



## Minutes of the Development Review Commission August 14, 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 David Lyon  
Vice Chair Michael DiDomenico  
Commissioner Philip Amorosi  
Commissioner Thomas Brown  
Commissioner Andrew Johnson  
Commissioner Scott Sumners  
Alternate Commissioner Angela Thornton

**Absent:**

Commissioner Don Cassano  
Alternate Commissioner Barbara Lloyd

**City Staff Present:**

Ryan Levesque, Deputy Director – Planning, Comm. Dev.  
Suparna Dasgupta, Principal Planner  
Diana Kaminski, Senior Planner  
Obenia Kingsby, Planner II  
Dalton Guerra, Planner I  
Cynthia Jarrad, Administrative Assistant

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Hearing convened at 6:10 pm and was called to order by Chair David Lyon.

**Consideration of Meeting Minutes:**

- 1) Study Session Minutes, June 12, 2018
- 2) Regular Meeting Minutes, June 12, 2018

**MOTION:** Motion made by Commissioner Sumners to approve Study Session and Regular Meeting Minutes for June 12, 2018. Seconded by Vice Chair DiDomenico.

**VOTE:** Motion passes, 6-0, with Commissioner Thornton in abstention

Chair Lyon briefly discussed the possible confusion on the two agenda item numbers, #3 and #6. It was made clear that some members of the public wished to speak on both projects. At the suggestion of Commissioner Brown, it was determined that agenda items #3 and #6 would be heard back to back.

- 3) Request a Preliminary Subdivision Plat, for three new lots for **NEC BASELINE ROAD & ROOSEVELT STREET RETAIL and COBBLESTONE CARWASH**, located at 660 and 616 West Baseline Road. The applicant is 3 Engineering LLC. (PL180172)

**PRESENTATION BY STAFF:**

Ms. Diana Kaminski, Senior Planner, gave a brief presentation. She explained that this subdivision plat request will actually clean up some property lines with an existing car wash at this site. The Cobblestone Car Wash includes two existing parcels and a remnant parcel that was sold to the car wash several years ago but is not part of an existing plat. The request for the plat is to create one parcel out of the Cobblestone Car Wash site, and two parcels on the remaining vacant lot. So, the

applicant is processing a preliminary subdivision plat for the vacant lot. A final subdivision plat will be processed for City Council approval to remove the property line between the two parcels and incorporate it into the car wash site.

Commissioner Brown inquired if the current zoning of the remnant parcel was different than Commercial (Commercial Shopping & Services, CSS) and Ms. Kaminski responded that they were. The car wash site is CSS and the other zoning is Trailer Park (TP).

Commissioner Johnson asked if there was an intended change of use for the remnant parcel, or if it would remain parking. Ms. Kaminski stated that it would be continued to be utilized by the car wash.

**PRESENTATION BY APPLICANT:**

Ms. Darin Sender of Sender Associates then spoke, stating that she was representing Avalon Investments on the Zoning, Development Plan Review and Use Permit requests. She agreed that this plat would be a cleanup of an illegal lot split that took place many years ago, and with this proposed new development, it was a perfect time to do so. This change is in conformance with the General Plan as well.

**PUBLIC COMMENT:**

Ms. Janice Mundy stated she was a Casa Fiesta resident, which is the adjoining subdivision. Her concern is the subdivision of this small plat into two parcels with two businesses instead of one. They already have problems with the car wash, with debris such as wet rags and so forth being thrown over into the park area. They have repeatedly asked the management of the car wash to please prohibit their people from coming into the park to smoke marijuana. This is a concern as there are many children in the area. The other major concern is traffic. They have one of the worst intersections for injuries in the city at Kyrene and Baseline. There has been one death there and 20 injuries that she is aware of. These businesses will only cause more congestion and problems. She concluded by saying one business there instead of two would lower the traffic impact, would be reasonable and would have support.

Vice Chair DiDomenico pointed out that the number of parcels does not have any bearing on how many individual businesses might be constructed there. Parcels are often subdivided. Ms. Mundy stated she understood, but this would make it easier to subdivide, in her opinion. Vice Chair DiDomenico stated that separate parcels would actually probably allow the owner or property owner to sell them individually to two separate ownership groups.

Mr. Tom Buick asked if the re-platting was the same as rezoning, and Chair Lyon responded that it is not, the rezoning portion will be heard under agenda item 6. In regard to the alleyway that is currently being used by Cobblestone but has not yet been designated as part of that property, if that is given away then garbage or fire trucks would have to maneuver back onto Baseline and back around, making it a convoluted routing for them. There is a lot of potential or synergy that could be gained from allowing cross-access between those parcels.

Commissioner Brown asked Mr. Buick if he is essentially asking if the Cobblestone car wash garbage trucks would be permitted to cross into this property, which could invite other traffic to cut through as well, which is one of the concerns of the neighborhood. Mr. Buick responded that it could be designated access for utility vehicles only, and the answer is yes, but that is not necessarily a bad thing. That on-site circulation for the commercial use is something that ought to be considered. By breaking it up as it is now designated in this proposal is contrary to enabling better on-site circulation.

There was some confusion among Commissioners as to which access points were being discussed. Ms. Kaminski placed a drawing on the overhead and Mr. Buick pointed out exactly where he was alluding to.

Mr. Bruce Mundy stated that he is a resident in the Casa Fiesta subdivision. Historically, all of this area, including Casa Fiesta, the apartments to the west, etc. were originally a trailer park. The car wash was put in front of the apartments by splitting the lot, and now there is a request for more subdividing. There are laws against excessive subdividing.

**APPLICANT RESPONSE:**

Ms. Sender said she would reserve her comments until later, when the other part of the requests was heard, but pointed out that this subdivision plat request meets all city and county requirements.

**COMMISSION COMMENTS:**

Before comments began, at the request of Chair Lyon, Ms. Kaminski re-summarized the request that is being heard. This is a request for approval of a preliminary plat before a final plat can be approved by City Council. It addresses the vacant lot, which has never been subdivided, will identify property lines, and it also incorporate the piece at the north end. She pointed out that, in response to neighbor's concerns, creating two smaller lots rather than one larger one actually lessens the intensification of the site because each property is subject to its own setbacks. This configuration reduces intensification of the two new lots, and it meets the criteria for a subdivision plat, so staff is recommending approval of this request.

