

Minutes of the Development Review Commission July 9, 2019

Minutes of the regular hearing of the Development Review Commission, of the City of Tempe, was held in the Don Cassano Building, 2nd Floor, Tempe Transit Center, 200 East 5th 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 (in audience)

City Staff Present:

Chad Weaver, Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Diana Kaminski, Senior Planner
Karen Stovall, Senior Planner
Lee Jimenez, Senior Planner
Dalton Guerra, Planner I
Joanna Barry, Administrative Assistant II

Absent:

Alt Commissioner Barbara Lloyd
Alt. Commissioner Angela Taylor

Hearing convened at 6:08 p.m. and was called to order by Chair Lyon

Consideration of Meeting Minutes:

- 1) Study Session April 23, 2019
- 2) Regular Meeting April 23, 2019

Motion: Motion made by Vice Chair DiDomenico to approve Regular Meeting minutes and Study Session Meeting minutes for April 23, 2019 and seconded by Commissioner Sumners.

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

Nays:

Abstain: None

Absent: None

Vote: Motion passes 7-0

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

- 3) Request a Preliminary Subdivision Plat to create a three (3) lot subdivision for **RIO 2100 EAST**, located at 2132 East Rio Salado Parkway. The applicant is Hunter Engineering. (PL180044)
- 4) Request a Development Plan Review for a new 6,360 square-foot multi-tenant commercial building with a drive-through for **KYRENE AND ELLIOT SHOPS BUILDING**, located at 550 West Elliot Road. The applicant is Vertical Design Studios. (PL180308)
- 5) Request a Use Permit Standard to reduce the rear building setback from 35 feet to 28 feet for the **YIN RESIDENCE**, located at 2124 East La Vieve Lane. The applicant is Allen Custom Builders, Inc. (PL190122)

Motion: Motion made by Commissioner Cassano to approve **Consent Agenda** and seconded by Vice Chair DiDomenico.

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

Nays:

Abstain: None

Absent: None

Vote: Motion passes 7-0

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

- 6) Request a Use Permit to allow temporary outdoor vending (food trucks) for **CLOUDKITCHENS**, located at 1900 East 5th Street. The applicant is City Storage Systems, LLC. (**PL190123**)

PRESENTATION BY APPLICANT:

Mr. John Lui, City Storage Systems, LLC, gave an overview of the project and the company and explained they are a real estate development firm that helps restaurants expand their business. They build commissary style kitchens and lease them out to companies who provide delivery only food. There is no dining room or staff, just chef(s). All of their sales go through third-party delivery services such as UberEats, Postmates, Grubhub, etc. While developing a building at the location in Tempe, they are requesting a Use Permit for a temporary outdoor vending area. The applicant will not be cooking anything, the food truck vendors will be third party and have their own licenses. Vice Chair DiDomenico asked how long they expect the commissary buildout to take. Applicant stated this would take nine (9) months but it could take longer. Vice Chair DiDomenico suggested that if the buildout goes over 18 months that the Use Permit would come back to staff for status review. Vice Chair DiDomenico then inquired of staff how the sales tax is captured for food that is being provided by a vendor and if the City of Tempe was benefitting from the sales tax or if it was captured through the third-party application that could be housed in another city. Mr. Steven Abrahamson, Principal Planner, indicated our Tax & License division taxes food trucks, however he is not certain how it works with the delivery apps. Mr. Lui stated that UberEats taxes the customer and passes it through based on where the order originates but based on the radius it should not be out of the City of Tempe taxable jurisdiction too often. Commissioner Amorosi inquired if the food trucks would go away once the commercial kitchens are built and the applicant stated they would.

PRESENTATION BY STAFF:

Mr. Lee Jimenez, Senior Planner, indicated there were several non-standard conditions of approval that pertain to lighting, dining areas, permanent restrooms being provided, and parking. He suggested Condition No. 17 be added addressing the expiration and review by staff, and possibly Development Review Commission, of the Use Permit after 18 months. Commissioner Sumners advised he would prefer a review 12 months and the site needs for food trucks are very different from a kitchen. After further discussion it was decided that review would be by staff at 18 months and be elevated to the Development Review Commission only if there were concerns or issues. Mr. Abrahamson asked about the temporary lighting conditions and Vice Chair DiDomenico stated he was fine with that as long as a building permit has been pulled for the interior and that there is active construction going on.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Motion: Motion made by Vice Chair DiDomenico to approve PL190123 with addition of Condition #17 requesting the applicant contact staff after 18 months for a status update on the project. Seconded by Commissioner Johnson.

