



Minutes of the Development Review Commission March 13, 2018

Minutes of the regular hearing of the Development Review Commission, of the City of Tempe, which was held in Council Chambers,
31 East Fifth Street, Tempe, Arizona

Present:

Chair Linda Spears
Vice Chair David Lyon
Commissioner Thomas Brown
Commissioner Philip Amorosi
Commissioner Scott Sumners
Alternate Commissioner Barbara Lloyd

Absent:

Commissioner Michael DiDomenico
Commissioner Andrew Johnson
Alternate Commissioner Nicholas Labadie
Alternate Commissioner Angela Thornton

City Staff Present:

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

Hearing convened at 6:05 pm. and was called to order by Chair Linda Spears.

Consideration of Meeting Minutes:

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

- 1) Study Session Minutes, February 27, 2018
- 2) Regular Meeting Minutes, February 27, 2018

MOTION: Motion made by Vice Chair Lyon to approve Study Session and Regular Meeting Minutes for February 27, 2018. Motion seconded by Commissioner Amorosi.

VOTE: Motion passes, 4-0, with Commissioners Sumners and Lloyd in abstention

Consent Agenda:

The following Agenda items, #3, #4, and #15 were considered together on Consent Agenda.

- 3) Request a Use Permit to allow a restaurant with drive-through in the Commercial Shopping and Services (CSS) zoning district and a Development Plan Review for a new 1,526 square-foot restaurant for **TACO BELL**, located at 1336 West University Drive. The applicant is Hitchens Associates Architects. **(PL170417)**
- 4) Request a Zoning Map Amendment to rezone approximately 1.0 acre, (portions of two lots totaling 9.11 acres), from GID (General Industrial District) to RCC (Regional Commercial Center) for an approved multi-family residential development for **STREETLIGHTS RIO 2100**, located at 2092 East Rio Salado Parkway. The applicant is Aday Graff. **(PL180026)**

- 15) Request a Code Text Amendment for **PAD/ZONING EXTENSIONS**, consisting of changes within Sections 6-304, 6-305 and 6-901 of the Zoning and Development Code. The applicant is the City of Tempe. **(PL180053)**

MOTION: Motion made by Commissioner Sumners to approve Agenda item #3 (with a modified DPR180030 condition of approval number 1), Agenda item #4 (with an added condition of approval to ZON180011), and item #15. Motion seconded by Vice Chair Lyon.

VOTE: Motion passes, 6-0

PRESENTATION BY STAFF:

Mr. Robbie Aaron, Planner II, gave a short presentation. He stated that these downzoning cases began with a September 14, 2017 Council resolution, which would allow the downzoning and also waive the associated City fees and Development Plan Review requirement. City staff hosted an informational meeting to discuss the process, then the process remained open from approximately September 20, 2017, through the end of December 2017. In that time, the City received ten applications representing a total of 12 parcels. Six of those are historically designated properties on the historic register. Staff also hosted a neighborhood meeting, which took place on February 6, 2018. This meeting had about ten attendees, some in favor and some opposed. Staff took public comments at that time and then moved forward with the process.

Commissioner Brown asked if a property was downzoned, would it pay lower taxes. Mr. Aaron responded that staff's understanding of the tax question, is that taxes would remain the same, as tax rates are based on the use of the property and not on the zoning. Most of these properties are single-family use, and will remain so.

PRESENTATION BY APPLICANT:

Chair Spears stated that any applicants that would like to speak about their properties, she would give them the opportunity before the Commission voted on that particular agenda item, but first she would like to hear comments that were "in general," concerning all of the cases.

PUBLIC COMMENT:

Mr. Steve Tseffos stated he has a history in the Maple-Ash neighborhood going back more than 30 years, he is involved in the MAPLE group, and he is opposed to this downzoning. He believes the City Council thought there would be no opposition, since this is a voluntary program. He stated that staff has presented this program as the exact program that was done in Phoenix, but that is not true. In Phoenix, there was a block of R-2 zoning with a few higher-zoned properties within it, and they then brought those down in zoning to conform to the lower density. Tempe is doing the exact opposite, in that there is already uniform zoning and we are interjecting disparate zoning. The Maple-Ash residents in favor of this are looking for a tool to safeguard them, since they were not successful in obtaining a historic district. He does not believe there is pressure for re-development in this area, as only about five or six properties have been demolished and remodeled in the past 60 years. He asked the Commission to make a recommendation to go back to Council or back to a committee to discuss this as part of the Urban Core Mast Plan. Why is the City staff's time, and a very important tool, zoning, being offered for free? If he wanted to up-zone his properties, he would have to pay the fee and have a plan.

