

Minutes of the Development Review Commission March 28, 2017

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 Andrew Johnson
Commissioner Philip Amorosi
Alternate Commissioner Barbara Lloyd
Absent:
Commissioner Scott Summers
Alternate Commissioner Gerald Langston
Alternate Commissioner Nicholas Labadie

City Staff Present:

Chad Weaver, Community Development Director
Ryan Levesque, Comm. Dev. Deputy Director - Planning
Suparna Dasgupta, Principal Planner
Diana Kaminski, Senior Planner
Cynthia Jarrad, Administrative Assistant

Hearing convened at 6:01 p.m. and was called to order by Chair Linda Spears.

Consideration of Meeting Minutes:

Motion for Agenda #1 and #2 were considered together.

- 1) Study Session Minutes, February 28, 2017
- 2) Regular Meeting Minutes, February 28, 2017

MOTION: Motion made by Commissioner Thornton to approve Study Session minutes for February 28, 2017. Motion seconded by Vice-Chair Lyon.

VOTE: Motion passes 5-0 with Chair Spears and Commissioner Lloyd abstaining.

The following agenda #6 and #7 were considered in consent agenda.

- 6) Request for a Reversion of the Zoning Map Amendment of prior entitlements for **LEMON MIXED USE DEVELOPMENT (PL150469)** from current Zoning District of MU-4 Mixed Use High Density with a Planned Area Development Overlay and Transportation Overlay District to R-4 Multi-Family Residential and CSS Commercial Shopping and Service with a Transportation Overlay District (original zoning), located at 919, 1011, and 1019 East Lemon Street. The applicant is City of Tempe.
- 7) Request for a Reversion of the Zoning Map Amendment of prior entitlements for **MILLER-CURRY TOWNHOMES (PL170036)** from current Zoning district of MU-2, Mixed Use Medium Density with a Planned Area Development (PAD) Overlay to GID, General Industrial District (original zoning), located at 1245 North Miller Road. The applicant is City of Tempe.

MOTION: Motion made by Commissioner Thornton to approve consent agenda. Motion seconded by Commissioner Amorosi.

VOTE: Motion passes, 7-0.

- 3) Request for a Development Plan Review and Use Permit for a new 349 unit Multi-Family Residential development in the RCC Zoning District for **STREETLIGHTS RIO 2100 (PL160379)**, located at 2092 East Rio Salado Parkway. The applicant is Aday Graff.

Vice-Chair Lyon recused himself from hearing this project, he stepped down from the dais at this point.

PRESENTATION BY STAFF:

Ms. Kaminski described the site, stating that it is currently zoned RCC, it is a 43 acre site on what was a former landfill. The site has been subdivided for a phased development east of Tempe Marketplace. Phase one, at the southwest end of the site, includes two hotels; phase two, on the east side of the private drive, is a two-story commercial office building. Phase three is proposed for a multi-family residential apartment community on 7 acres at the northwest end of the development, adjacent to and connecting with Tempe Marketplace. A future phase four will consist of two additional office buildings at the north end, adjacent to this site. Later phases may include other commercial uses such as office, hotel, retail or restaurant, depending on market conditions. The proposed project includes a 200-space surface lot that was required by deed restriction to be constructed for Tempe Marketplace. She provided a brief overview of landscape plans proposed for the property. She clarified the condition concerning screening of parking garages; if the garage cannot be naturally vented, staff will require a panel system for screening. Staff is recommending approval of this project. Staff had not received any public comments prior to the public hearing.

Commissioner Johnson asked whether mechanical ventilation system be required if it cannot be naturally vented. Ms. Kaminski replied yes, a mechanical ventilation system would be required.

PRESENTATION BY APPLICANT:

Mr. Ben Graff of Aday Graff, 2200 E. Camelback Rd., Ste. 221, Phoenix, AZ, gave a presentation. He stated that this is not just an accumulation of parcels, it is a strategically planned project. He pointed out the environmental remediation that has taken place at the site, and that the applicant has met all five parameters for the issuance of a Use Permit. Within the zoning at this site, they would have leeway for a density up to 65 du/ac, but they are only asking for 49 du/ac. This will be a relatively quiet (in comparison to the surrounding noisy areas) residential area, traffic studies have been done for maximization of traffic flow, etc. The units will have a luxury feel, with quality materials and finishes. This will be the second location in which Streetlights has broken ground, the first site being in Phoenix. They fulfill what the General Plan calls for, which is mixed use at this site. This project is a single owner, and has an emphasis on the components of the project having a symbiotic relationship, with the buildings' colors, styles, and materials complementing one another with a common look and theme. The garage is wrapped on three sides, with the only visible side facing the back of the Harkins Theatres next door. There will be on-site management and professional security at this project, with amenities conducive to attracting the residents to stay on-site, with inviting open spaces, etc.