Commissioner Amorosi stated the driveway is on the west lot, and how will the owner of the lot to the east maintain access? Ms. Kaminski responded there are requirements for shared cross access agreements, which would include the parking lot and driveways. Since this is a preliminary subdivision plat, this is something that would be done at the time of the final subdivision plat, prior to pulling building permits.

Commissioner Sumners inquired if the cross-access agreements are a condition of the plat or a condition of the development plan. Ms. Kaminski replied those conditions are part of the final subdivision plat.

Vice Chair DiDomenico explained to the members of the public that the purpose of a subdivision plat is to create lots where one could do many different projects on this site, from a multistory office building to apartments, and so on. This request for a plat does not address the issue of what could go there and what might be disruptive to traffic and noise and all the things neighborhoods care about. He does not see any legal standing or reason to not allow for the subdivision requested and he will support it.

**MOTION:** Motion made by Vice Chair DiDomenico to approve **PL180172, agenda item #3**. Motion seconded by Commissioner Johnson.

**VOTE:** Motion passes, 7-0.

Ayes: Chair Lyon, Vice Chair DiDomenico, Commissioners Brown, Amorosi, Johnson, Sumners and Thornton

- 6) Request a Zoning Map Amendment, two Use Permits for drive-through restaurants, and a Development Plan Review for two new single-story commercial buildings totaling 4,630 square feet for **NEC BASELINE ROAD & ROOSEVELT STREET RETAIL**, located at 660 West Baseline Road. The applicant is Vertical Design Studios. (PL180172)

**PRESENTATION BY STAFF:**

Ms. Diana Kaminski, Senior Planner gave a short presentation. She reviewed the requests and stated that changing the TP zoning to CSS will make the site in conformance with the adjacent property. The two proposed buildings are 2000 square feet each, so are small building footprints. She explained the setbacks and heights of the buildings and reported there had been two neighborhood meetings, one in June and one in July. Since there was a mistake on the initial posting address for the neighborhood meeting, a second meeting was rescheduled for July. The desire of the neighbors is that there be no access to these sites off Roosevelt Drive. In the proposed configuration, the primary drive for both sites would be off Baseline Road. The required 62 spaces for parking and 8 spaces for bikes are provided. One of the issues the Commission will hear about tonight is access off Roosevelt Drive. Many neighbors have requested there be no access or that it be modified in some form to prevent cut-through traffic to the north, through the neighborhood. The applicant has worked with City traffic engineering staff on driveway configuration that would enable vehicles to make a right into the site going northbound on Roosevelt and then a left out of the site to go southbound on Roosevelt. The angle of the drive and further extension of the proposed median will help to prevent traffic making a left out of the site, and make it difficult for anyone to come from the neighborhood into the site. Again, even those living in the neighborhood would have to travel south on

Roosevelt to Baseline to enter the site. She reviewed access for fire, refuse, etc., and then shared landscape plans, elevations, colors, materials, etc. The applicant is providing more landscaping than is required, with additional landscaping along the east side, landscaping on both sides of the sidewalk for shade and enhancement along both Baseline and Roosevelt. Staff received one email after the first neighborhood meeting, and no calls or emails after the second neighborhood meeting until today, inquiring if public speaking would be available this evening. Staff is recommending approval of the project, it is in conformance with the General Plan and will bring it into conformance with the adjacent property.

Vice Chair DiDomenico commented that with his review of the site and circulation plan, he sees a potential problem with traffic that is westbound on Baseline and entering the site. They would need to make a very hard right turn to reach the restaurant to the east, having just crossed over the sidewalk, where there may be pedestrians as well. He wondered if there was enough room to do this. Vehicles leaving the drive-through aisle and heading to the exit would also have to cross the path of this incoming car. He expressed there may be a lot of fender-benders there. Ms. Kaminski responded that she would let the applicant address this issue.

#### **PRESENTATION BY APPLICANT:**

Ms. Darin Sender of Sender Associates spoke about the project. She stated she was there with Mr. Scott Whittington of Avalon Investments, Mr. Jason Gregonis of Gregonis Architects, and Mr. Chuck Wright with the traffic engineering firm. She stated Ms. Kaminski had done a great job of describing the requests and the specifics. The zoning will bring the property into compliance with adjacent properties and is also in compliance with the General Plan. The Use Permits requested are only for the drive-throughs, and all five of the use permit criteria have been met. Since this lot is and has been vacant, any development here would have the potential of increasing traffic. This project would also actually act as a buffer for Baseline Road and Cobblestone Car Wash noise. A Starbucks is planned for the building to the east, and a healthy food restaurant for the building to the west. She shared images and renderings and explained there are four buffers for noise generated at the menu boards. The menu boards are located quite a distance from any residences. She acknowledged the neighbors' concerns, and re-stated that steps had been taken to mitigate the chance for cut-through traffic through the neighborhoods. The applicant has made the site beautiful, with wonderful design and building materials, as well as lush landscaping for such a small site. This is a very low intensity, and with the CSS zoning, it could have been a much denser development with much higher trip generation and traffic impact. The traffic study included in the information this evening certifies that the increase in traffic would be minimal. They believe this is a compatible use for the area, there are not many restaurants in this area. They are aware of letters of support from some in the apartments to the west and the car wash. In response to Vice Chair DiDomenico's comment about the circulation and the vehicles entering crossing the path of the exiting vehicles, she stated the configuration for vehicles leaving the drive-through will be similar to others in the city, in which there is a stop sign at the end of the drive-through aisle, forcing a vehicle to stop before entering the common area.

Chair Lyon inquired if the applicant would agree to a condition requiring the proposed median on Roosevelt Drive be extended as shown this evening, and Ms. Sender said they absolutely would.

Commissioner Amorosi stated that one of the slides stated restaurants would be open until 11 pm, but the use permit says open until 9pm. Could Ms. Sender please clarify which is correct. After some discussion between the applicant and Ms. Kaminski, Ms. Kaminski clarified that the stipulation for both properties is closing time of 10:00 pm.

