

## Minutes of the Development Review Commission May 9, 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 Philip Amorosi  
Commissioner Scott Summers  
Commissioner Andrew Johnson  
Alternate Commissioner Nicholas Labadie

**Absent:**

Commissioner Thomas Brown  
Commissioner Angela Thornton  
Alternate Commissioner Gerald Langston  
Alternate Commissioner Barbara Lloyd

**City Staff Present:**

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

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

### Consideration of Meeting Minutes:

- 1) Study Session Minutes, April 11, 2017  
**MOTION:** Motion made by Vice-Chair Lyon to approve Study Session minutes for April 11, 2017. Motion seconded by Commissioner Amorosi.  
**VOTE:** Motion passes 5-0
- 2) Regular Meeting Minutes, April 11, 2017  
**MOTION:** Motion made by Vice-Chair Lyon to approve Regular Meeting minutes for April 11, 2017. Motion seconded by Commissioner Summers.  
**VOTE:** Motion passes 5-0
- 3) Request for a Development Plan Review consisting of four new condominiums for **HAYDEN LANE LOFTS (PL170081)**, located at 1917 E. Hayden Lane. The applicant is Marc Architecture.

### PRESENTATION BY STAFF:

Ms. Diana Kaminski, Senior Planner, gave a presentation about the project. This property is zoned as R-3; it has an R-1 PAD which required further setbacks to the south, this has presented a bit of a challenge to the layout of this project. The site contains two individual lots which share a common drive, this drive was never formally recorded. The house on the west side is proposed for demolition, while the property on the east will remain, with upgrades to landscaping and parking. There will be four one-bedroom units, each with a single car garage and additional surface parking to the south of the units. Landscaping on the street would be uniform between the two lots. There will also be landscape buffers on both the east and west sides. She shared the site plan, elevations, and floor plans. This project has a bit of a hybrid architectural style, to tie in with the different styles in the surrounding area. There are gabled pitched roofs and a brick wainscot, which matches the existing home, the building to the south will be painted to match the stucco of this building as well. Plant palette will mimic the surrounding area. Staff recommends approval of

the request.

Commissioner Amorosi inquired if there had been any communication from the property owner to the west of this proposed development. Ms. Kaminski stated there had not been communication from anyone.

**PRESENTATION BY APPLICANT:**

Mr. Mark Lymer of Marc Architecture did not have a presentation but offered to answer any questions from the Commissioners.

Chair Spears inquired if there were detailed elevations he could share, Mr. Lymer responded that they already have the color elevations in the report.

Commissioner Labadie asked about some specifics in the elevations, for example if they were looking at garage windows, and if there was a fence along the east property line. Mr. Lymer stated that yes; an 8 foot fence would be built.

Chair Spears inquired of staff if they have a more recent elevation than what was presented. Ms. Kaminski shared an image on the overhead that showed the fire riser door facing the street.

Chair Spears also inquired about the unfinished railing fencing on the patios, will those eventually rust, and would the applicant agree to a stipulation that it must be painted? Mr. Lymer stated that painting it would be a waste of time, as it is stainless steel, not corrugated steel.

Commissioner Johnson inquired about whether there is indeed a use permit being requested for tandem parking at the site. Mr. Lymer responded no, that it had been looked at as an option earlier, but is not part of the final plans. Ms. Kaminski verified that a Use Permit is not part of this request.

Commissioner Sumners asked about the need for a cross access easement in the event the two parcels were developed separately. Mr. Lymer responded that both parcels belong to the same owner, who is only developing this side of the property at this time. If the need arises, yes, the owner would need to consider the easement. Ms. Kaminski stated that the site is also currently utilizing shared parking and a shared drive, which now must be recorded.

Vice Chair Lyon stated that on the west side, there is a small yard that will be created by the 8 foot fence. He thinks it looks like it could easily become a dead space and therefore a magnet for problems; he doesn't see egress from it on the plans. Mr. Lymer responded stated there are gates to the north and south of the space, so there is access for the occupants to use the space for, as an example, horseshoe games, it will be usable space. There will also be an HOA, so it will be managed and maintained. Given that, Vice Chair Lyon still believed it could become problematic.

Vice Chair Lyon then asked about bedroom count, and stated that for a bedroom, there must be a fire egress capable window. The way he sees it, this is only the case if the entire second floor is counted as a bedroom. He thinks the floor plan leaves little practical space in the lofts for actual furniture placement, and egress in the case of a fire. Mr. Lymer stated there is plenty of room for bed placement, and plenty of light coming in from the clerestory windows. Vice Chair Lyon stated the drawings were so small he hadn't realized there were clerestory windows. Ms. Kaminski clarified that Building Safety had studied these plans within Site Plan Review, and they did not raise any red flags, so the egress issue is not a problem.