Ms. Robyn Jacobson, of the design team at WDG Architecture in Dallas, Texas shared renderings of the project and explained what the Commissioners were seeing. There are two vehicular entrances into the property, she went on to describe design and materials. She stated the project has been designed with "fingers" or protrusions from the buildings to create externally faced courtyards. These courtyards also provide a large landscape buffer between the vehicular and pedestrian realm. They have chosen very diverse plant types, nine tree species and twenty species of shrubs. The corners have been designed with a lantern tower feel for added interest and design. They are subtly illuminated in the evening hours to give the appearance of a lantern. The resident amenities will include a clubhouse, fitness center, bicycle repair, garages for hobbyists, etc. She then explained some of the materials used, and shared elevations as well as renderings of the interior of the units and how they will be appointed with high-end finishes, fixtures, shower enclosures, ceiling fans, etc

Commissioner Brown stated he likes how they broke up the façade of the building with the "fingers" but he wonders about the six foot wide straight corridor space that is three or four hundred feet long. Could the applicant not have done something to break up, or stylize the corridor? Ms. Jacobson stated that they realize it is a long, static corridor, but they have added upgraded light fixtures, articulated surrounds at the entry, artwork, light coves, etc. Overall, Commissioner Brown stated he really likes the interior and exterior, and is impressed with what the applicant has

done.

Commissioner Amorosi asked about the three bedroom units, according to the drawings it looks like the doorways would not be wide enough to move furniture in and out from the bedrooms. Ms. Jacobson stated that this is an interior design previously used, and the door openings are as wide as they should be, it has not been a problem. Commissioner Amorosi also inquired why some of the windows do not have shade structures protecting them. Ms. Jacobson stated there are two units without awnings. Mr. Greg Nadeau with Streetlights Arizona in Phoenix stated that a 3 or 4 foot awning would not do a lot for these windows because of the sun angle, they have worked with staff for the best solution for this issue. Commissioner Amorosi inquired about the west side of the building, that it has no buffer and that a person would just walk up to a big concrete garage. Mr. Nadeau responded that they placed the garage in the least obtrusive space they could, the area is heavily planted, etc. Commissioner Amorosi stated that it still should be more pedestrian friendly. Mr Graff stated that there would not be much pedestrian traffic on this side of the building, as it faces the back of the Harkin's Theatre. The pedestrian friendly focus was mostly on the other three sides of the building, this was not an oversight.

Commissioner Brown then asked the applicant to discuss "naturally ventilated" in the garage, he thinks it will need to be mechanically ventilated. He also asked what the entry doors were made of, and if the applicant would email the images of the typical units and amenity areas. Ms. Jacobson stated they would.

Commissioner Thornton inquired what the rental charges would be per unit. Mr. Nadeau said that it would be competitive in the market, with a range of \$1.70 to \$1.90 per square foot, with the average unit being 890 square feet. Commissioner Thornton added that she loved the color palette.

Chair Spears asked about connectivity to Tempe Marketplace, to hotels, etc. Mr. Nadeau pointed out the walkway that will go from Tempe Marketplace over to their development at the south end, and then also north from there. This path will not be completely flat, but will no more than a 5% grade. There will also be vehicle access to Tempe Marketplace.

Mr. Graff then spoke again, addressing the changes in a few conditions of approval, they are small changes. He let the Commission know the elevations and materials they see tonight will not change. In response to a question from Chair Spears, he also stated there will be no change in building height.

PUBLIC COMMENTS: None.

COMMISSION COMMENTS:

Commissioner Johnson stated he likes the aesthetic and the landscape added to the riparian area. In regards to the garage and it being naturally ventilated, it faces the back of the theatre and so he does not have a problem with it. Overall, he likes the project.

MOTION: Commissioner Thornton made a motion to approve a Development Plan Review and Use Permit for a new 349 unit Multi-Family Residential development in the RCC Zoning District for **STREETLIGHTS RIO 2100 (PL160379)**, located at 2092 East Rio Salado Parkway, with the following changes: Item #3 under Site Plan Conditions, removal of the words "with ¼" pane thickness or more"; Item #11 under Building Elevations, removal of the words "Roof – Concrete Tile – Eagle Cement Co. – Mottled Grey #987" replaced with the words "Roof is flat with parapet" added; and also under Item #11, change in the sentence regarding masonry to read "The masonry is approved as presented on the January 13, 2017 elevations, or as approved by City staff, with 5' wainscot..." Motion seconded by Commissioner Johnson.