#### **PUBLIC COMMENT:**

Chair Lyon read into the record the following comments:

Ms. Brittani Antunes of Tempe, "I object to the division of the vacant lot in hopes of preventing two businesses to take residence on the lot. This will likely add more congestion to the neighborhood where one lot may allow for the possibility of a single business. I disagree with this proposal to put the two drive-throughs in the lot at Baseline and Roosevelt, mainly due to the increased traffic it will create in our neighborhood. The restaurants will likely be congested, and it will be too tempting for customers to exit onto Roosevelt."

Ms. Corrine Schwartz of Tempe, "Oppose rezoning and re-plat. I echo the concerns of the residents who spoke against the re-plat. Changing it will allow/invite higher traffic business in a dangerous location. I also oppose rezoning for drive-throughs, as it would disturb the neighborhood and cause dangerous traffic."

Ms. Melissa Moore spoke, saying she is a resident of Casa Fiesta, and she has safety concerns, especially regarding traffic, as she has two small children. With retail, there are all sorts of people, and she is concerned with vagrants walking around the neighborhood. She also believes ingress and egress is an issue. There are only two entrances and exiting points from their neighborhood, and should there be a major accident along Baseline Road, many people try to cut through their neighborhood to get to Hardy or however they can get around. Adding these businesses would just add to that problem, Currently, with people walking, vehicles have to wait on Baseline until they pass to turn in, so this will add to congestion and possible accidents.

Ms. Amanda Chua of Tempe stated that she is a resident of Casa Fiesta and this is a bike-friendly area, with the canal being a big attraction. Bicyclists using the canal path would like to continue on to Kiwanis, but they have to detour through the Kyrene and Baseline intersection, therefore she is most worried about traffic. She walks her dog in this area a lot, the pedestrian traffic is heavy, and there are already too many accidents. There is not a traffic signal allowed at the Roosevelt and Baseline intersection because it is too close to the existing light at Kyrene and Baseline. Businesses that rely on drive-through customers is a concern. She does not have a problem with it being zoned commercial, but with the use permits for the drive-throughs. She urged the Commission to seriously consider this proposal and what it means for increased traffic, more congestion, and less safety. It is the City's responsibility to keep its residents safe.

Chair Lyon read into the record: Ms. Kathi Reichert of Tempe: "Steve and Julian, I want to express my deep concern over the project scheduled for the northeast corner of Baseline and Roosevelt in Tempe. Pulling off of Roosevelt onto Baseline is currently a very dangerous endeavor. This is an extremely busy area with the light at Kyrene, Roosevelt, the car wash, the apartments on the south and north side of baseline and the bus stop. How can it possibly be safe to add another turn in this area for two more businesses? Is the City of Tempe in that dire need for money that they are willing to jam a couple businesses into an already congested area? I hope the designers, city staff, elected officials and business owners are willing to be held responsible for accidents that will happen in this area. I know Taco Bell was looking at this site but moved to a reasonable and safe location down at a lighted intersection at Hardy. I'm sure the reason for the move was due to the issues with congestion and safety. I live in the Casa Fiesta neighborhood. It's a nice, fairly quiet area where kids can play, and I feel safe riding my bike on the street. I'm sure people will be cutting through the neighborhood with these businesses making it unsafe for these activities. In fact, there is a park located directly adjacent to this planned project. Two fast food restaurants and a kid's park side by side does not sound like a safe plan. I certainly hope City staff is not being pressured by elected officials or the business owners to make this project happen no matter what the consequences. I've lived here almost 20 years and I do believe there needs to be new development, however, not at the cost of the safety of the citizens. Thank you for your time and attention. If possible please read this letter at the next meeting regarding this issue because I will be out of town."

Ms. Cynthia Calendar of Tempe said she is also a resident of Casa Fiesta for the past 20 years and is a school bus driver as well. Her previous route took her from the Chaparral Trailer Park westbound on Baseline, having to turn south to the apartment complex at 505 West Baseline, which was extremely difficult at that time because of traffic, especially in the common turn lane. The other problem is the proposed extended median on Roosevelt Drive, that is exactly the spot where there is a school bus stop. Children come from the apartment complex and walk across to get on the bus, facing the other direction. This will not be a good situation. She believes there should be a traffic signal installed.

Chair Lyon read into the record: Ms. Gail Buick of Tempe: "I would like a "no right turn" sign coming out of the west end of the site. No right turn onto Roosevelt.

Chair Lyon added that there were still many speaker cards, and lest everyone be here for a very long time, he asked that if someone's concern is traffic, simply approach the podium and say, "my concern is traffic." If you have heard someone else

raise your concern, say "I echo what they said." You will still show your support or opposition, and the Commission hears you.

Mr. Marc Cohen stated he is also a resident of Casa Fiesta and has lived there for 20 years. Making a left turn off Roosevelt to go east on Baseline is nothing short of impossible during afternoon rush hour. Traffic from the light at Kyrene backs up well past Roosevelt every day and adding these businesses at this location will make that right turn even more impossible. This again speaks to safety, and there are already far too many accidents.

Commissioner Thornton inquired of Mr. Cohen, what do you do if you cannot turn left on Baseline? Mr. Cohen said you simply do not, you have to turn right and go to Hardy, but Hardy is backed up from Baseline to Southern. Commissioner Thornton then asked Ms. Kaminski if it was possible to make it "right-turn only" upon exit from the project. Ms. Kaminski responded that is really a traffic engineering question, and the City's traffic engineer representative is not here this evening. She is not able to speak to right-of-way issues.

Chair Lyon read into the record: Mr. Fidel Romero of Tempe: "Want results of the traffic impact study. If one not available for discussion, then when?"

Mr. Bruce Mundy of Tempe stated he is also a 20-year resident of Casa Fiesta, and he believes the proposed buildings are lovely, but his concern is with traffic. He echoed what previous speakers had said about the common turn lane, traffic at a standstill in the afternoon and far too many accidents. Chair Lyon reminded him that these are concerns we have already heard and did he have anything additional to add. He asked what would prevent people from actually parking on Roosevelt and walking to these restaurants. Also, Roosevelt Street is falling apart, the condition of the road is horrible. Currently there are about 1,300 cars per hour on Hardy, it is impossible to pull in or out from the subdivision.