**PUBLIC COMMENT:** None.

**COMMENTS BY THE COMMISSION:**

Vice Chair Lyon stated that he dislikes the project, he believes these will be dark and difficult to use spaces, he does not like the small yard to the west, and there are only three very small clerestory windows for light. He is unsure if he'll support the project.

Commissioner Sumners stated he also dislikes the west side yard, and he is also is unsure if he will support.

Chair Spears stated that it is difficult to understand what this project will actually look like, based on what was presented this evening. Based on what she sees, she does not like the design.

**MOTION:** Motion made by Commissioner Amorosi to approve a Development Plan Review consisting of four new condominiums for **HAYDEN LANE LOFTS (PL170081)**, located at 1917 E. Hayden Lane. Motion seconded by Commissioner Johnson.

**VOTE:** Motion fails, 2-4, with Commissioners Johnson and Labadie in support.

Ms. Dasgupta then explained to the Commission that since the motion failed, another motion must be made that would result in an action taken by an affirmative vote. Therefore, the Commissioner will need to either make a motion to deny the project or a motion to continue it.

At this time, the owner of the site, Mr. Hugo Villavencencio, who was seated in the audience, stood and demanded to know specifically why this project was being voted down.

Chair Spears responded the specific reasons heard tonight are the problematic yard on the west side, the Commission is still unclear of the design because there were no renderings available, and Commissioner Labadie added that some of the drawings this evening are inconsistent with one another. Mr. Villavencencio reiterated that he needed to understand exactly what was expected and that it needed to be in writing. Chair Spears then addressed Ms. Kaminski, asking if she understood what the Commission is looking for. Ms. Kaminski explained that regarding the small yard on the west side, there is up to ten feet allowed per code, staff can discuss direct access to this area by residents with the applicant, and that could be added. Window size, orientation of the building, etc, were all discussed during site plan review, but earlier comments can be reviewed and she would be happy to receive any further comments from the Commission in order to assist the applicant in a revised submittal.

**MOTION:** Motion made by Vice Chair Lyon to continue to an unspecified date, the request to approve a Development Plan Review consisting of four new condominiums for **HAYDEN LANE LOFTS (PL170081)**, located at 1917 E. Hayden Lane. Motion seconded by Commissioner Labadie.

**VOTE:** Motion passes, 6-0.

- 4) Request for approval of 1) a General Plan Projected Land Use Map Amendment from Public Open Space to Mixed Use and a Projected Density Map Amendment from no density and High Density (up to 65 du/ac) to High Density-Urban Core (more than 65 du/ac) for approximately 20.15 acres; 2) a General Plan Projected Density Map Amendment from High Density (up to 65 du/ac) to High Density-Urban Core (more than 65 du/ac) for approximately 83 acres; and 3) a Zoning Map Amendment from multiple zoning districts to Mixed-Use Educational (MU-Ed) zoning district for approximately 274 acres for **Arizona State University (ASU) Athletics Facilities District Planning Area (PL160433)**. The applicant is Gammage and Burnham, PLC.

#### **PRESENTATION BY STAFF:**

Ms. Suparna Dasgupta, Principal Planner, gave a brief presentation on the project, which is bounded by ASU Stadium and Veteran's Way on the west, University Drive on the south, McClintock Drive on the east, and Tempe Town Lake on the north. The site is partially within the Transportation Overlay District, and Station Area, and the entire site is completely within the Rio Salado Overlay district. She explained the three requests before the Commission this evening and shared maps of the current and proposed area, and how they would change in regards to the General Plan, density, and zoning. She stated there had been a neighborhood meeting on February 7, 2017. The concerns discussed at that meeting were principally traffic, parking, public services such as police and fire, and types of proposed residential development, as well as fees and taxes, since these properties are owned by the Arizona Board of Regents. This is the first step in the process; the applicant will come back in the future for approval of an overlay with some development design standards. Staff recommends approval of the project, subject to the condition, which is a signed Waiver of Rights and Remedies form.