Mr. William Bunger stated that he is also with the group MAPLE. He stated that this may be the oldest neighborhood in Tempe, but it is also the neighborhood with the longest ongoing battle within itself in the history of Tempe. There should have been some public input requested by the City before this took place, such as with the Historic Preservation Ordinance. He also believes this should not have been a "free" process. If the homeowners believe this is a worthy project, then let them put the money up, having the City spend taxpayer dollars for individuals is not fair. The proponents simply want to stop development in the area. They can achieve this by purchasing a property in the middle of the block so a developer cannot come in and buy a whole block. These applicants should put their money where their mouth is, this process is time wasted.

Mr. Kent Oerte stated that he lives in this area as well. They have owned property here since about 1995, and have improved it but have never intentionally wanted to downzone. They have been approached by many in the neighborhood who would like to make the property historic, he also believes, as the previous two speakers, that their end goal is to designate the neighborhood as historic. He is also tired of the internal ongoing argument in this neighborhood, he believes there is a silent majority that just wants to be homeowners raising their families. He does not have a special interest he is trying to drive against, but government dollars should not be used for this small group of people. He believes that once they are designated as historic properties, the taxes would be close to zero. He strongly opposes this type of effort and these insidious moves to taking property rights in this area.

COMMISSION COMMENTS:

Chair Spears asked Mr. Levesque to clarify if this is solely about the individual property rights, or whether there is some grand plan to do something rather than allow downzoning. Mr. Levesque responded that this was a Council initiative, set up to identify areas and properties in which Council felt homeowners did not want to take advantage of their properties' zoning to add additional units on the property. Meaning, the applicants wanted to downzone to the appropriate zoning district that was consistent with how they are currently operating their properties. The intent was to make that process available. Properties are either zoned R-3 or R-3R, and if they were to downzone the property, the existing development or density that occurs on the property would be consistent with an R-2 zoned property. That is basically what the requests are for this evening. It was also an effort to analyze how the City looks at certain areas within the city, such as cultural resource areas that identify appropriate zoning and density designations. These properties within this specific area fit within that type of request.

Chair Spears inquired how downzoning a property impacts any other properties in the area. Mr. Levesque stated it only affects the individual property owner's rights. Adjacent properties that still have R-3 or R-3R zoning continue their right to add to or develop their properties as they are entitled to in that zoning district.

Commissioner Sumners asked for clarification on property taxes. He thought property taxes were determined by classification, such as industrial property per square foot would be a little more than residential in terms of tax burden. Mr. Levesque stated that taxes are determined by use classifications. So, as an example, if it is either a single family home residential use or a duplex, the taxes are assessed based on those existing conditions, not what the underlying zoning potential density is for the property

Commissioner Lloyd asked why the fees were waived, and Mr. Levesque responded that Council had inquired of staff what incentives could be offered to property owners to take advantage of a downzoning process. Staff extensively researched options, including whether or not tax incentives could be provided. After some discussion, it was decided that this was the best option, and they then adopted a resolution that allowed the granting of the waiver for applications and hearings. The fees would have been approximately \$2,600 per application.

PUBLIC COMMENT:

Chair Spears read a statement provided by Eduarda Yates of Tempe, stating "I strongly approve of all the downzoning requests in the Maple-Ash neighborhood."

- 5) Request a Zoning Map Amendment from R-3 (Multi-family) to R-2 (Multi-family) of +/- 0.16 acres, for **22 WEST 9TH STREET**. The applicants are Jeanette L. Lucier and Gerald D. O'Neill. **(PL170426)**
MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3 (Multi-family) to R-2 (Multi-family) of +/- 0.16 acres, for **22 WEST 9TH STREET**. Motion seconded by Commissioner Brown.
VOTE: Motion passes, 6-0.
- 6) Request a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.16 acres, for **WINDES-BELL HOUSE** at 24 West 9TH Street. The applicants are Jeanette L. Lucier and Gerald D. O'Neill. **(PL170427)**.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.16 acres, for **WINDES-BELL HOUSE** at 24 West 9TH Street. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 7) Request a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.16 acres, for the **HARRIS HOUSE** at 823 South Maple Avenue. The applicants are Jeanette L. Lucier and Gerald D. O'Neill. **(PL170428)**.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.16 acres, for the **HARRIS HOUSE** at 823 South Maple Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 8) Request a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.94 acres, for the **BARNES HOUSE** at 1104 South Ash Avenue. The applicants are Jeanette L. Lucier and Gerald D. O'Neill. **(PL170429)**.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.94 acres, for the **BARNES HOUSE** at 1104 South Ash Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 9) Request a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.32 acres, for the **McGINNIS HOUSE AND PARCEL** at 913 and 915 South Maple Avenue. The applicant is the Maple Ash Conservancy, LLC. **(PL170431)**