Mr. Tom Buick of Tempe commended the applicant for extending the island but there needs to be paving on Roosevelt, he shared an image of the deteriorated road. He believes reconstruction of Roosevelt should be required as part of the development. He suggested the City should ask the applicant to complete a traffic impact study that looks at the internal circulation of the site as well as external traffic operations. He believes these businesses will not add to traffic, but they will create additional points of contact, creating more traffic issues than already exist.

Chair Lyon read into the record: Ms. Sara Mendivil of Tempe: "I have lived at the Casa Fiesta subdivision for 19 years – original owner. I am concerned with the safety of our neighborhood with the two businesses which the developer wishes to build. Too much traffic."

Chair Lyon read into the record: Ms. Janice Beal of Tempe: "I realize something will be built here but it is accidents waiting to happen."

Mr. Tony Cristanelli of Tempe stated he agrees with Mr. Buick.

Chair Lyon read into the record: Ms. Janice Mundy of Tempe: "The proposal for up-zoning to two fast-food restaurants will leave Casa Fiesta land-locked. It is dangerous."

Ms. Janice Mundy then approached the podium and stated that the impact to the Casa Fiesta neighborhood will be great, as they are already land-locked because of the congestion and traffic on Baseline. There is only one way in and out of the subdivision, at each end. She mentioned the bus-stop and traffic concerns, as others who spoke this evening. There have already been 20 injuries at this bus-stop location, the highest in all of Tempe. They already experience a lot of cut-through traffic through their neighborhood, and this will only make it worse. Emergency vehicles cannot even get in and out of this area now, it is dangerous.

Chair Lyon interjected that this evening's comments reminded him of a similar proposed project that came before the Commission a while back, for a site on Baseline west of the I-10. The proposed was a Fry's Fuel Center and a Burger King

in the parking lot of the Fry's Electronics. The traffic study at that time suggested that no one would go out of their way to frequent these places when traffic is already high, they will only go in if they are already driving by. Their presence will actually lighten traffic because people will pull in for 5-20 minutes, and that will actually lighten congestion for a little bit. He then said he is not a traffic engineer and does not know if that is true, but he can say that in this case there has been a traffic engineering study which has looked at many of the concerns heard this evening, and this study also concludes that there will not be a significant increase in the number of cars. He understands that people are frustrated, but the Commission has heard you, and traffic engineers have analyzed it.

Chair Lyon read into the record: Ms. Diane Abe of Tempe: "I oppose any use permits for drive-through restaurants at 600 West Baseline. Please do not approve."

Chair Lyon read into the record: Mr. Paul Abe of Tempe: "I oppose Use Permits for any drive-through fast food or restaurants due to neighborhood traffic concerns which already exist. Please do not approve the use."

Chair Lyon read into the record: Ms. Christine Pitzka of Tempe: "The area vacant to Casa Fiesta would create a lot of traffic on Roosevelt and increase traffic to busy Baseline. Drive-through exit on to Baseline / Roosevelt noise already from the car wash, Increase noise."

Chair Lyon read into the record: Ms. Corrinne Schwartz of Tempe: "Drive-throughs are not suitable for this location as it would cause too much traffic at Roosevelt and Baseline in our neighborhood."

Chair Lyon read into the record: Ms. Michelle Dittfach of Tempe: "Oppose the rezoning to drive-throughs."

Chair Lyon read into the record: Mr. Don Calender of Tempe: No comments, just on record that he is attending this evening.

Ms. Terri Sage of Tempe spoke, thanking the Commission for listening to their concerns. She asked if the landscaping will be maintained, as she is concerned that landscaping could be an additional obstruction to viewing traffic. Chair Lyon responded that there are standards and guidelines pertaining to landscape maintenance. Concerning traffic, she would like to talk about solutions rather than just talking about the problem. Her first idea was for signage – such as "No Right Turn," or "Residential Area" at the entrance to their neighborhood. Perhaps speed bumps at the entrances to the neighborhood would be a deterrent. She also wondered if there would be something in place that would prevent these businesses from "dumping in the canal like Cobblestone does." Chair Lyon responded "certainly, there's a law that says you cannot dump in the canals." Ms. Sage stated that it goes on all day long at Cobblestone Car Wash, and she wanted to mention it. In closing, she asked if the City would repair the right and left turn signals at Hardy, because they simply do not work. To turn north or south off Baseline onto Hardy, the lights are not timed correctly, and so many times only one car makes it through at the light, and then others run the light. Working lights would be a great improvement for traffic, they only work about 50% of the time if that. Commissioner Brown asked that Ms. Sage send an email to the city's Traffic Engineering department, so this could be rectified.

Chair Lyon read into the record: Mr. Miles Mundy of Tempe: "Project not desired."

Chair Lyon read into the record: Mr. Fidel Romero of Tempe: "What is to prevent patrons from parking on Roosevelt?"

#### **APPLICANT RESPONSE:**

Ms. Sender stated they are aware of the complaints about traffic and have worked with City traffic engineers quite a bit. Every business on Baseline currently has the same issue, and this project will not hinder that, it may actually help. Many projects would be able to be developed without changes to zoning, meaning they would not have to put a median in or change the driveways for example. They have worked diligently for solutions, have already considered extra signage, etc., and are trying to do the right thing for all involved. Again, this is a smaller development than they were entitled to, and the traffic impact should therefore be less as well. They will simply be capturing traffic from what is going by anyway. She does not believe there would be an issue with restaurant customers parking on Roosevelt and walking over, as the buildings

would simply be too far away for that to be feasible. She thought there may be the possibility of a grant to take care of paving Roosevelt, as this area has just recently received a grant for sprinkler lines for the retention basin north of the proposed project. She also commented the signal lights sound like a problem, but those things are outside the scope of this project. They should be inspected by the City. The applicant would be agreeable to a left turn only sign for exiting on Roosevelt, but they believe there should be full turning movement on Baseline, to turn and go east or turn and go west. The traffic lights are timed properly, and there is adequate traffic flow, this has been certified by the City as well as by their traffic engineer.

Commissioner Brown stated the diagrams Ms. Sender shared that there would be layers of buffering for noise. Is there a block wall on the north boundary of the site? Ms. Sender responded yes, there is a six-foot wall on the north boundary, between where the cars will park and the retention basin.