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 a tobacco retailer for **88 SMOKE & VAPE**, located at 1800 East Apache Boulevard. The applicant is Drip More, LP. (PL190128)

PRESENTATION BY APPLICANT:

Ms. Jessie Hurst, Dripmore LLC, and Mr. Scott Ellsworth, their realtor, introduced themselves to the Commission and gave an overview of the project. (*note: Applicant's presentation was not provided ahead of time so her iPad that contained the information was passed amongst the Commission*). Commissioner Brown inquired if the property would sell marijuana if legislation passes in the next few years and applicant confirmed they are only selling nicotine. They have a location in Colorado where marijuana is legal but continue to only sell tobacco. Commissioner Brown also inquired if she was aware of the allowable/non-allowable signs for the establishment and she advised that she was not aware of that but were not planning on using a-frame signage or street advertising. Vice Chair DiDomenico asked for clarification of what the "safe room" listed in the report consisted of. Ms. Hurst indicated this was a place where the money room, back office, and stock would be located.

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, recapped the project and advised that staff received one (1) email from the public in opposition to the establishment as they claimed it was unhealthy and not a good use for the area. They recommended several different uses including a juice bar, coffee shop, flower shop or drive-thru uses. Staff recommends approval, and there are not any non-standard conditions applied to this project.

PUBLIC COMMENT:

Mr. Nicolas Bensema, Tempe resident, asked if shop would have water or drinks for sale as it was located right by the light rail. He also inquired about the origin of the "88" in the business' name. Ms. Hurst confirmed that there would be refreshments available. With regard to the business name, the number "88" is symbolic to the business owner.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Amorosi asked the applicant how they prevent minors from purchasing tobacco items. Ms. Hurst stated on their website they use a verification software that requires a photo of the purchaser's ID as well as the last four of their social security number to verify against public records. They plan to use this as well with their POS software so that every transaction would require an ID swipe.

Motion: Motion made by Commissioner Cassano to approve **PL190128** 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

- 9) Request two (2) Use Permits to allow a conference/assembly center and entertainment for **SUN STUDIOS OF ARIZONA**, located at 1425 West 14th Street. The applicant is L & D Entertainment, LLC. (PL190135)

PRESENTATION BY APPLICANT:

Ms. Chris McClellan and Mr. Darin Rammage, both with Sun Studios of Arizona, gave an overview of their facility and its uses. Chair Lyon asked applicant why they wanted these specific Use Permits. Ms. McClellan advised that they are trying to get Arizona noticed in the film community of other states. She stated that there would be a large revenue source if the film industry came to Arizona but the only way to get noticed is if they know about us. Commissioner Amorosi asked Ms. McClellan about space in the theater. She stated there are two sound stages, a theater, a recording studio, the upstairs area and the lobbies. Commissioner Amorosi also asked about the parking situation and was informed there were about 180 spaces available. Vice Chair DiDomenico asked if they were the

building owner/landlord and if not, do they have approval from the landlord for these Use Permits. Mr. Rammage informed him that they sublease the building and that the landlord does approve of their permit requests. There is another tenant in the complex, Cox Communications. Commissioner Brown asked if they would be making any modifications to the building and was advised that they would not.

PRESENTATION BY STAFF:

Mr. Lee Jimenez, Senior Planner, stated that the site was previously occupied by Collins College which had performed tenant improvements. The site has all the required permits and inspections for assembly. There are no non-standard conditions of approval and staff recommends approval of the use permit.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

No additional comments from Commission.

Motion: Motion made by Commissioner Amorosi to approve **PL190135** and seconded by Commissioner Sumners.

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

Nays:

Abstain: None

Absent: None

Vote: Motion passes 7-0

- 10) Request a Use Permit to allow multi-family residential in the Commercial Shopping and Services (CSS) zoning district for **BAKER'S ACRE MOTEL**, located at 1620 East Apache Boulevard. The applicant is Phoenix Permit Service LLC. (**PL190046**)

PRESENTATION BY APPLICANT:

Ms. Leodra Baudell, with Phoenix Permit Service, and gave an overview of the project. She advised that the current owners took possession of the property earlier this year and inherited a lot of problems from the City. They came to her earlier in the year and looked at the possibility of just doing a conversion to multi-family long-term rental, make it feel more like a community. The site consists of two parcels right now and they are working through planning and building as to the possibility as to whether or not they will be combining those parcels into one and doing a holding parcels as one with a covenant agreement. They have no intention of increasing the square footage of the existing structures but plan to just give them a minor facelift with new paint. They will also improve the site so they can provide some common area open space amenities which would be required as a multi-family community. They have not added any units to the site. They will be providing parking between the cottages for easier residence access. Emergency access will be provided on the east driveway. There will be an emergency lane between the cottages on the northbound side. They are encouraged by the feedback the owners have received from the public. There are a lot of issues with the property such as electrical, site lighting, air conditioning, bringing the units up to date and making them pleasant to live in. A lot of money will be put into this investment. Commissioner Amorosi asked why suites 101 and 102 are not part of the Use Permit. Applicant that currently, due to the TOD overlay, they have to revert back on the number of units per net area being 1.6. There is an amendment in place that may allow those units to be remodeled and accessible in the future. These two are the smallest, less desirable units. Vice Chair DiDomenico inquired if there would be on-sit management and was advised that there would not be, however there would be a local property management company. He also asked if the property is currently vacant and was advised that it was. There had been residents of the motel that had long-term leases that should never have been issued and the new owners inherited the citations that came with that, the motel operation license issues, and inherited people who had a right to be there but actually did not because the motel was being used as a long-term rental instead of a motel. The new owners had to work with leases that existed, and it is now vacant. Commissioner Amorosi asked if the apartments are going to be a part of the police crime-free multi-housing program and was advised that they would. He also advised of a unique condition excluding units 101, 102, and building 1E due the

density in the CSS zoning district. Condition No. 7 will be modified to state a minor development plan review is required for the proposed site plan, landscape, and building elevations prior to issuance of building permits.