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

- 5) Request for a Planned Area Development Overlay, Development Plan Review for an on-line, pre-owned vehicle retail store, a use permit to allow vehicle sales in the GID district, and a use permit to exceed the maximum allowed surface parking for **CARVANA (PL160462)**, located at 706 North Scottsdale Road. The applicant is Gammage and Burnham, PLC.

PRESENTATION BY STAFF:

Ms. Diana Kaminski, Senior Planner, gave a presentation, stating that this site has street frontage on all four sides and reviewed the entitlements requested, including building height of 84 feet, a decrease of street side parking and an increase of vehicle parking. She shared images of elevations and renderings, and explained that staff had been concerned about the nighttime interior illumination of this building, as well as glare. The typical everyday lighting design is a blue band around the building with a blue hue throughout, but within this project, the applicant is asking for the ability to change the hue of the building to recognize different days or themes (example: Halloween, Cardinals win, etc.) Staff has not received any calls from the public regarding this project, and staff also recommends approval, subject to the conditions.

Commissioner Thornton asked about how long the lighting is left on at it's highest level, could the lighting be turned down at 10 or 11pm? Ms. Kaminski responded that at the end of their sales day, which is 10pm, they would have to dim the lights, similar to other auto sales establishments.

PRESENTATION BY APPLICANT:

Ms. Manjula Vaz of Gammage and Burnham, PLC, 2 North Central Avenue, Phoenix, introduced Bret Sassenberg, Carvana Senior Director of Real Estate and Development, to speak about the project. Mr. Sassenberg of 440 East Susan Lane in Tempe, stated that Carvana is an internet based auto retailer that sells late model used vehicles. They are one hundred percent online, with an inventory of 8000 vehicles. The vehicles are housed in industrial or rural areas and then trucked to the site. Traffic at the site would be minimal, as car buyers have an appointment to pick up the vehicle that they have purchased. A short video was shared, showing those in attendance how the vehicles are delivered to the customers via the "vending machine" feature. Mr. Sassenberg stated that this business retains the same type of value and tax revenue as other dealerships, but with a much smaller footprint. The company is very community-oriented and make community involvement a priority with their employees.

Ms. Vaz spoke again, revisiting some of the information about the site, location, current zoning, etc. She itemized the requests before the Commission tonight. She stated that the applicant has spent a lot of time talking to neighbors in north Tempe to address their concerns. She shared renderings of the building, and emphasized that in the future, if "Carvana" was to close, the tower itself could be easily dismantled and taken away, because of the way it has been designed, therefore leaving a very marketable one story building at the site. She stated this is a fun project, it will add iconic architecture to the area, as well as twenty new jobs. The applicant has the support of neighbors and stakeholders, although they have had a bit of a disagreement with staff over changing the lighting colors of the building to signify special events or time frames (ex: Halloween). Mr. Bob Rons of Wild West Lighting then explained that the original strategy was to light the vehicles within the tower, and this building is not grossly overlit from what one would see in a normal office tower. If color was allowed to transition, it would not change the actual light levels. He shared a short video demonstrating the changing of the colors. He explained that it is just a subtle glow, it is not obtrusive. Foot candle readings that were taken show that lighting levels are not at perimeter trespass, they are within City of Tempe requirements.

Commissioner Brown asked if this building is all glass, and if it utilizes LED lighting. Mr. Rons answered yes, and the lighting is angled toward the vehicles themselves.

Commissioner Lloyd inquired about the scale of the building and asked if it was the same as what they saw in the image of the Houston Carvana. Ms. Vaz answered that it was the same.

Commissioner Thornton asked if they change the lighting for significant events in the Houston area. Mr. Sassenberg replied that they have not had this discussion with other cities. Commissioner Thornton then asked how the vehicles arrive to the site and at what time, as well as how many vehicles are in the building at one time? Mr. Sassenberg stated the vehicles arrive by a 10-car hauler, they arrive very early in the morning or very late at night as to be the

least disruptive, and the building holds 30 vehicles.

Chair Spears inquired of staff if the lighting is addressed by the sign ordinance. Ms. Kaminski stated that it was not in actuality a sign, because it is the building itself that is illuminated.

PUBLIC COMMENTS:

Ms. Deb Gain-Braly of 327 East McKinley Street, Tempe. She is active in the North Tempe Neighborhood Association as well as Papago Park View Neighborhood Association. She admired that the developer had gone above and beyond for meeting with the neighbors, and has been responsive to concerns. They reworked the design to make sure the large delivery trucks will not need to park in the adjacent neighborhoods. Compared with the bright, glaring lighting at Dream Palace just down the road, this project will be very unobtrusive. She feels it will be a welcome addition to the neighborhood.