### **PRESENTATION BY APPLICANT:**

Ms. Manjula Vaz of Gammage and Burnham, PLC, gave a presentation on behalf of the master developer, Catellus. She explained that firstly, all parcels involved need to be zoned as MU-Ed to move forward with this development. This district will evolve over a twenty to thirty year time frame, so these changes (such as moving track & field, tennis courts, etc) will take place gradually. The second part of the request will be to assign density. The golf course included in this site was previously classified as open space, with this request; twenty acres of it will be re-designated to MU-Ed. She explained a bit about the density in different areas, and how the projects will move forward working with staff and then through the Joint Review Committee (JRC).

Mr. Brian Kearney of Catellus, the master developer for the project, gave a presentation. He spoke about the fact that this development will be a forward-looking, technologically advanced, sustainable, mixed use, connected community. Behind these premises, the project utilizes ten Guiding Principles in the planning efforts, which are: Vibrant Public Realm, Coherence, Transit Oriented, Integrated Streets Network, Complete Streets, Sustainable Development Strategy, Integrated Green Network, Flexible Development Framework, Full-Spectrum Environment, and Identity. They realize that mobility is very important to address, and they have spent a lot of time on the multi-modal type of community with a variety of mobility options. The details of these plans are not yet finalized, but since most questions begin with vehicular traffic, he shared that Dorsey Lane will extend north of University over to McClintock with access to the 101 freeway from there as a north/south artery, and 4<sup>th</sup> Street will become a major east/west artery, beginning at Dorsey and extending west to Packard. Improvements will be made to existing arterial streets, with additional right and left turn lanes, etc. There will also be a new grid for interior circulation to take some of the pressure off the major arteries. An extensive amount of time was spent creating an interconnected bike path network throughout the district, with protected bike lanes as well as common bike lanes in the street. Lastly, pedestrian circulation has also been studied within the district, with livability, mobility, and safety in mind. There will be open space and jogging paths, etc, as an integral part of this livable, urban, mixed-use community.

Chair Spears inquired "where they are" in the approval process with the Board of Regents. Mr. Kearney stated they have approval from the Board of Regents for the plan they are proceeding with at this time. They have some parameters set that provide flexibility for specifics within the plan in the current approval. Chair Spears then asked who would approve changes in the future, since this is such a long-range plan. Mr. Kearney replied that the immediate client, ASU, has approved the current plans with the parameters set and if there were changes to those parameters in the future, approval would have to be through the Board of Regents.

### **PUBLIC COMMENT:**

Mr. Philip Yates of 320 S. Roosevelt Street in Tempe, representing the Riverside Neighborhood Association, spoke. He shared that he was concerned there were only eight people in attendance at the public meeting held on 2/7/17. Concerns voiced at the meeting were vehicular traffic, pedestrian traffic, and streets being expanded or added as there are already traffic problems in the area. He states that he was never informed of this meeting, so he wonders how the others were informed. With a project of this magnitude, there should have been a lot more public involvement.

Vice Chair Lyon asked Mr. Yates what exactly he is looking for. Mr. Yates responded that there are simply not enough streets, as an example the large arterial streets Rural Road over to McClintock Road is a very large gap. He would like to see more arterial streets and sidewalks.

Mr. Trevor Barger of Tempe, 85281, spoke as a private citizen concerned about the future of Tempe, as well as a representative of private land owners in close proximity to ASU and Downtown. His concern is about granting density before service agreements, specifically how services, open space, the lake, infrastructure and maintenance will be paid for. Catellus has stated that these agreements will be in place within a year, but he is also concerned about publication of meeting notices and public involvement as projects are proposed, as JRC and DRC meetings are not posted in the same way. He acknowledged that Catellus has stated they will make sure of postings as to maximize public involvement. He is less concerned about commercial uses in this area but has continued long term concerns about residents on state land. How will services be paid for if no property and rental taxes are paid to Tempe? We should be cautious of this project, as based on past history, ASU has often not "played fairly." As an example, they deem height and density inappropriate when it is near them; they say it is a burden. When it is away from them, or

