

## Minutes of the Development Review Commission October 25, 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:**

Vice-Chair David Lyon  
Commissioner Thomas Brown  
Commissioner Angela Thornton  
Commissioner Scott Summers  
Commissioner Philip Amorosi  
Alternate Commissioner Barbara Lloyd  
Alternate Commissioner Nicholas Labadie

**City Staff Present:**

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

**Absent:**

Chair Linda Spears  
Commissioner Andrew Johnson  
Alternate Commissioner Gerald Langston

**Hearing convened at 6:00 p.m. and was called to order by Vice-Chair David Lyon.**

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**Consideration of Meeting Minutes:**

- 1) Study Session September 13, 2016
- 2) Regular Meeting September 13, 2016

**MOTION:** Motion made by Commissioner Lloyd to approve Study Session minutes for September 13, 2016 and seconded by Commissioner Summers.

**Vote:** Motion passes 5-0

**MOTION:** Motion made by Commissioner Summers to approve Regular Meeting Minutes for September 13, 2016 and seconded by Commissioner Amorosi.

**VOTE:** Motion passes 4-0

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

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- 3) Request for a Zoning Map Amendment from R-3 to R-4 Multi-family and a Development Plan Review for one new 18- unit apartment building within an existing 69 unit community for **GRANADA LAKES APARTMENTS, (PL160309)**, located at 5701 South Rural Road. The applicant is Arizona Investment & Management.

**PRESENTATION BY STAFF:**

Diana Kaminski, Senior Planner, gave a presentation, reviewing the location, specifics of the rezoning request, etc. The applicant is requesting R-4 zoning, seeking to add a new building housing 18 units. This would allow for 25 dwelling units per acre and 87 units, which is an increase from 20 dwelling units per acre and 69 units. At the east end of the site, off of Southshore Drive, is an existing tennis court and RV parking area. This is the area proposed for the new building. This request would allow for additional height and additional lot coverage. All setbacks would remain the same except for the rear setback. Ms. Kaminski reviewed the landscaping requirements; a condition has

been added by staff requiring landscaping between the existing building at the east end of the property and the new building. The applicant is adding real turf and meeting Tempe's street trees requirements along the street frontages. Ms. Kaminski shared floor plans and elevations, stating that staff has recommended some modifications to the color palette proposed for the project, as it is currently shown as a uniform beige color. The applicant will be adding color at the stairwells so the buildings are not so monochrome, and repairing and refreshing the remainder of the buildings as needed. She stated that there are three letters of support included with the staff report, and there have been no letters or phone calls in opposition.

**PRESENTATION BY APPLICANT:**

Miguel Berastegui of DS3 Architecture, the architect for the project, representing the applicant, gave a presentation. He reviewed the existing site data. The current buildings are surrounded by residential neighborhoods to the east, west, and north, the only neighboring commercial property is to the south. That property includes a synagogue as well as a commercial building. This growth is consistent with the General Plan 2040, and they are in compliance with the Plan for density. The new building will be at the easternmost end of the property, with new parking to the east and a new ingress / egress in that far-east corner as well. The space between the existing and new building will also be landscaped in keeping with the image and feel of the rest of the complex. He reviewed and presented images of the new site data versus the old. The design of the new building will be consistent with the old, and the wood accents and their color will be matched as well, for a uniform look.

Commissioner Sumners asked why they were adding two-bedroom units when the balances of the apartments are all one-bedroom at this site, and is that simply market-driven. Mr. Berastegui answered that it was, two-bedroom units and balconies, specifically, is what the market calls for and what they will be providing.

Commissioner Lloyd inquired whether the applicant intends on painting only the wood and the new pop outs or are they painting everything and if there are plans to update the existing units. Mr. Berastegui replied that the building has been kept in good repair, but they will be patching and painting the existing where needed. There have been internal discussions about re-painting everything but that has not yet been decided. The same applies to the units, they have been updated and kept in good repair over time.

Commissioner Amorosi stated that he was disappointed that they were not planning to paint the entire complex, as the building that fronts Rural Road is the most visible. The new building will not be visible except from Southshore. He also inquired if the existing areas of pavement would be re-paved, or would there only be new pavement at the new building. He stated he has seen the pavement, and it needs re-paving. He referenced the Character Area Plan, in which residents took a year to put the Plan in place. In their plan, they stated they want high design quality and less density. In his thinking, if the City gives the support to go from R-3 to R-4 zoning, meaning higher density, then the applicant should in turn have higher quality standards in accordance with the Character Area Plan, specifically painting the entirety of the buildings and resurfacing the lot, which would add curb appeal. Mr. Berastegui responded that they are looking to update the whole property. He stated that some work has been done to the existing pavement recently and stated that they would take these comments into consideration and make sure that the updates follow through with the new development.