Commissioner Johnson asked Ms. Gain-Braly if it is a concern to her if the applicant changes the color of the lighting from time to time. Ms. Gain-Braly responded that the developer stated that the light will not be shining much beyond the building and there were no representatives of the apartments behind the project at the neighborhood meeting voicing any concerns. Also, there have been no concerns raised to her in her role in the Neighborhood Associations.

COMMISSION COMMENTS:

Commissioner Lloyd stated she is excited about the iconic nature of this project, and she was pleased to see the neighborhood outreach by the developer, she will support.

Commissioner Thornton stated she thought it was a great use of the site and a great location, and for her, the lighting is not a concern. There is already a lot of light in this part of our city. She will support.

Vice Chair Lyon said he likes that fact that it is a fun concept and he likes the business model, although he has mixed feelings about the building itself, he thinks it feels like a billboard, he does not like the tower feature.

Commissioner Brown commented that it seems we don't know whether it's a building or an object made up of glass blocks.

Commissioner Lloyd, in response to Vice Chair Lyon's comments, stated that she feels it is a symbol of commerce, and sending the message that Tempe is innovative, and a place to do business.

Chair Spears said she wanted to review the changes in conditions that the applicant is requesting. Ms. Vaz explained in more detail about Conditions 16 a and 16b under Lighting, clearing up some of the confusion over the changes of light color for the building, how many times it could happen per month, etc.

Vice Chair Lyon then stated he doesn't care how many times in a month the building changes color, he just wants it to be static and not to blink. Also that he will be willing to vote in favor of the project because he likes the business model and he thinks it will be a boon to the neighborhood.

Commissioner Brown agreed, stating that he does not want anything that creates blinking or a strobe-light effect, only static colors. He will support.

MOTION: Commissioner Thornton made a motion to approve, with modification to Condition #16, Lighting, by removing the words "or change colors" and removing bulleted "a" and "b") within Condition #16, a Planned Area Development Overlay, Development Plan Review for an on-line, pre-owned vehicle retail store, a use permit to allow vehicle sales in the GID district, and a use permit to exceed the maximum allowed surface parking for **CARVANA (PL160462)**, located at 706 North Scottsdale Road. Motion seconded by Commissioner Lloyd.

VOTE: Motion passes, 7-0.

- 8) Request for a Code Text Amendment for **MEDICAL MARIJUANA AMENDMENT (PL170076)**, consisting of changes within Section 3-426, extending the dispensary to dispensary separation and eliminating the number limitation. The applicant is the City of Tempe.

PRESENTATION BY STAFF:

Mr. Levesque, Deputy Community Development Director, Planning, provided an overview of the proposed text amendment to the Zoning and Development Code. This Code Text Amendment regarding Medical Marijuana consists of a request for changes within the existing regulations for medical marijuana dispensaries. At the City Council's Issue Review Session on February 2, 2017, staff prepared a one year review and evaluation of the last ordinance amendment, Ordinance No. 02015.49, as originally stipulated. Staff received direction from City Council to prepare an ordinance amendment. Two changes are proposed, the first would remove the limitation on the total number of dispensaries allowed in Tempe, which is currently limited to two, and the second would increase the separation requirements from one dispensary to another from 1,320 feet (1/4 mile) to 2,640 feet (1/2 mile) distance.

Chair Spears asked for clarification that the State can authorize more dispensaries than what our ordinance calls for? Mr. Levesque responded the State provides the minimum number of ratios for the entire state, which is 1:10, so for every ten pharmacies, there should be at least one dispensary.

Mr. Levesque then shared more images, explaining that the Commissioners were seeing an analysis of how many dispensaries might be authorized based on the separation requirements. With the current separation requirement of ¼ mile from churches, schools, etc, and the current ¼ mile separation from dispensary to dispensary, the projected possible sites in Tempe could be 21, if the dispensary to dispensary separation is ½ mile, then the number would be 13. Staff has received one public comment from the Tempe Coalition, which had concerns about removing this limitation and inviting more dispensaries into the city. Most of the other communication has been from people within the Medical Marijuana industry wishing to locate in Tempe.