Commissioner Thornton asked if anyone was in attendance from Cobblestone Car Wash (they were not). She stated she is very concerned about what she has heard this evening concerning dumping into the canal and smoking pot, etc. She said the applicant is actually helping them out in the given situation, and she would hope something would be done, she would like a future report as to status and would like to see accountability. Ms. Sender responded that it was concerning to them as well, and they would be talking to the car wash.

Vice Chair DiDomenico stated that having two businesses operating until 10:00 pm, instead of a vacant lot, would most likely help to curtail unwanted activities by the car wash or their personnel. He also stated that he believed the concern voiced this evening, of people parking on Roosevelt and then walking to the businesses most likely would not happen. The drive-throughs are designed for cars, not for walk-up customers, and most people would rather drive through than park and then walk a distance to utilize the restaurant.

Chair Lyon asked Ms. Kaminski to reiterate the applicant's requests for Commission members before they discuss the project and then vote. Ms. Kaminski did so. She then clarified that according to Code requirements, there will be an eight-foot wall on the north perimeter, as it is adjacent to residential uses, along with a six-foot landscaping buffer. She added that staff and the applicant would also look into the little remnant piece that is part of the Cobblestone, because as part of commercial development they should also have that buffer, there should be no physical communication between the lot to the north and Cobblestone, and there should be trees along the northern perimeter as well.

Chair Lyon asked if that eight-foot wall is already conditioned. Ms. Kaminski responded that it is a Code requirement, and it is not currently identified on the plans, but would be addressed at the time of plan check.

#### **COMMISSION COMMENTS:**

Commissioner Amorosi stated he understands the frustration of the neighbors because he lives in a similar neighborhood with only two exits. He believes the area surrounding this project is generally a nightmare and that adding two auto-centric businesses, even though the studies say the traffic impact will be minimal, is not something he can support. He sides with the neighbors and will vote against the two use permits for drive-throughs.

Commissioner Brown stated he also recalled the previous project on Baseline, and the similarities here. He looked at an aerial photograph and this is a heavily developed area, with very few open spaces left. Even though it is difficult to think of two more businesses here, this is part of a bigger problem and would not really be the straw that broke the camel's back.

Commissioner Sumners stated that he supports the DPR and the zoning, he appreciates the landscape and high walls as noise buffers, etc., but he is not on board with the Use Permits. He wonders at how, early in the process, the applicant heard the neighborhoods saying they did not want traffic in the neighborhood and did not want drive-throughs, but the requests here are for drive-throughs. He will have a hard time supporting what the requests are tonight. He stated development is not going to go away, the site will be developed regardless. He believes the City should be considering some long-term solutions for traffic issues in this area.



Commissioner Johnson stated he agrees with Commissioner Brown, and he would also have safety concerns over ingress and egress if the exit and entrance on Roosevelt were removed from this site. Vehicles could still travel north on Roosevelt from Baseline, removing the entrance/exit would not prevent that. He likes the amenities being closer to the neighbors and makes it more walkable and bike-able. He will support.

Vice Chair DiDomenico stated he concurs with much of what Commissioner Johnson said. His background is in commercial real-estate, and basically owners have a right to develop their property per the zoning requirements. That would apply to him or anyone else if they owned this property. The rezoning requested fits within the General Plan. He thinks it is a difficult area in general, and he believes the customers may be as frustrated as the neighbors. However, he will support.

Commissioner Thornton stated that this project meets all the criteria. She knows this is a very difficult area and she purposely avoids it but the owner has a right to develop his property. She reiterated that she had some concerns from this evening, she has already talked about the Cobblestone issues, but encourages Mr. Buick and the neighbors to call Mr. Don Bessler of Public Works and let him know of the re-paving needed on Roosevelt. She commended the resident who spoke during the public comment period because of her approach to provide solutions (rather than re-stating the problems), and she agreed there were many things that could be done to help alleviate these problems. She acknowledged that these neighbors are trapped in their own community but that is already the case. She will support the project.

Chair Lyon stated that he actually lives not too far from this area, and he understands the traffic in the area is ridiculous, based on his own experience. He thinks there are really only two choices: either make sure nothing goes there or encourage something acceptable to go there. He believes this project is acceptable, and the patrons of the businesses will be those that are already on the street driving by. Of the things that could be developed there, this is a good one, in terms of traffic, and also a good one in terms of business. He is in favor of the project.

Vice Chair DiDomenico asked if the condition regarding hours of operation is properly reflected or if it needs to be changed. Ms. Dasgupta replied that the condition reflects business hours are until 10:00 pm and does not need to be amended in the motion. Vice Chair DiDomenico then asked if the applicant agreed with all the conditions listed and Ms. Sender responded that she was.

**MOTION:** Motion made by Commissioner Johnson for approval of **PL180172, agenda item #6**, with the added condition "the applicant will continue to work with staff to implement measures such as extended median, no right turn sign, or other actions found to be suitable at the Roosevelt site." Motion seconded by Commissioner Thornton.

**VOTE:** Motion passes, 5-2.

Ayes: Chair Lyon, Vice Chair DiDomenico, Commissioners Thornton, Brown and Johnson.

Nays: Commissioners Sumners and Amorosi.

Vice Chair DiDomenico reminded those in attendance that the vote just taken was for recommendation of approval, and the case will now move on to City Council for a final vote. The first and second hearing dates for City Council are on August 30<sup>th</sup> and September 27<sup>th</sup>.

- 4) Request an appeal of the June 19<sup>th</sup>, 2018 Hearing Officer's decision to deny a Use Permit to allow a recreational vehicle to be parked in the required front yard setback for the **GARCIA RESIDENCE**, located at 1125 East Bishop Drive. The appellant is Patrick Garcia. (PL180159)

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

Mr. Dalton Guerra, Planner I, gave a short presentation. He stated:

- The Garcia Residence is located on lot 174 of the Hughes Acres Unit Two Subdivision located south of East Broadway Road and East of South Rural Road in the R1-6, Single Family Residential District.
- On June 19, 2018 the Hearing Officer denied the applicant's request to park a Recreational Vehicle in the required front yard setback.