Commissioner Labadie stated that he was pleased to see the letters of support from neighboring properties, that it is unusual to see that with multi-family projects. He inquired about the Ramada area near the tennis courts. He is aware that the tennis courts are being demolished, but is curious as to whether the Ramada would still be used as it is. Mr. Berastegui replied that the community is predominantly senior citizens, and therefore the amenities are more geared toward active adults. Commissioner Labadie stated that if the Ramada is "staying," it looks a bit rough. Mr. Berastegui stated that it would be re-landscaped in keeping with the character of the rest of the property and neighborhood.

Commissioner Labadie asked of staff if there are any Code compliance issues on the property. Ms. Kaminski said that to her knowledge there are no Code violations on the property except for the missing trees, which have already been identified and will be addressed. Lighting will be up to Code on the newer portion of the building and the lighting along the south wall will be brought up to Code as well. Staff is not requiring the existing buildings to be brought up to

today's standards in terms of zoning requirements. Commissioner Labadie said his concern was near the new entrance and the look of that area. Ms. Kaminski responded that all of that area will be changed per the plan.

Commissioner Brown stated that the design is very "vanilla," but his question is whether the Fire Department and City Refuse have looked at this configuration and if they found any issues. Mr. Berastegui responded that through discussions with staff, with Fire, and with Sanitation, it was requested that they modify their dumpster locations for angle, for travel distance, and requirements for recycling versus regular trash. They have done so per requirements, and Fire still has full access as well as Sanitation, without affecting the onsite parking. Commissioner Brown also stated that the wood accents, many years ago, were actual redwood. Over time, they have been painted, and now the applicant plans to add painted wood accents on the new building to match existing. He suggested that since they were to be painted anyway, perhaps something less valuable than true redwood can be used, (such as a resin product.) The applicant agreed that this could be considered.

Vice Chair Lyon stated his appreciation to the applicant for a nice presentation that provided more details and clarity to the proposed project. Mr. Berastegui thanked him. Vice Chair Lyon stated that the balconies may not be very usable with a chair or two on them, because of the door swing. But more importantly he is concerned about the interstitial space between the new building and the existing building to the west. He thinks it looks like a narrow space, and how will it be lighted so as to not bother tenants but yet promote safety. Mr. Berastegui responded that they plan to use pathway lighting that would adequately light the area and it would also give it more of a "park" feel.

**PUBLIC COMMENT:** None.

**COMMENTS AND DISCUSSION BY THE COMMISSION:**

Vice Chair Lyon inquired of staff what requirements apply, and what discussions had taken place regarding the lighting of that interstitial space. Ms. Kaminski stated that the space was not a primary concern of staff because it affects only their tenants, but a photometric plan is required at plan check that will ensure that lighting meets the minimum standards and does not create a glare for the residents. Staff's concern was more along the southern perimeter, and the impact to the adjacent residents with the parking canopies, that the lighting would be properly screened, the required trees for the buffer, etc. Staff will be looking at photometric plan for underneath the parking canopies to make sure they are not excessively high.

Vice Chair Lyon stated that he would like to put forth a stipulation saying the applicant will work with staff to not only adhere to minimum standards but to install lighting at a level that makes the area feel sufficiently safe. Ms. Kaminski stated they would be amenable to a condition, but minimum lighting standards are designed for safety, so specifically what is Vice Chair Lyon requesting, does he think the minimums are too low? Ms. Kaminski stated that she would add to condition #15 that "applicant will work with staff to assure sufficient lighting for a safe pedestrian environment between the existing and the new building."

Commissioner Sumners made a comment to staff, that he would like to, in the future, see in the staff reports and attachments, an overlay depicting where the new development is located in relation to the existing buildings or site. The applicant provided this information in his presentation this evening for this project, and it was very helpful.

Vice Chair Lyon then asked of the applicant, would they be willing to work with staff on the lighting requirements. Mr. Berastegui stated they would.

Commissioner Sumners stated that he really appreciated what the developer has done to improve the view along Southshore Drive. He has been at the site, and from the Southshore side, this will be a vast improvement and he is pleased to make a motion to approve.

**MOTION:** Commissioner Sumners made a motion to approve a Zoning Map Amendment from R-3 to R-4 Multi-family and a Development Plan Review for one new 18- unit apartment building within an existing 69 unit community for **GRANADA LAKES APARTMENTS, (PL160309)**, located at 5701 South Rural Road, with the condition that the applicant will work with staff to assure sufficient lighting for a safe pedestrian environment between the existing and the new building. Motion seconded by Commissioner Thornton.

**VOTE:** Motion passes 7-0

4) Request for a Code Text Amendment for **USE SEPARATION REQUIREMENTS (PL160307)**, consisting of new regulations for pawn shops, gold-buying stores, and changes within Section 3-423. The applicant is the City of Tempe.

**PRESENTATION BY APPLICANT:**

Ryan Levesque, Community Development Deputy Director, Planning, gave a brief presentation. He stated that this Code Text Amendment consists of land use regulation changes within the Zoning and Development Code, Section 3-423. The request is to add proposed additional uses into the Use Separation Requirements, these are: pawn shops, gold-buying stores, and auto-title loan businesses. The City would be consolidating that section into a comprehensive revision, now categorized as Limited Financial Service businesses. The proposed changes will require a one quarter mile separation of these businesses from one another, and a 500 foot separation from residential districts, child-care centers, charter schools, private schools, or public schools that provide elementary or secondary education. The request originated from a City Council working group, and other cities have been analyzed for best practices. The request comes with support of the community, including input from the Neighborhood Advisory Commission.