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, advised that site modifications would be addressed through a minor development plan review in the near future prior to the issuance of building permits.

PUBLIC COMMENT:

Ms. Yvonne Weir, Tempe resident, stated that she is happy to see this type of use.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Amorosi expressed his support for the project and that he is pleased that the bungalows will remain. Chair Lyon is also pleased that the bungalows would remain instead of being torn down.

Motion: Motion made by Commissioner Cassano to approve **PL190046** and seconded by Commissioner Amorosi with a modified condition of approval #7 to state that: A Minor Development Plan Review is required for the proposed site plan, landscape, and building elevations prior to issuance of building permits.

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

Nays:

Abstain: None

Absent: None

Vote: Motion passes 7-0

- 11) Request a Use Permit Standard to reduce the rear building setback from 15 feet to 12 feet and a Development Plan Review consisting of four new attached single-family dwelling units for **HAMMOND RESIDENCES**, located at 2051 South Hammond Drive. The applicant is Tonnesen, Inc. (**PL190113**)

PRESENTATION BY APPLICANT:

Mr. Bill Tonnesen, Tonnesen, Inc., spoke to the Commission regarding his past Tempe projects. Vice Chair DiDomenico asked the applicant if he could speak to the specific project being presented before the Commission. Chair Lyon advised applicant that if they did not want to present on the project that the Commission would be voting based on the information in the staff report. Mr. Tonnesen advised that items used in his past projects will be used in this project, such as corrugated steel paneling. This will be broken up so that the lower level is rusted steel and the upper is galvanized steel. Commissioner Brown stated there are four units and there are a couple of parts that he believes are the fire truck radii and it looks like they do not quite make the turning radius to Hammond Street to the west and asked if that has been looked at by the fire department. Ms. Diana Kaminski, Senior Planner, advised that fire and refuse have reviewed this plan and there were comments made to address the requirements for turnaround. The access for fire will be off of Forest. Commissioner Amorosi asked if the units would be for sale or lease and advised they would be for lease. He expressed that both the applicant's unit and the property across the street both have high walls surrounding them and that this does not seem people-friendly. He feels the addition of trees would not only provide shade but also encourage a sense of community. He was advised that the landscape plan does address this.

PRESENTATION BY STAFF:

Ms. Diana Kaminski, Senior Planner, gave an overview of the project. She advised that Hammond is actually a private street, so Forest Avenue is the front of the property and Hammond is on the rear. Landscaping recommendations were made to applicant by staff regarding types of trees to plant, however applicant chose to follow them, so the same trees are on all three sides. Staff received an email from a resident the day prior to the meeting who was concerned since the lot used to have a single-family home but now more units are going in. Ms. Kaminski advised that this was in conformance with the zoning standards and the density allowed. Resident was also concerned about what type of artwork would be used. This was the only public input that staff has been received. Staff is recommending approval of the requested development plan review and the use permit.

Commissioner Johnson inquired if there are any Conditions of Approval in the staff report that are being challenged by the applicant and was advised that there were not. Ms. Kaminski did state that Condition No. 3 related to a private irrigation line on the north side. The plans did not have a clear dimension from the building to where the irrigations line would fall. The condition requires that the applicant get permission from the owners of the irrigation line before construction could start, which may involve relocating the line. Commissioner Amorosi asked staff if the applicant understood that they would have to work with the owners of the irrigation line and was advised that he was. Commissioner Amorosi asked if the 20% reduction was to accommodate guest parking. Ms. Kaminski advised it was so the four units could have standard sized two-car garages. Commissioner Sumners inquired why there was not a Use Permit for a 2nd story since there previously was a single-family home on the property. Staff advised that since the house was demolished several years ago, they looked at this property as a vacant lot.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Chair Lyon does not have a problem with the project. Vice Chair DiDomenico did not have any issues with most of the project, however the square walls on the east and west elevations do not match the roofline. Commissioner Sumners also likes the design.

Motion: Motion made by Commissioner Cassano to approve **PL190113** and seconded by Vice Chair DiDomenico

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

Nays: Commissioner Brown

Abstain: None

Absent: None

Vote: Motion passes 6-1


Staff Announcements:

Ms. Suparna Dasgupta, Principal Planner, reminded the Commission that the August 13th meeting will be held at the Tempe History Museum.

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