

## Minutes of the Development Review Commission June 11, 2019

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

**Present:**

Chair David Lyon  
Vice Chair Michael DiDomenico  
Commissioner Scott Sumners  
Commissioner Thomas Brown  
Commissioner Don Cassano  
Commissioner Philip Amorosi  
Commissioner Andrew Johnson  
Alt. Commissioner Michelle Schwartz

**City Staff Present:**

Ryan Levesque, Deputy Director, Community Development  
Suparna Dasgupta, Principal Planner  
Steve Abrahamson, Principal Planner  
Lee Jimenez, Senior Planner  
Dalton Guerra, Planner I  
Joanna Barry, Administrative Assistant II

**Absent:**

Alt. Commissioner Barbara Lloyd  
Alt. Commissioner Angela Thornton

**Hearing convened at 6:11 p.m. and was called to order by Chair Lyon**

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**Consideration of Meeting Minutes:**

- 1) Study Session and Regular Meeting – March 12, 2019
- 2) Regular Meeting and Regular Meeting – March 26, 2019

**Motion:** Motion made by Commissioner Vice Chair DiDomenico to approve Regular Meeting minutes and Study Session Meeting minutes for March 12, 2019 and March 26, 2019 and seconded by Commissioner Cassano.

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

**Nays:**

**Abstain:** None

**Absent:** None

**Vote:** Motion passes 7-0

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The following items were considered for **Consent Agenda:**

- 3) Request a Preliminary Subdivision Plat to create two lot subdivision for **PRECISION FLEET SERVICES**, located at 360 South Smith Road. The applicant is Ganem Construction, LLC. (PL180002)
- 4) Request a Development Plan Review consisting of a new 2,318 square foot restaurant with a drive-through for **CHIPOTLE STORE #3457**, located at 1655 West Elliot Road. The applicant is SBL Engineering, LLC. (PL190071)
- 5) Request a Use Permit to allow live entertainment for **HOUSE OF TACOS**, located at 740 South Mill Avenue. The

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applicant is Barrio Tacos. **(PL190038)**

- 6) Request a Use Permit to allow a second hand store for **PLATO'S CLOSET**, located at 1840 East Warner Road. The applicant is Plato's Closet. **(PL190076)**
- 9) Request a Use Permit to allow a residential use in the Commercial Shopping & Services (CSS) zoning district, and a Development Plan Review for a new three-story 52-unit multi-family and commercial development for **DAYBREAK APARTMENTS**, located at 1935 East Apache Boulevard. The applicant is Functional Formation Architecture, PLLC. **(PL190054)**

**Motion:** Motion made by Commissioner Sumners to approve Consent Agenda and seconded by Commissioner Amorosi.

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

**Nays:**

**Abstain:** None

**Absent:** None

**Vote:** Motion passes 7-0

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The following items were considered for **Public Hearing:**

- 7) Request a Use Permit to operate a tobacco retail store (vape shop) for **KURE**, located at 8830 South Kyrene Road, Suite No. 102. The applicant is Kure Corporation. **(PL190078)**

**PRESENTATION BY APPLICANT:**

Mr. Keith Higgins, Director of Operations for Kure Company in Arizona, stated that the store has a flawless record with no complaints from other business members or community members since opening in 2013. The prior owners of the property had never obtained a Use Permit for this store. Mr. Higgins was not aware of this until he applied for a Sign Permit. Commissioner Brown asked for confirmation that the signage will be compliant with City of Tempe ordinances and the applicant confirmed that it would. Condition No. 2 was added to address possibility of vape products being used inside the business.

**PUBLIC COMMENT: NONE**

**PRESENTATION BY STAFF:**

Mr. Lee Jimenez, Senior Planner, restated the facts of the request for the Use Permit. The previous owners did not obtain a Use Permit and the applicant was cited by Code Enforcement when this was recognized. This site meets requirements for the Use Permit since it is more than a quarter mile from the nearest school. Staff received two letters opposing this request. Commissioner Brown asked if applicant would be allowed to sell actual cigarettes and Mr. Jimenez stated they would. The applicant was asked if they plan to sell cigarettes and they said they do not plan to sell any combustible products.

**COMMENTS AND DISCUSSION FROM THE COMMISSION:**

Vice Chair DiDomenico stated that he frequents the shopping center where the applicant's business is located and does not feel it is a negative impact to the area. Since this is the continuation of an existing use he does not have a problem approving it. Chair Lyon also does not see any reason to oppose the Use Permit.

