

Minutes of the Development Review Commission May 23, 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:

Vice Chair David Lyon
Commissioner Thomas Brown
Commissioner Philip Amorosi
Alternate Commissioner Nicholas Labadie
Alternate Commissioner Barbara Lloyd
Absent:
Chair Linda Spears
Commissioner Angela Thornton
Commissioner Scott Summers
Commissioner Andrew Johnson
Alternate Commissioner Gerald Langston

City Staff Present:

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

Hearing convened at 6:02 p.m. and was called to order by Vice Chair David Lyon.

Consideration of Meeting Minutes:

The following Agenda items #1 and #2 were considered together.

- 1) Study Session Minutes, April 25, 2017
- 2) Regular Meeting Minutes, April 25, 2017

MOTION: Motion made by Commissioner Amorosi to continue to the June 13, 2017 meeting, approval of Study Session and Regular Meeting minutes for April 25, 2017. Motion seconded by Commissioner Brown.

VOTE: Motion passes 5-0

- 3) Request for a Development Plan Review consisting of two new buildings for **TEMPE CRANE (PL170106)**, located at 1979 E. 5th Street. The applicant is Huellmantel & Affiliates.

PRESENTATION BY STAFF:

Mr. Obenia Kingsby, Planner II, gave a presentation about the project. The request is for two new buildings on an industrial site, one is an office and the other building is for storage. The proposed project is on 5th Street, east of McClintock Drive, north of University Drive, between Perry Lane and Smith Road. The office building is located on the northern portion of the site, closer to the street frontage, and the storage building is located toward the rear of the property. There is an existing storage building on the site, which is proposed to remain as part of the project. Staff is recommending approval subject to conditions. Staff would like to modify Condition #2 under General, to read as follows: "An Amended Subdivision Plat is required for this development and shall be recorded prior to issuance of final Certificate of Occupancy."

PRESENTATION BY APPLICANT:

Mr. Charles Huellmantel of Huellmantel & Affiliates gave a short presentation. He stated that this business was originally at 5th Street and Ash Avenue, and their move to this location has had to be a bit faster than anticipated. The business has decided to stay in Tempe rather than move to Gilbert, which is a good for Tempe, but timing has been

an issue, as is the moving of a lot of very large machinery. The new site has been vacant for a very long time. Even though an industrial site such as this has more relaxed design standards, the applicant has made this an attractive project.

Commissioner Amorosi asked if the existing metal shed from the original site will be along the south wall. Mr. Huellmantel affirmed that the shed is being moved, and it will be at the south end of this site.

PUBLIC COMMENT: None.

COMMENTS BY THE COMMISSION:

Vice Chair Lyon read a not from Chair Spears expressing that this office project was fine.

Commissioner Brown spoke about the metal shed. Since it is an existing building that is being relocated to this site, he is not worried about it setting a precedent as it pertains to all metal buildings. Overall, the shed is not that offensive, so he is ok with it.

Vice Chair Lyon stated that he agreed with Chair Spears. This is a nice industrial project, and he is in favor of it.

MOTION: Motion made by Commissioner Brown to approve, with the modification of Condition #2 as stated, a Development Plan Review consisting of two new buildings for **TEMPE CRANE (PL170106)**, located at 1979 E. 5th Street. Motion seconded by Commissioner Labadie.

VOTE: Motion passes, 5-0.

- 4) Request for a General Plan Density Map Amendment, Zoning Map Amendment, Planned Area Development, Development Plan Review and Use Permit for Tandem Parking for a new mixed-use development for **APACHE AND OAK (PL160429)** located at 1461 E Apache Boulevard. The applicant is arTHAUS Projects.

PRESENTATION BY STAFF:

Ms. Diana Kaminski, Senior Planner, gave a brief presentation on the project, explaining that this site is an old, vacant hotel, and an adaptive re-use which had been planned for it previously didn't work out. This applicant is requesting higher density and height. Proposed are 52 dwelling units per acre, with height at 66 feet on the north side and 30 feet on the south side. They have followed the step-down code since they will be adjacent to single-family homes. She shared the Site Plan, landscape plan, parking, and floor plans. The applicant has allowed for some flexibility at ground level for future storefront offices. There was a neighborhood meeting held on April 18, 2017, with approximately 35 members of the public in attendance, including two DRC Commissioners. Concerns shared at the neighborhood meeting were not complying with the land use and density as approved in General Plan 2040, building height as proposed, additional traffic, and privacy as it relates to height of the projects adjacent to single-family residential neighborhood. Staff has received twenty emails in opposition; they are included in the Commissioner's information this evening. Staff is recommending approval of the project.