- Denial was based on the proposal not meeting 2 of the 5 Use Permit Criteria. One being the contribution to the deterioration of the neighborhood and the downgrading of property values in the area. Two, not being compatible with existing surrounding structures and uses.
- The Use Permit application was the result of a code violation issued by the Code Compliance Division on May 10, 2018 for parking a Recreational Vehicle in the front yard setback.
- Per the Zoning and Development Code Section 4-602(B)(7) Recreational Vehicles exceeding 21 feet in length shall not be parked in the front yard setback except for periods of up to 48 hours within 7 consecutive days for cleaning, loading, and maintenance.
- Prior to the June 19 Hearing Officer meeting, staff received 2 calls and one email in opposition as well as one call in support. At the June 19 hearing, 2 members of the neighborhood spoke in support. Since the June 19 hearing, staff has received 2 calls in opposition and one call in support. The callers in opposition were concerned with setting precedence in the neighborhood, preserving the aesthetics of the neighborhood, and encroachment into the right of way.

Commissioner Johnson inquired if the Use Permit would convey to a new owner if the property was sold. Mr. Guerra replied that was correct, the Use Permit would need to be transferred in the event another person wanted to park an RV in the front yard setback. It is a similar process as that for obtaining a Use Permit, but it does not come back before a hearing body, the transfer is approved or denied at an administrative level.

#### **PRESENTATION BY APPELLANT:**

Mr. Patrick Garcia stated that he has owned the property for 23 years and has had the RV parked there for the past 9-10 years, in the exact same spot. He stated he had been cited by the Code Compliance division only because there was a dispute between two other neighbors, one of whom had a similar trailer on his driveway. He has since spoken to the neighbor in question, and the neighbor denies that he submitted a complaint on Mr. Garcia's property.

Chair Lyon then interrupted Mr. Garcia to advise that "how we got here" is not as important as letting the Commission know why he thinks it is reasonable for him to have the Use Permit approved.

Mr. Garcia then stated that he would address the criteria regarding lack of compatibility and down-grade of the neighborhood. His rebuttal letter states that he drove through his neighborhood and found 22 other such "incompatibilities" in other yards, including the Vice-Mayor, who had a boat in front of her yard. As far as down-grading of home values, values have gone up, not down, as evidenced by the home next to his. It has been utilized as a frat house on and off for the last seven years, and they are renting it out for \$3,900 per month. His home was built in 1963, and that section was specifically for RV parking, that is one of the main reasons he bought the home. Since, over time, trailers have gotten taller, he cannot park the RV all the way back because of the overhang of the house. He would have to cut a 6-foot-long by 3 foot deep section out of his pitched roof to allow for the space needed. The problem is compounded by the A/C unit on the roof. He currently only has 7 feet to work with, so it is a tight fit to back it in and out. He pointed out that he is also a public servant, is not wealthy, and lives on a single income with four children and a stay-at-home spouse. Of all the suggestions put forth, most all of them will not work. He cannot afford to pay to store it elsewhere, he cannot store it in the back yard because he cannot get it into and out of the alley, he does not want to cut the overhang of the house. Additionally, he has a letter of support from a realtor who lives in the neighborhood as well as signatures from 18 or 19 residents on a petition he circulated. One of those signatures is the original complainant, who said he was in favor, along with the neighborhood association president, who also signed in support. He does not believe giving one person a Use Permit will lead to an explosion of people asking for the same, and he has paid over \$1000.00 in fees just to be here.

Chair Lyon asked if Mr. Garcia was in essence saying there are similar conditions in the neighborhood, so it is not unusual, and it does not negatively affect property values. Mr. Garcia responded that was correct, and their verbiage is "compatibility."

Commissioner Thornton inquired about a picture that had been shown in the presentation, if there was a truck sitting behind the trailer, and if so, is there a wall between the truck and the trailer? How did he get the truck in there? Mr. Garcia

responded there is a gate, and Commissioner Thornton asked why, then, did he simply not turn the trailer around and face it the other way, which should give him the room he needs. Mr. Garcia responded that the trailer is about 7800 pounds and Commissioner Thornton countered that there is a truck sitting there, how did it get there? Mr. Garcia responded that the truck was driven in there, but that is not the truck that pulls the trailer. Commissioner Thornton added that flipping it around should solve the problem, because the height would not be an issue at the house overhang. Mr. Garcia said that may be a possibility, but even that may not meet the Code requirement. It would fit on the side if it were not for the overhang of the roof.

Chair Lyon stated the Commission understands Mr. Garcia's reasoning, and was there anything else he would like to add. Mr. Garcia stated that Tempe's Mayor has stressed the importance of family in our city. He would like to remain here, but he may need to look at moving if he has to sell the trailer. This is an election year, and the importance of families should be significant, a "no" vote would signify we do not care about our families. The trailer is not stationary, it is constantly moving, as he takes his children hunting, fishing, and camping all the time. This trailer also acts as a buffer or barrier, as the property next door is used as a fraternity house, and the young people are always in the u-shaped driveway. He would like to remain in Tempe, it has been a great place to raise his family. He asked the Commission for a little bit of common sense and empathy. He finished by saying that he thought he had heard one of the Commissioners saying that part of the trailer is on the sidewalk, and it is not on the sidewalk.

Commissioner Thornton asked Mr. Garcia if he meant the hitch was not on the sidewalk. He responded yes, the hitch is not on the sidewalk. Commissioner Thornton responded that it is definitely on the sidewalk, she had taken a picture of it today, having gotten out of her car, stood over it and took the picture. There was some back and forth as the picture on Commissioner Thornton's phone was shared with other Commissioners. Mr. Garcia still contended it was not on the sidewalk.

Vice Chair DiDomenico said the question is where is the line of delineation, is it the property line or the easement? Mr. Guerra responded that the property line is where the front yard setback begins, going back 20 feet toward the house.

Mr. Garcia stated that this is parked specifically in the RV parking area in front of the house, he is not parking it in his yard or another inappropriate area and has never received a violation from Code compliance.

Commissioner Thornton asked for verification that Mr. Garcia had stated that this exact trailer had been parked in this location for 9 years without the City "saying anything," and Mr. Garcia responded that was correct. Commissioner Thornton said that is a long time, and asked staff if there is any precedent concerning that. Mr. Guerra responded that it is not "grandfathered in." For that to be the case it would have had to sit in the exact same spot and never have been moved during those years.