when it is necessary for them to make a profit, and/or it is a burden to others, then they do not have a problem with it. ASU states that in the end, ASU and the city will remain, and we need to keep greedy for-profit developers from outside the city away. However, ASU itself is also a for-profit developer, and it's highly paid executives live outside the city limits. ASU also is at the top of the housing costs for public and private education facilities as compared to Northern Arizona University (NAU) and University of Arizona (U of A) in the state. ASU adds 800 students per year in need of housing, yet very little housing is added, when the existing student housing is already in short supply. ASU has chosen not to use this land, which was donated or purchased with public tax dollars, for much needed student housing, but instead to make a profit. Our urban Tempe requires amenities and services. ASU has been clever, it needs to pay to attract talented people at the top of their fields, and it is unfair that they are able to develop in this way, while blocking other non-profits, private landholders or private developers from doing the same. One private developer who wanted to bring a residential project to Tempe recently described ASU as "the nail in the coffin" for their project. ASU contradicts itself in regards to appropriate height and density, depending on who is developing. The last two concerns are: ASU has not fulfilled their existing agreements with the City to re-zone other properties in downtown to MU-Ed, and this may be a sign of things to come; the second concern is that projects like Opus', one hundred million dollar housing project, originally opposed by ASU, a great addition to downtown Tempe and a great addition to our property and rental tax bases, may now be purchased by ASU, which would mean it comes off the City's tax rolls, while the City is still required to provide services. This is not a far-fetched idea, as currently ASU's for-profit student housing provider, American Campus Communities, ACC, owns 922 Place on Apache, and if this is purchased by ASU, it will also come off the tax rolls. In conclusion, Mr. Barger believes that this development would be good for Tempe, and he trusts that the developer will follow through with the required agreements. However he also states that we should oppose ASU's unfair development behavior and it should not be rewarded. While he believes this is a good project, if the Commission chooses to recommend approval of the General Plan Amendment and Rezoning, he urged the Commission to voice their concerns to the Tempe residents and leadership.

Ms. Deb Gain-Braley of Tempe, 85281, spoke as a concerned citizen and also as the representative of the North Tempe Neighborhood Association, which are the neighborhoods north of Tempe Town Lake. Gammage and Burnham attended their meeting in April of this year, to help neighbors understand the project. Neighbors are still concerned about how costs for services will be borne, as well as concern for loss of horizons, recreation and green areas. They also feel they don't have a complete understanding of how the JRC process will work; they would like more information and public awareness of that aspect. She also wondered why we are subsidizing ASU's project when there are plenty of needs in Tempe, such as not enough vouchers for the homeless who need housing, enough park officers to keep drug activity out of our parks, etc. She is concerned the JRC is a vague entity in which the process for this project will be different, and not necessarily end up before the City Council as it should.

#### **APPLICANT RESPONSE:**

Ms. Manjula Vaz responded to the issues raised, saying that she understood the concerns and apprehension expressed this evening. She reminded all that they are beginning with some "clean-up" issues, the re-zoning and General Plan Amendment, but overall this will be a very long-term, 20 years or more, project. It is their intent to continue the public outreach and public involvement in the discussions, and with respect to the JRC, those meetings are public meetings and they will strive for more communication as to when those will take place. They will continue to work with the City on transportation issues and infrastructure, also on an Intergovernmental Agreement (IGA) related to services and their funding. This district will contain private buildings, which will be paying sales tax, hotels will pay bed tax, all multi-family will pay rental sales tax, developers will be paying impact fees, etc. This is a different scenario than when ASU builds, in essence, there is and will be money coming into the city coffers from this development.

Chair Spears asked if the JRC notification process could be explained for the listening audience, and those listening from home. Ms. Dasgupta explained that according to Code, the request is treated as a Development Plan Review, so instead of coming to the DRC, it will go to the JRC. There is no other notification on a case by case basis other than the agenda posting. The process is the same as with all projects, with application, fees assessed, site plan review, etc by city staff. At the end of the process, when plans have been approved by staff, they go before the JRC, which is a publicly held meeting. JRC only meets as needed, but a regular meeting would always be held on the first Wednesday of each month.

Commissioner Johnson asked Ms. Dasgupta to explain the appeals process. Ms. Dasgupta stated that the decision of the JRC can be appealed to the President of ASU president and the President of ASU's decision can be appealed to the City Council.

Commissioner Amorosi inquired if residents on this State land would be obligated to pay, or would they be able to opt out, in the case of bond elections? Ms. Vaz responded that residents on this land would be living in multi-housing apartment complexes, so they would be paying just like anyone else in an apartment in the city. The apartment buildings on State land pay an in-lieu tax to ASU, so residents in either location would be paying the same amount. Those taxes collected on State land in this district will be used for funding for athletic facilities.

Vice Chair Lyon pointed out that it is in essence a hidden tax, because monies that would have been collected as property tax to fund services, in these instances would be utilized for developing athletic facilities. It is a clever way to fund these projects without having to publicly say "we're raising taxes." He asked Ms. Vaz to respond to the claim by Mr. Barger that pressure from ASU led to the demise of several mixed use projects. Ms. Vaz said she does not have anything to say about it, she would let ASU's opposition speak for itself; in essence that was a City Council decision.