PRESENTATION BY APPLICANT:

Mr. Jason Boyer, arTHAUS Projects, gave a presentation concerning the project. He explained that he is the architect and development manager for the property owner. The current zoning for this site is CSS, TOD (Station Area), which allows for medium to high density, they would like to change the zoning to MU-4, TOD (Station Area) to allow for high density. This Mixed-Use designation is in line with the General Plan. This site is within the Dorsey station area, he shared an overview of all the parcels in the area and their respective zoning. They would like to take the height from the existing allowable 45' to 66' (5 stories) facing Apache. He then explained step by step each of the requests, with specifics and renderings for each of the General Plan Amendment, Zoning Amendment, Planned Area Development Overlay, Development Plan Review, and finally the Use Permit request for tandem parking. The applicant believes this is an efficient use of a compact site. Of the 46 units sought, 42 are stacked along Apache Blvd. He shared Site Plans, Landscape Plans, renderings, etc, and explained there would be underground parking for the residents with shared parking, including tandem parking, for visitors and for the other uses (retail or restaurant) on the site. They have provided more parking than what is required. He feels they have created a highly active ground plan. The

amenities are on the 3rd level, outdoor amenities include a pool, barbeque area and a fire pit. The yards of the adjacent three residences will still be private because of the sight lines. They have paid attention to architecture, it is very nice and the building is attractive with a feature that gives the illusion of movement in the walls, with balconies inset into those spaces. He specified that the step-down on Oak means the peak of the roof there is 41 feet, adjacent to that is 30 feet. He shared renderings of the buildings and parking areas. He reiterated adherence to the 2040 General Plan, stating that the focus is on open space, there is no other development like this one in downtown, and to please keep in mind that there is a renaissance in this area, light rail is already there, and they will be eliminating a vacant two-story hotel. These units will be multi-family, for sale products. The height of this project has been strategically located to mitigate the impact to neighbors to the south. Regarding complaints about setbacks, he pointed out that their setbacks are more than what is required. Regarding complaints about traffic, the traffic study shows only minimal additional traffic through the neighborhood. He concedes that human nature is what it is, however, and there will be cut-through traffic in the neighborhood. They have a generous landscape plan, and have worked with staff to identify fast-growing trees, with a plan to inquire of the neighbors which of the species they would like to see installed. These trees, at maturity, block the sight lines from the balconies, therefore insuring privacy to the homeowners adjacent to the site. Regarding the concern about the possibility of vacant retail space, there is no guarantee for that, but they are in touch with a retail broker, and there are good signs that the interest in the restaurant/retail space will be desirable and highly attractive. Regarding concerns about parking lot lighting bleeding into the neighborhood, they have reduced the foot candles, and noted this in the conditions of approval. Concerning sustainability, there are electric vehicle charging stations, power infrastructure included for resident electric vehicle charging stations below grade, and installation of infrastructure to allow for solar panels to be installed on the roof that would offset the common power requirements, effectively delivering a net zero building. Sustainable design strategies were also used, such as 100% on-site rainstorm water collection, LED lighting, Smart Home Technology, etc. Regarding the complaint of no public art, he agreed they don't have a public art element, but the developer believes opportunities exist to integrate art into the pocket park areas off of Oak Street through sculpture and/or street art murals. Regarding the complaint of noise, the noise level should be controlled by the property manager's enforcement of the CCR's. The CCR's should include limiting provisions for the amenity space use and amplified noise.

Vice Chair Lyon stated that he appreciates the clever design and the thorough presentation. His question concerns the trees, he is not concerned that someone might see their neighbor, but he is concerned these trees will not be able to grow to full maturity because of the limited ten feet of space allotted, especially on the south side, the trunks will be only about 5 feet from the wall. Mr. Boyer replied that the trees are being planted as required per the development guidelines, and the site slopes to the south and to the west, so there will be runoff, which should assist growth.

Vice Chair Lyon then stated that he feels the applicant has done an admirable job in distributing the density in a sensible way, and he understands why a developer would want additional density, but how does the city benefit from having additional density there? Mr. Boyer responded that in his opinion there is more density coming to this area, and that if this project is not approved, something else will be, it is inevitable. It benefits the city to have a good, architectural, attractive development, and asking for the additional density gives some flexibility to the developer(s) in the future, as they have made sure this product is adaptable. As an example of the adaptability, they have already changed some elements in response to the neighbors' concerns, for example, they believe they have done the right thing in ensuring most of the density is along Apache rather than adjacent to the neighbors. Another example is floor plans, they have designed them for adaptability, as market demand changes over time. The market currently calls for smaller scale units, but these units could be combined to create larger units in the future. Another concession to the neighbors is that this developer is currently adding a few larger scale units, virtually eliminating some of that flexibility. This is a quality product that will withstand the test of time, and which will contribute to the Apache Character Area.