PUBLIC COMMENT:

Ms. Karyn Gitlis stated she lives in the area and wanted to speak about this request for 913 and 915 South Maple Avenue. She is part of a group of people who own this property as part of an LLC. They have prevented development in this particular part of the neighborhood, and they would like to use this property in the future as a demonstration of the types of in-fill housing that are possibilities, given the financial value of these properties and the density in the neighborhood. She wanted the Commission members to know this is something they would like to see through at some point in time.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.32 acres, for the **McGINNIS HOUSE AND PARCEL** at 913 and 915 South Maple Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 10) Request a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.40 acres, for the **RIFKIN RESIDENCE** at 1200 South Ash Avenue. The applicant is Adam Rifkin of behalf of The Burton Rifkin Trust. **(PL170437)**

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.40 acres, for the **RIFKIN RESIDENCE** at 1200 South Ash Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 11) Request a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.47 acres, for the **KLETT RESIDENCE** at 1136 South Ash Avenue. The applicants are Mark Klett & Emily Matyas Klett. **(PL170438)**.

PUBLIC COMMENT:

Mr. Mark Klett stated he is the owner of this property and has lived there for 26 years. He wanted to thank the City Council

for this opportunity. When he bought this house, he did not like the fact that it was zoned R-3. For him, this is not about a historic property designation or about taxes. It is just about staying where he is and building a studio, as he is an artist and photographer. He has improved his property and feels strongly about the neighborhood, and he thanked the City again for this opportunity.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.47 acres, for the **KLETT RESIDENCE** at 1136 South Ash Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 12) Request a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.24 acres, for **1203 SOUTH ASH AVENUE**. The applicants are Matthew & Jacqui Conway. **(PL170439)**

PUBLIC COMMENT:

Mr. Matthew Conway stated he is the owner of this property, has lived in the house since 1998, and in the neighborhood since 1995. He also thanked the Commission for their support and thanked staff for the work on this project. He finds it disheartening that there is such an adversarial approach by the opposition. He understands the difference of opinions, but it becomes personal. He has attended some MAPLE meetings in the past to see if there is a way to bridge the gap, but there does not seem to be a bridge. He is only doing this because he has a single house on the property and does not see the need to redevelop it or do anything that would take advantage of the zoning he currently has. He just wants a safe place for his children, to raise his family, and to stay there until he retires.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.24 acres, for **1203 SOUTH ASH AVENUE**. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 13) Request a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.46 acres, for the **GITLIS-DOUGLASS RESIDENCE** at 1206 South Ash Avenue. The applicants are Karyn Gitlis & Philip Douglass. **(PL170440)**

PUBLIC COMMENT:

Ms. Karyn Gitlis, who is the owner of this property, spoke. She thanked the City's development department for working so diligently on this process and thanked the City Council for conceiving of this idea. She believes she speaks for all in saying that she is confident that the action of downzoning is a statement on the part of the applicants that this is valuable, and they are demonstrating their desire to preserve the neighborhood and single-family use. She believes the homes have intrinsic value as a quality of life place to live and a community in which they believe strongly. These properties are very desirable and sought out. Many are looking at selling their properties to people who will continue to use them as single-family residences. They believe the neighborhood deserves designation as historic, but that issue has nothing to do with this process. Downzoning is used across the country as a strategy and a way to preserve uses.

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R(H) (Multi-family Historic Overlay) to R-2(H) (Multi-family Historic Overlay) of +/- 0.46 acres, for the **GITLIS-DOUGLASS RESIDENCE** at 1206 South Ash Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

- 14) Request a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.22 acres, for the **SANDSTEDT RESIDENCE** at 1117 South Ash Avenue. The applicant is Virginia Sandstedt. **(PL170441)**

MOTION: Motion made by Vice Chair Lyon to approve a Zoning Map Amendment from R-3R (Multi-family) to R-2 (Multi-family) of +/- 0.22 acres, for the **SANDSTEDT RESIDENCE** at 1117 South Ash Avenue. Motion seconded by Commissioner Brown.

VOTE: Motion passes, 6-0.

COMMISSION ANNOUNCEMENTS: None.

STAFF ANNOUNCEMENTS:

Ms. Dasgupta reviewed the agenda for the March 27, 2018 Development Review Commission meeting. There are currently three items on the agenda.

There being no further business, the meeting was adjourned at 6:42 pm.

Prepared by: Cynthia Jarrad



Reviewed by:
Suparna Dasgupta
Principal Planner, Community Development Planning