100 days to 60 days. Motion seconded by Commissioner Johnson.

VOTE: Motion passes, 5-1. Commissioner Brown in dissent.

STAFF ANNOUNCEMENTS: Mr. Ryan Levesque reviewed the Agenda items for the October 25, 2016 meeting.

There being no further business, the meeting adjourned at 6:55 pm.

Prepared by: Cynthia Jarrad



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