Commissioner Brown inquired as to the cost of the units. Mr. Boyer responded that the capital investment is 16 to 18 million dollars. They expect the unit price to be \$325.00 to \$400.00 per square foot, the smaller the unit the higher the per square foot price.

PUBLIC COMMENT:

Vice Chair Lyon read a statement from Ms. Linda Spears saying she likes the articulation of the apartment building and that the applicant should be commended for the level of detail in the drawings submitted.

Ms. Nancy Gasowski of Tempe said that she lives on the street that would be directly impacted by this development. She also owns the property at 1440 E. Hudson Drive, which is directly behind the proposed development. She and her husband have been residents of the neighborhood since 1972. She is against changing the zoning on this property. The property is very small, perhaps less than an acre. She thinks the density is too high, and she opposes this project. She stated that she also had sent a letter that was in the packet this evening. Commissioner Labadie asked Ms. Gasowski about the possibility, if the zoning is not changed, that there might be something built at the site that may not be as high, but might be closer to the existing neighbors and still very similar to what is being proposed. Is there a specific reason she doesn't approve of this particular project? Ms. Gasowski stated that her feeling is that the city has set a precedent of always approving zoning changes, and it is time that they listen to the neighbors who disapprove. She thinks a 3-story building just does not fit in this neighborhood.

Vice Chair Lyon read a statement from Anthony Fasima, saying the project is too tall, it is too close to single family homes, and it does not comply with the current General Plan.

Mr. Jim Felkey of Tempe, stated that he is directly southwest of the development. He's lived in the neighborhood since 1991, and chose it carefully as it does not have an HOA and since he's a licensed amateur radio operator. His antennae height is such that it operates on all the bands, and one of the coveted directions is northwest. His antenna is at the legal limit of 30 feet (without a permit), and with a variance request he could go to 75 feet. This 66 foot building will be right in the way. He is also opposed because of the traffic, traffic is much heavier through the neighborhood after light rail was added to the area. There is already cut-through traffic, which goes past his property, and many times at high rates of speed. He would like to have the zoning stay as it is.

Mr. Ron Gasowski of Tempe spoke, with his wife Nancy, who spoke a few minutes ago, own two properties in the neighborhood, both within the sightlines of the proposed project. He stated he is familiar with these types of drawings, and also with the silver-tongued architects and developers. The developer tonight was allowed to speak for more than an hour and we citizens are allowed three minutes. His neighborhood is slowly being enveloped and he can imagine that the city or ASU may be eyeing the neighborhood for high-rise apartments. There are already projects looming over them on the west and the east, and now this one would be to the north. The pool and barbeque area on the second floor of this property would be looking directly into his property, the trees that are supposed to help with privacy are deciduous, so in the wintertime they will not provide privacy. He is adamantly opposed to this project, although it is beautiful. It needs to be on a larger piece of property somewhere else. It does not fit the character of the area at all.

Ms. Deborah Zajac of Tempe stated she has been a Tempe resident for 23 years. She does not live in the neighborhood adjacent to this project, but wanted to speak because she has also been impacted by projects built near her that she has been unhappy with. Her issue is the fact that the voters voted on the 2040 General Plan, and since then, there hasn't been a developer that actually brings a project forth that stays within the guidelines of the 2040 plan. She believes there should be more pushback against this, urging developers to stay within the parameters citizens voted on. The General Plan needs to be respected and adhered to. Her feeling is that, for example, developers ask for a density of 50 when the General Plan calls for 25, and they then expect the residents to be happy that it is 50 rather than 65. Vice Chair Lyon asked Ms. Zajac about Mr. Boyer having said earlier that even without the zoning change requested, the site is currently entitled for something to be built that is nearly as tall, and occupies the entire site, in essence, a big box with more density and building massing. It could have a smaller quantity of front doors, but a larger quantity of bedrooms. Does it change her thinking if she considers that this area may get something "worse?" She agreed that she had not thought about it in that way, that she does like the openness on the ground floor, but everything just seems to be getting bigger and she doesn't feel that is what residents voted on for the General Plan.