Commissioner Sumners stated he sees the problem is not only parking within the setback, but also in the public right-of-way. He inquired of staff if there is a process in which there can be approval for a trailer or RV to be parked long-term in the right-of-way. Ms. Dasgupta responded that there is not and reminded the Commission that they are strictly to decide if the Hearing Officer made the correct decision in this matter, based on the criteria for a Use Permit. Mr. Garcia started to bring up the fact that the Hearing Officer had said she did not know if she could approve the permit, but Ms. Dasgupta clarified that when the Hearing Officer said she "did not know," that was in reference to whether she had the authority to allow parking in the right of way, not that she did not know based on the Use Permit criteria.

Chair Lyon stated, in other words then, even if she had granted the Use Permit, it still does not cover this case because of the parking in the right-of-way. Mr. Garcia countered that the right-of-way has never needed to be accessed, there is nothing under it, and even if the Commission grants the Use Permit, it could be revisited in the future. Chair Lyon told Mr. Garcia that they had all the information needed and he could please take his seat now.

**PUBLIC COMMENT:**

Ms. Audriana Garcia asked the Commission if they could let them keep the trailer there, so they can still go camping and fishing and traveling and so her brothers and her dad can still go hunting.

**COMMISSION COMMENTS:**

Chair Lyon stated he understood the Commission's task of determining whether the Hearing Officer had correctly applied the Use Permit criteria, but he wanted clarification on the line that could not be crossed, was that the cut line of the sidewalk? Mr. Levesque replied that was correct. Chair Lyon summarized that if the Commission saw fit to uphold the appeal, therefore allowing the Use Permit, Mr. Garcia would still need to have the trailer moved so it did not encroach on the sidewalk.

Commissioner Thornton thanked Mr. Garcia and his daughter for participating. She stated she did look at the property, and the trailer does in fact encroach onto the public right-of-way, and Mr. Garcia will have to move that portion. If he can move it so as not to encroach, she will support it. There is no Homeowner's Association (HOA) in this area, this trailer has been sitting this way for nine years with no problems until now, and she appreciates the fact that he collected signatures, etc. She thinks it would be a shame to take it away.

Commissioner Amorosi stated that he liked Commissioner Thornton's idea of flipping the trailer around or moving the gate to the rear of the house, or some other solution. He is concerned about A.D.A. compliance if someone would need the full sidewalk.

Chair Lyon also liked the idea of flipping the trailer around but did not know if it was feasible unless there is a hitch on the other end as well. He also looked at the property and drove through the neighborhood. There is no HOA, and there are already many violations in the area. He has no problem supporting this appeal if it is moved off the sidewalk.

Commissioner Brown stated he believes having vehicles out in the public right-of-way is a problem. If it is possible for Mr. Garcia to reconfigure his site, that would be great, but he has had time to do that and has not done so. The hitch encroaching on the sidewalk is a safety hazard and he cannot support this.

Commissioner Sumners stated that if this were only the issue of parking within the setback, he would have a harder time with the decision of whether or not the Hearing Officer made the correct decision. But this problem goes beyond that. The RV is actually beyond the owner's property line, this sets a dangerous precedent and he cannot support the appeal.

Commissioner Johnson understood the emotional appeal, but he simply does not find fault with the Hearing Officer's decision. He cannot support the appeal.

Vice Chair DiDomenico agreed with Commissioner Johnson and said he does not see any legal basis for overturning the Hearing Officer's decision. Mr. Garcia should reconfigure the property and trailer to comply with the City's ordinance.

**MOTION:** Motion made by Commissioner Amorosi to deny the appeal and uphold the Hearing Officer's decision for **PL180159**. Motion seconded by Commissioner Brown.

**VOTE:** Motion passes, 5-2

Ayes: Vice Chair DiDomenico, Commissioners Sumners, Amorosi, Johnson and Brown

Nays: Chair Lyon and Commissioner Thornton

- 5) Request a Use Permit to allow a car wash in the PCC-2 (Planned Commercial Center General) zoning district and a Development Plan Review for a new 5,648 square-foot building for **CLEAN FREAK CAR WASH**, located at 1604 East Southern Avenue. The applicant is Larson Associates Architects, Inc. (**PL180052**)

**PRESENTATION BY STAFF:**

Mr. Obenia Kingsby, Planner II gave a presentation, stating that in the interest of time he would allow the applicant to detail the site layout, elevations, and landscape details. Clean Freak Car Wash is proposed on the northwest corner of Southern Avenue and Butte Avenue, approximately 580 feet west of McClintock Drive. This site will only be accessible from the primary outer drive aisle of the shopping center, which has several access points between Southern Avenue and McClintock Drive. The building is single-story and proposed at just under 28 feet in height. Primary materials consist of integral colored CMU, painted and scored stucco for accent and glass. The roof has a unique design as it is sloped into an obtuse angle which will create visual interest from the street and interior of shopping center. The applicant will enhance landscape by adding more trees and maintaining the grass along street frontage, the interior of site will also be well landscaped. Staff has received four written statements in opposition and two in support, which were presented this evening in the Study Session. Staff is recommending approval, subject to conditions.

#### **PRESENTATION BY APPLICANT:**

Mr. Rod Jarvis of Earl, Curley & Lagarde stated that he was here with Mr. Lance Meinhold of Larson Associates Architects Inc. Mr. Trevor Craig and Mr. Mark McDowell and Mr. Scott Grownden, all principals of Clean Freak Car Wash. Also Ms. Carol Ackerman of Clean Freak, so most of the team is here to answer any questions. The business is a family-owned, home-grown Arizona business. This location would be the 22<sup>nd</sup> Clean Freak facility in the valley. Mr. Meinhold then came to the podium and shared images of the site plan, elevations, and landscaping. They are installing three times the amount of landscaping required. Mr. Jarvis then came back to the podium and spoke about the five Use Permit criteria, pointing out that the applicant meets all of the criteria. The wash and dry features are completely inside the tunnel, there is a stacking area for 15 cars and 7 more cars between the pay station and entrance to the wash. The vacuum producer, a large source of noise in car washes, is inside and completely walled, unlike their competitors. There is variation in the design, as seen in the asymmetrical roof, reminiscent of elements from the post-war era. There will be spangled glass at the front, which, with the solid wall behind it, will also mitigate sound. There should be no increase in traffic, this is mid-block on a major street. The sound study confirms that they will comply day and night with acceptable noise standards. The fear of decrease in surrounding property values is unfounded, as this site has been vacant for two years. This use and service is needed in the area and should enhance property values. The business will be open 7am to 7pm, 7 days per week. They have designed the building to be complementary to other buildings in the area, and they believe they have met all the required standards.