Commissioner Labadie asked about services and infrastructure. He stated that since this is a different process, through the JRC, the public should be reassured that these services will be provided, and how. Mr. Kearney replied that Catellus is responsible for designing, funding and installing the infrastructure. These will go through the typical City review process. Private and public streets will both be the responsibility of the developer. The developer is paying all sales taxes, all fees with the one exception of the City's share of the property tax. Maintenance will be paid for by the district, with the exception of public streets. In most every area, this is being treated like any other development within the City, with significant monies flowing into the City's coffers.

Commissioner Labadie asked Ms. Dasgupta to explain how all the infrastructure will be reviewed and approved by City staff. Ms. Dasgupta stated that it will be just like any other application process for development. Through the process, the departments review all infrastructure requirements, such as sewer, water, widening of streets, traffic studies, etc. For this particular project, each portion will come separately for review on an as-needed basis, although there is a larger discussion ongoing between City Council and the developer concerning the street network for the entire project. There will be more detail when the overlay district and the text amendment are ready to be heard, that is when development standards, specific density, etc will come into play.

Commissioner Summers stated that there is a lot of development in this area already; Special Event traffic is heavy, even if we currently had twelve lanes on Rural Road, would it be enough? Therefore, his opinion is that we plan for buses and light rail instead of cars, with the infrastructure there to support those modes before we need them, so these elements won't have to be moved in the future. Mr. Kearney agreed.

Commissioner Amorosi stated that this is a baby step in this large project. He believes this is a good place to start, and his hope is that the City has all the IGA's signed before the first shovel breaks ground, so the developer knows exactly what is expected of them.

#### **COMMISSION COMMENTS:**

Commissioner Labadie stated this is an exciting project, bringing density. The fact that he can't see the entire project right now gives him a bit of hesitation, but he realizes it needs to be in baby steps. With multiple parties at the table, and review processes in place, he will trust that it will all be fine.

Vice Chair Lyon stated he agrees that it is an exciting project and also a bit nerve-racking. He realizes the Development Review Commission will not be involved much in the process. He believes it is a good overall project for the City and he hopes that all the aspects will go in the right direction.

Commissioner Johnson voiced that he is also concerned about what actually will happen, as he understands that the DRC will not be seeing the project as they would other private development. We will probably all become more familiar with the JRC going forward. He is excited to see something other than a golf course in this area. Traffic is already horrible, and it will get worse. He is happy to see the streetcars, bicycle lanes, etc, as well as the connectivity

within the project.

Commissioner Sumners stated that he agrees with Mr. Yates as well as his fellow commissioners about wanting to have more details such as design of the buildings, width of streets, if there will be detached sidewalks, landscaping, etc. If the process needs to be through the JRC for the approvals to happen and the project to be streamlined, then he is on board, and he will be supporting.

Chair Spears stated that they have heard from a master developer rather than the applicant, she believes we have heard mixed messages from ASU, and that it is disingenuous of ASU to want to continue putting student housing on property other than property owned by them. She is glad to hear of the in-lieu taxes although that does impact our schools. She wishes there was more transparency as to what is really happening for the citizens of Tempe and her feelings about the project are extremely mixed.

**MOTION:** Motion made by Commissioner Sumners to approve 1) a General Plan Projected Land Use Map Amendment from Public Open Space to Mixed Use and a Projected Density Map Amendment from no density and High Density (up to 65 du/ac) to High Density-Urban Core (more than 65 du/ac) for approximately 20.15 acres; 2) a General Plan Projected Density Map Amendment from High Density (up to 65 du/ac) to High Density-Urban Core (more than 65 du/ac) for approximately 83 acres; and 3) a Zoning Map Amendment from multiple zoning districts to Mixed-Use Educational (MU-Ed) zoning district for approximately 274 acres for **Arizona State University (ASU) Athletics Facilities District Planning Area (PL160433)**. Motion seconded by Commissioner Labadie.

**VOTE:** Motion passes, 5-1, with Chair Spears in the opposition.

**STAFF ANNOUNCEMENTS:**

Ms. Dasgupta reviewed the Agenda for the May 23, 2017 Development Review Commission.

**There being no further business, the meeting was adjourned at 7:24 pm.**

Prepared by: Cynthia Jarrad



Reviewed by:

Suparna Dasgupta, Principal Planner, Community Development Planning