Ms. Deb Gain-Braley of north Tempe stated that she is concerned with this high-density project being adjacent to a Cultural Area which doesn't occur anywhere else in the city. This may set a precedent for similar expansion all over.

Also, this site is currently zoned Commercial Shopping (CSS), and to change it to anything other than that would require a notification process and public meetings such as this one, so it is wrong to assume that it would definitely be 25 units with 5 bedrooms each. Again, this is a Cultural Area, this high density is around the lake and downtown, where there are no single family homes. All parties, including neighbors, should be coming together to come to a better solution. She has seen this in north Tempe in other projects, but has not seen it in this one. This would be an extreme change for the neighborhood, and the parties need to "go back to the table." More people means more everything – pets, pet waste, trash, traffic, etc.

Vice Chair Lyon clarified that even though the current site is zoned CSS, the General Plan calls for a dwelling density of up to 25. Ms. Gain-Braley said she understood, she thinks the parties have not had enough discussion.

Mr. Matthew Salenger of Tempe spoke as the chairman of Citizens for a Vibrant Apache Corridor (CVAC). He is an architect as well, he knows Mr. Boyer and his work, and respects it, and it is a nice project, so it is difficult for him to speak against it. But he believes the two most egregious parts of this project are: first, the density is too much for this location, it does not need to be at the highest density. The neighborhood is a Cultural Resource area, and this density would set a precedent. The density for this area in the General Plan is for low to medium density, so it is against what the voters wanted and what the neighborhood wants. Secondly, the current owner bought this property at the high point in the market, and it is very possible that he could have this density approved and then sell the property, with another developer coming along with something "worse." In the neighborhood meeting, neighbors expressed that they would be happier with a building that was 50 feet tall at Apache and then came down to 2 stories at the south end, even if it used the whole parcel. The second egregious problem is the trees, according to his landscape architect, the trees will not have enough room to grow, and also two of the three species chosen will lose their leaves in the winter. The hedges on the roof to block the view from the amenities areas also will be problematic. Hedges have been shown to die on rooftops, this is not a valid option. This Cultural Area needs to be protected, as that is what the voters decided.

Ms. Shelly White of Tempe agreed with Mr. Salenger, her concern is with the height of the building. There is already a large development to the west of their neighborhood, which blocks any view of a sunset or anything else while walking. This has already begun to have a canyon effect in the neighborhood, and they also continually struggle with the number of rentals in the neighborhood. Her fear is all those homes on that side adjacent to the project now will never again be purchased by someone going to live there, but will be rentals. The character and value of the neighborhood will change.

Mr. Dan Mayer of Tempe stated he has lived in the neighborhood for 25 years. He is firmly opposed due to height, high density, and it backing up to the neighborhood. The trees will be window dressing around something that is too large. Restaurants in the area are not filling, so that is a concern as well. If it were two stories at the back instead, and if the developer spoke with the neighbors, that would be a step in the right direction.

Ms. Karyn Gittis of Tempe spoke as the Chairperson of the Maple-Ash Neighborhood Association. She is also the Chairperson of the Historic Preservation Foundation. She stated that height and density is excessive, traffic will increase, and based on vacancies in ground floor commercial space along University, there may be difficulty filling these spaces. Turnover is high in these commercial spaces, as rents are high. This is a pie-in-the-sky model of urban living, and Tempe is not ready for it. This developer is over-reaching. Speaking on behalf of her neighborhood association and the historic preservation foundation, she appealed to the Commission to consider the reasons to not grant greater zoning entitlements. This is important because this project is adjacent to a Cultural Resource Area. This development will forever impact this dying breed of district, Cultural Resource Areas. Currently, Cultural Resource Areas amount to less than one half percent of existing single family housing in Tempe. She appealed to the Commission to keep this development to only what is allowed under the 2040 General Plan. This developer is requesting a density that is more than double what is entitled.

Ms. Christine Hartman of Tempe stated that she is opposed to this plan. The case to amend the General Plan has not been made, in her opinion. She was involved in the opposition to Gracie's a few years back, and in that case the developer and the neighbors finally reached a compromise for MU-3 zoning. She feels that should set the limit for this part of Apache between Dorsey and McClintock. This developer should not have more leeway than what was given

Gracie's. This is a beautiful plan, but it needs to have three levels removed.