Commissioner Amorosi asked if the 7 parking spaces on the center island are also for vacuuming. Mr. Meinhold responded that they were, and that employees are stationed there to ensure that no vacuuming happens without buying the wash.

Commissioner Johnson stated he was familiar with the site and noticed that the spaces face the main drive aisle off Southern Avenue for the shopping complex. It seems there will be a lot of traffic in and out of there. Why did the applicant not "flip" the building so that those spaces where traffic will be going in and out quite a bit is further away from the drive aisle? Mr. Meinhold responded they have found that about 80% of their customers vacuum after they wash, and there are 13 dedicated spots for that as soon as the car leaves the tunnel, the seven near the drive aisle are only for overflow. The reason they did not "flip" the property is because there is a physical constraint, if the pay stations were on the east side, they would actually be in the shared drive, so there is not room.

Vice Chair DiDomenico stated that on the site plan, it looks like the east property line is east of Butte Avenue, yet there is no part of their business operation happening there, why is that? Mr. Meinhold responded that this a protected area per the agreement with the shopping center, their design review needs to approve everything, and Sprouts does not want anything that would block or cause disruption there, so they will not be doing any improvements to that area.

#### **PUBLIC COMMENT:**

Chair Lyon read into the record a comment from Ms. Kathy Anderson of Tempe: "Not wishing to allow car wash on Southern due to highly congested shopping center with charter school, Taco Bell, Sprouts Market, noise and chemicals concern."

Mr. Ron Anderson of Tempe stated he lives in the townhomes across the street. He has no problem with Clean Freak's business plan, but he is concerned about traffic. There are already too many accidents at Southern and Butte Avenues. There is traffic going every which way, as Sprouts has been very successful and there is always a quagmire of people trying

to get in and out of this shopping center. He has taken to jay-walking across the street to get to the fitness gym there in the afternoons, as there is no way to leave from Juniper and go west on Southern. A busy car wash will only add to these problems.

Chair Lyon read into the record portions of a letter from Ms. Sandra Tignor of Tempe. He stated "Here are the high points: Loud and destructive. Noise pollution, increased density and traffic, parking stall over-use lack of planning and provision for any easy entrances, unmanageable traffic flow, underground tank draining in a densely populated area. Numerous chemicals and sprays, unsightly destruction of trees, color uncomplimentary to the area and devaluing property values."

Ms. Timi Roth of Tempe stated she also lives across the street and that traffic is already awful in this area. She believes chemicals used in the business operation is a very big worry. She wonders when the tanks will be drained and assumes it will not be during the day, during hours of operation. There are too many issues at this site already.

**APPLICANT RESPONSE:**

Mr. Rod Jarvis stated that all the comments heard about traffic do not relate to Southern, they relate to the entryway on private property. The "T" configuration there is very common, the landlord has studied it and is comfortable with it, it is really the landlord's issue. The fact is they are replacing a business that was already there, a restaurant. Restaurants tend to have traffic concentrations at mealtimes, whereas this business will see traffic spread throughout the day. Therefore, the traffic around their site will be less than it was when it was a restaurant. With regard to chemicals, they are biodegradable and harmless to waste treatment systems. They have an employee in the tube at all times, and that employee does not wear a face mask, which has been the case at all the Clean Freak car washes for the last nine years, with no problems. This is not a dangerous chemical situation. If that employee in the tube is safe, then neighbors are also safe. The tank is only drained once per year.

Vice Chair DiDomenico inquired what the projection is for how many cars will frequent the business each day. Mr. Jarvis responded 300-500 daily. Crab Shack in this location had less traffic, but also had peak times. The issue is the clogging of Butte Avenue, they will not be a peak time concentrator.

Commissioner Brown inquired if the water used to wash the cars is recycled, about the retention basin, and what kind of soap is used. Mr. Meinhold responded that the water is recycled, the soap is similar to what a homeowner would use, but as Mr. Jarvis stated, biodegradable, non-harmful etc., and that much of the cleaning is actually done by the brushes and the force of the spray.

Chair Lyon then asked Mr. Kingsby to revisit the request before the Commission this evening, which he did.

**COMMISSION COMMENTS:**

Commissioner Brown stated the design is nice, he likes it much more than "the duck." He believes the landscaping is nice, the parking layout is generous, he does not see an issue with it. Like the other project, the neighborhood has problems with traffic, but the number of cars is part of our City's success. He supports the project.

Commissioner Thornton thanked the applicant for their patience throughout the long evening. She knows this is a very large parking lot, and this is a needed service in this area. She will support the project.

Commissioner Sumners stated he is already a customer of another Clean Freak location, he likes the site plan and is impressed with the little bit of grade there to add to the protection from noise. The blowers are the noisiest, and they are pretty far to the east and facing away from any residential. He will support the project.

Chair Lyon stated that overall, he thought it was a good project, the applicant could have gone with block and this is actually nicer and a little pricier. He is not crazy about the color scheme, but he will support the project.

**MOTION:** Motion made by Commissioner Thornton to approve **PL180052**. Motion seconded by Commissioner Summers.

**VOTE:** Motion passes, 7-0.

**Ayes:** Chair Lyon, Vice Chair DiDomenico, Commissioners Brown, Thornton, Summers, Amorosi and Johnson.

**STAFF ANNOUNCEMENTS:**

Ms. Dasgupta stated there is currently one item on the agenda for the August 28, 2018 hearing.

**There being no further business, the meeting was adjourned at 9:37 pm.**

Prepared by: Cynthia Jarrad

A handwritten signature in cursive script, appearing to read 'Cynthia Jarrad', written in black ink.

Reviewed by:

Suparna Dasgupta Principal Planner, Community Development Planning