**Motion:** Motion made by Commissioner Amorosi to approve (PL190078) and seconded by Commissioner Cassano.

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

**Nays:**

**Abstain:** None

**Absent:** None

**Vote:** Motion passes 7-0

8) Request a Use Permit to allow required parking within the required front yard building setback for the **ROSEN RESIDENCE**, located at 1137 South Roosevelt Road. The applicant is Urban Rural Residential Properties, LLC. (PL190089)

- *Commissioner Brown recused himself from this case as he does work with the architect on record. Commissioner Schwartz took his place for this case.*

**PRESENTATION BY APPLICANT:**

Mr. Robert Rosen, owner/applicant, introduced himself and went over the project. He showed photos of other properties in the neighborhood that park in their setback. He is not sure if they have Use Permits to do this. Vice Chair DiDomenico asked the applicant why there was not a garage on the plans considering this is a new build and one could be included. Applicant stated that since they did not want to do a two-story build they expanded the home on a single level. Commissioner Amorosi indicated that every property in that neighborhood has a garage or carport, regardless of whether they park out front. They may use these structures as the heat increases. He noted that the applicant's plans show five bedrooms, three bathrooms, two kitchens so he does not understand why they could not accommodate a garage. Mr. Rosen indicated they have a lot of relatives that come and visit them, so the additional rooms are necessary. Commission Amorosi stated it looks like the applicant is planning to plant trees where he wants to park the cars. Applicant stated that the trees Commissioner Amorosi referenced were just added by the architect to make it look visual and was not a permanent placement. Commissioner Schwartz asked for clarification if there would be a cantilevered structure over where applicant plans to park the cars. Applicant indicated the drawings were fairly old and they had initially discussed putting a carport there, however they did not think it would be permitted. Commissioner Schwartz noted there is a proposed room east of where they plan to park that has no proposed interior layout and inquired what this would be used for. Applicant indicated it would serve as either a bedroom or his office.

**PUBLIC COMMENT:**

A card was submitted by Tempe resident Ira Domskey requesting more legible drawings be provided. Staff and applicant will get together and provide these.

Mr. Rod Prosize, Tempe resident, introduced himself. He and his wife have lived in the neighborhood for almost 26 years. They live down the street and frequently walk around the neighborhood. He confirmed that the pictures shown by applicant reflect how everyone parks in the neighborhood.

**PRESENTATION BY APPLICANT:**

Mr. Dalton Guerra, Planner I, indicated received an inquiry from a public citizen today. They were not opposed to the setback, but they had concern about the east bedroom and the potential for it being rented out as a guest quarters. Mr. Guerra advised them that guest quarters were not permitted at this lot as it did not meet criteria for guest quarters. Commissioner Sumners inquired that if the applicant wanted to build a canopy or a carport, would they be able to bring it out to the property line. Mr. Guerra stated that they could not because there is a 15-foot open structure setback in the front yard. Commissioner Amorosi asked if staff made applicant aware that they are not to rent any of the other bedrooms out. Mr. Guerra confirmed he did make them aware of that.

**COMMENTS AND DISCUSSION FROM THE COMMISSION:**

Commissioner Amorosi feels it would start a bad precedence to let residents build a large home in the older neighborhoods without a garage or carport. He feels this property would not be consistent with the neighborhood without a carport or garage. Commissioner Sumners agreed that it is a bad precedent. Even though other neighbors park in the setback they all have designated parking areas as an alternative, but this project does not. Chair Lyons clarified that this is a Use Permit to park in the setback, not a request to build a structure without parking. Commissioner Sumners stated that anyone can park in their setback, however they have to have a dedicated parking somewhere that is not in a front yard setback. Chair Lyons stated he used to live near this neighborhood, and he would see cars parked outside year-round. He is in support of allowing the Use Permit request. Commissioner Schwartz feels the home design would add to the neighborhood but still feels the area to the east of where the parking is set to be could be used for parking since it is not designated for anything.

**Motion:** Motion made by Commissioner Cassano to approve (PL190089) and seconded by Commissioner Johnson.

**Ayes:** Chair Lyon, Vice Chair DiDomenico, Commissioners, Cassano, and Johnson

**Nays:** Commissioners Sumners, Schwartz, and Amorosi

**Abstain:** None

**Absent:** Commissioner Brown

**Vote:** Motion passes 4-3

**Staff Announcements:**

Ms. Suparna Dasgupta, Principal Planner, advised that the agenda for the next meeting will be sent out next week. She also reminded residents and Commission members that the July 9, 2019 meeting will be held at the Don Cassano Community Room at the Tempe Transit Center and there will most likely be no video recording of that meeting.

**There being no further business the meeting adjourned at 7:39pm.**

Prepared by: Joanna Barry

Reviewed by: Suparna Dasgupta



Suparna Dasgupta, Principal Planner, Community Development Planning