Ms. Marilyn Murphy of Tempe stated that she has been in the neighborhood for 4 years, she is familiar with the artHAUS project near Central and McDowell, which is very attractive, but is only 2 or 3 stories. The height of this project and the density is excessive, as they say they are bringing something that fits the General Plan but yet they are requesting more than what the General Plan specifies. This would set a precedent against protecting our Cultural Resource Areas, and she feels strongly that it must be done to avoid the issues others have spoken of tonight, such as the canyon effect.

APPLICANT RESPONSE:

Mr. Boyer responded by saying he understands that the area has changed over time and he believes this project would be a qualitative addition to the city. He understands there are trade-offs, but he contends that the benefits outweigh the negatives on this project. This evening, he had hoped to share with the Commission what the developer is doing to address the neighbor's concerns. Of the eleven communications sharing concerns received prior to this evening, they have fully addressed nine of them. The remaining two are density and height issues. He asked that he hear some of the comments from the Commissioners this evening, and being that there are only five Commissioners present, he also made a formal request for a continuance until the June 13, 2017 meeting.

COMMISSION COMMENTS:

Commissioner Labadie stated that he appreciated hearing so much input from the neighbors. He is torn, as he thinks the project is amazing if you take away the surrounding area. He believes the ground floor and open space, etc is great, and this is what is appropriate along the Apache corridor, as there will also be a streetcar stop here. They have done a great job with parking in this transit oriented area, the parking is at the requirement. This is an excellent design, but the neighborhood basically opposes this project. He hoped to hear more from the neighbors as to why this project is worse than another project that might go in. He only heard one suggestion this evening of what the neighbors think might make the project better, which would be shorter building, but one large mass and closer to the neighbors. He doesn't agree that a project with less height would be better. He would like to see the applicant and the neighbors get together and discuss further what changes might be made. He acknowledged the developer for the changes they have already made, such as lower unit count. He asked that the developer and neighbors continue having a discussion.

Commissioner Lloyd stated she is also torn on this project. She thanked everyone for coming this evening. She would like to see this site redeveloped, it needs it. She likes the design, site plan, open space, minimal lot coverage, and the step-down design to accommodate the neighborhood. What gives her pause is the overwhelming negative reaction to height and density versus the General Plan. She worries about setting a precedent, and she does not feel traffic was discussed enough. She herself drove through the neighborhood to leave the area when she drove out to the site, and she doesn't know how accurate a traffic study can be when people simply aren't driving to the site yet. She's concerned about the number of studio apartments, and at the price point, she doesn't believe those will be owner-occupied.

Commissioner Amorosi stated that he thought it was disingenuous of his fellow Commissioners to scare residents by saying if they build only 25 units, they can increase the bedroom count and that would mean more residents, when we know that City Council has stated they would not approve anything that has all four and five bedroom units. If indeed there was a proposal for a project with 25 units, it would also have to come before the Commission for approval.

Commissioner Brown stated that he appreciated the comments by all the residents who attended this evening, they were clear and well spoken.

Vice Chair Lyon stated that he thinks it was great that the residents were heard this evening. He reminded them that they are free to come back at the time the proposal is heard again on June 13, 2017. He believes this project lends itself to continuing the discussion about what changes are coming to the city. The city will continue to grow, we can't stop that. He believes that change is absolutely coming to this neighborhood. A light rail station is already there, as are a number of apartment complexes to the west, many of which he believes are unattractive. He believes the

Commission's job is to look at each project presented, using the "rules" as guidance, and to make a decision on that project's specific circumstances. He believes the General Plan and Zoning are there to influence the kinds of development that should come about in a certain area. Despite Commissioner Amorosi's comment about bedroom count, he still believes the residents could get something at this site that they would like a lot less. He believes this is a good use for this land, it is well designed, well planned and clever, with a very good chance at success because of such good planning. 46 new residents is not a lot, as most of these units would be occupied by a single person. Most of the height is facing Apache. He thinks this project is "as good as it gets," so he would be in support.

MOTION: Motion made by Commissioner Lloyd to continue to the June 13, 2017 DRC meeting, the request for a General Plan Density Map Amendment, Zoning Map Amendment, Planned Area Development, Development Plan Review and Use Permit for Tandem Parking for a new mixed-use development for **APACHE AND OAK (PL160429)** located at 1461 E Apache Boulevard. Motion seconded by Commissioner Labadie.

VOTE: Motion passes, 5-0.

STAFF ANNOUNCEMENTS:

Ms. Dasgupta reviewed the Agenda for the June 13, 2017 Development Review Commission.

There being no further business, the meeting was adjourned at 8:18 pm.

Prepared by: Cynthia Jarrad



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