Commissioner Amorosi asked for clarifications concerning how many dispensaries are currently in Tempe, Mr. Levesque had stated two, but the image shows four. Mr. Levesque stated that one of the dispensaries is moving to the new approved location. There is a fourth site that has received approvals and building permits prior to the City adopting the code limiting number of dispensaries to two. This site is currently not operating as a dispensary. Therefore, there is a potential of fourth dispensary in Tempe may be under operation at a future time but the status of this particular dispensary, that is, the possibility is that it could or could not operate in that capacity, is currently unknown.

Commissioner Thornton inquired if the grow houses come into play here, or does it just concern the dispensaries themselves. Mr. Levesque explained that there is currently only one cultivation site, and there is a request in for a second, but the ordinance does not restrict these unless there is a dispensary at that location.

PUBLIC COMMENT:

Ms. Angela Creedon of ASU at 300 East University in Tempe, stated that she is speaking tonight on behalf of President Michael Crowe. Mr. Crowe is opposed to lifting this limitation on the number of dispensaries, there are many dispensaries in surrounding cities, and there is limited demand for increased availability. Studies have shown that marijuana use by young people has continually been on the rise since 1980, while cigarette use has declined dramatically. Males aged 18-30 are the highest number of Medical Marijuana cardholders in the state of Arizona. Although the Federal Government prohibits drug use on campus, Mr. Crowe is deeply concerned about the use of marijuana by young people and the effects it has on them and on society. He states we have a responsibility to limit the number of access points to this drug, he asked the Commission to please reject the possibility of more dispensaries in our community; it would be a step backward not forward.

Ms. Julie Lind is a 30 year resident of Tempe, living in north Tempe and owning another property here as well. She has been active in Tempe for many years and is concerned about the health and well-being of its citizens. She sees no need for more dispensaries, there is no concrete evidence that there are more needed. This will affect not only quality of life, but property values and future business coming to Tempe as well. She has had personal experience in

hearing about how marijuana is being shared, illegally, by people who obtained the drug with a medical marijuana card. She is opposed to this change.

Ms. Jenifer Corey of 4120 East Thistle Landing in Phoenix stated she is speaking on behalf of the recipients of the south Tempe SVACCHA dispensary license. Last summer, the state decided it was going to award 31 dispensary licenses, and two of those were awarded to Tempe. This timing has coincided with the review of the original ordinance. They are struggling for a location in the south Tempe area because of the current separation requirements. She explained that SVACCHA's that have been operating in remote locations for three years will be looking to come to the metropolitan area, as this is the "way it works," after three years, they are allowed to relocate. The city will most likely receive many transfer applications.

APPLICANT RESPONSE:

Mr. Levesque understands that there are valid concerns being expressed, but the fact is that medical marijuana was approved by the voters, and the City is tasked with implementing reasonable standards for land use, protections and separation requirements, etc. The City is looking to create a greater buffer, if there is not a limitation on number of dispensaries.

Chair Spears clarified for the Commission that this ordinance does not address the number of dispensaries, only separation, and reminded the Commissioners that when this was before the Commission a couple of years ago, they decided to go with stronger separation requirements, as they cannot limit the number of legal businesses that can be open and in operation, as these dispensaries are now legal.

Commissioner Lloyd asked for clarification that the data shows the existing dispensaries had not sold as much product as they could have, therefore demand should currently be being met. Mr. Levesque confirmed that was correct, the data was collected by the Police department and simply looked at usage of medical marijuana by qualified patients.

Vice-Chair Lyon asked if, in the current ordinance stating "with ordinance amendment, removing the dispensary limitation," what exactly we would be removing tonight. Mr. Levesque pointed out that section E, "Dispensary Limitations," of the ordinance states "The maximum number of medical marijuana dispensaries within the Tempe city limits shall be two (2)." That language would have to be removed to increase the number of dispensaries.

Commissioner Brown stated that looking at the map of potential locations, if the separation requirements come into play; it looks like there would not feasibly be 21 locations in Tempe. His understanding is that we are trying to avoid districts, such as a red-light district. He thinks this may not be a bad route to take, as it can limit the number of dispensaries, since they are now legal, and at the same time, limit the creation of a district for this type of use.

MOTION: Commissioner Amorosi made a motion to approve a Code Text Amendment for **MEDICAL MARIJUANA AMENDMENT (PL170076)**, consisting of changes within Section 3-426, extending the dispensary to dispensary separation and eliminating the number limitation. Motion seconded by Commissioner Thornton.

VOTE: Motion passes 7-0.

STAFF ANNOUNCEMENTS:

Ms. Dasgupta reviewed Agenda items for the next meeting, which will take place on April 11, 2017.

There being no further business, the meeting was adjourned at 8:14 pm.

Prepared by: Cynthia Jarrad



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