Commissioner Amorosi inquired as to why properties were being given two years to keep, or transfer to, the same type of business, as in looking at the map provided, there are many "legal, non-conforming" businesses. This two year window would mean the City will have difficulty weeding out the less than desirable businesses. Mr. Levesque clarified that on the map there are 20 businesses under the Limited Financial Services category. All except one of those is identified as Legal Non-Conforming. The request means that those businesses would still be able to operate there as Legal Non-Conforming, but if that use were to go away, the property would only have one year before that Legal Non-Conforming status would be revoked.

Commissioner Lloyd asked, given the clustering of these types of businesses, why have that one year period at all? That way if the business closed down, that use type would "go away." Mr. Levesque stated that the answer has to do with the fact that they applied for a Use Permit for that location, and they have a legal right to utilize that for a minimum of one year. The Use Permit provisions identified in the Code and the Legal Non-Conforming status requirements in the "Part 2" section allow a business to maintain and operate that existing use. Since they have a legal standing right to be there, they can remain there, until the use ceases operation. This is a common protected law provision that most Codes and ordinances have.

Commissioner Sumners inquired as to why the classification of churches was not included in the request. Mr. Levesque responded that he is correct, churches are not identified in the Use Separation Requirements, but it could be considered. Commissioner Sumners said he was curious because he has seen it in other cities ordinances. Mr. Levesque responded that we do have the requirement in relation to adult oriented businesses and medical marijuana facilities.

Commissioner Lloyd asked for clarification if the gun shops are not part of this text amendment, as the impetus for this amendment was actually concerning a gun / pawn shop. Mr. Levesque stated that there are State law provisions that protect gun shops, and that in essence, cities may not enact any additional ordinances or regulations concerning gun control. Therefore the focus in this amendment was on pawn shops.

Commissioner Brown stated that virtually all pawn shops deal with guns. Other retailers like Wal-Mart sell guns as well, but there is a strong correlation between pawn shops and guns, people may not realize this. He then asked for further clarification concerning the one year limitation on a Use Permit for these types of businesses. Once a business has closed, another entity could buy or take over the lease, and continue with a gold-buying or pawn shop in the same spot. He does not agree that we have to give each of those one year. Is there a way to change that to 30 days or zero days? If someone has gone out of business there, why would we need to protect the status quo? Mr. Levesque clarified that this is an existing provision in our Zoning & Development Code 3-501, and 3-505, that outline the one year parameter, so yes another similar use business can come in and take advantage of that one year Use

Permit if it has not yet expired. Use Permits can be revoked if there is reason to do so, such as ongoing complaints or a nuisance situation.

Commissioner Amorosi clarified that Mr. Levesque was stating that they cannot propose to change this "one year" stipulation in this section of the code because there are other sections of the code where it refers to one year, so everything would have to be changed, the Commission would not be able to make it specific to just these businesses, everything would have to be changed, is that correct? Mr. Levesque stated yes, that is correct. Commissioner Amorosi asked if that is something that the City Council could look at changing. Mr. Levesque stated yes.

**PUBLIC COMMENT:** None.

**COMMENTS AND DISCUSSION BY THE COMMISSION:**

Commissioner Lloyd commended staff and Council Members for what they've done to make this happen. She believes it's a good start, as it has been a large concern for much of our population here in Tempe.

Commissioner Summers stated that he also believes this amendment as written is a good first step. As we've heard today, there are quite a few questions and comments from this Commission for some additional restrictions and regulations that can be considered in the future, but this is a great first step.

Vice Chair Lyon stated that he agrees with these statements.

Commissioner Labadie stated that he agrees, supports this, and believes it is necessary. He believes that these uses are more a symptom, meaning that we as a society are patronizing these stores or they would not continue to be in business. We may not like them, but they tend to sprout up under certain conditions, and it is in that long term view that we as a City look at why and what those conditions are, and how can we improve overall, rather than having to have Commissions and Councils come in and set regulations.

**MOTION:** Commissioner Amorosi made a motion to approve a Code Text Amendment for **USE SEPARATION REQUIREMENTS (PL160307)**, consisting of new regulations for pawn shops, gold-buying stores, and changes within Section 3-423. Motion seconded by Commissioner Labadie.


**VOTE:** Motion passes 7-0

**STAFF ANNOUNCEMENTS:**

Ms. Dasgupta reviewed the Agenda items for the Development Review Commission November 9, 2016 meeting, and reminded the Commissioners that the joint DRC/City Council retreat is set for December 19, 2016.

**There being no further business, the meeting was adjourned at 6:51 pm.**

Prepared by: Cynthia Jarrad



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