

**Minutes of the
Development Review Commission
REGULAR MEETING
May 26, 2020**

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

HEARING CONDUCTED VIA WEBEX EVENTS

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 (observing only)

City Staff Present:

Chad Weaver, Director, Community Development
Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Karen Stovall, Senior Planner
Dalton Guerra, Planner I
Adrian Zambrano, Planning Technician
Joanna Barry, Administrative Assistant II

Absent:

Alt Commissioner Barbara Lloyd
Alt Commissioner Angela Taylor

Hearing convened at 6:00 p.m. and was called to order by Chair Lyon

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 1/28/20 (previously on 3/24/20 DRC agenda however the meeting was cancelled)
- 2) Development Review Commission – Regular Meeting 1/28/20 (previously on 3/24/20 DRC agenda however the meeting was cancelled)

Motion: Motion made by Commissioner Cassano to approve Regular Meeting minutes and Study Session Meeting minutes for January 28, 2020 and seconded by Commissioner Amorosi.

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

Nays: None

Abstain: Commissioner Sumners

Absent: None

Vote: Motion passes 6-0

- 3) Development Review Commission – Study Session 2/25/20
- 4) Development Review Commission – Regular Meeting 2/25/20

Motion: Motion made by Commissioner Cassano to approve Regular Meeting minutes and Study Session Meeting minutes for February 25, 2020 and seconded by Commissioner Brown.

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

Nays: None

Abstain: Commissioners Sumners and Johnson

Absent: None

Vote: Motion passes 5-0

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

- 8) Request a Use Permit to increase the maximum wall height in the required front yard building setback from four (4) feet to six (6) feet for **LOUKOTA RESIDENCE**, located at 11802 South Rural Road. The applicant is Rick Loukota. **(PL200063)**
- 9) Request a Use Permit Standard for one lot to reduce the street side (west) setback from ten (10) feet to eight (8) feet and a Development Plan Review for a new single-family subdivision consisting of seven lots for **LEMON STREET SINGLE-FAMILY RESIDENCES**, located at 2001 East Lemon Street. The applicant is Gammage & Burnham P.L.C. **(PL190232)**

Motion: Motion made by Commissioner Johnson to approve the Consent Agenda and seconded by Commissioner Amorosi.

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

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

- 5) Request a Use Permit to allow a second-story addition for the **ROCK RESIDENCE**, located at 954 East Carmen Street. The applicant is NEAH Designs, LLC. **(PL200011)**

PRESENTATION BY APPLICANT:

Ms. Kendra Chavez, NEAH Designs, LLC, advised the Commission that Mr. Tom Rock would not be able to participate in the DRC hearing and she would speak on his behalf, along with her husband David Chavez who did the plans for this residence. Ms. Chavez advised that Mr. Rock had originally hired a contractor to do the new addition and remodel the area to the house, however when it was set to start the contractor did not have any plans or permits for the project. This is what caused Mr. Rock to hire Mr. Chavez to carry on with the project, get permits, and do the actual plans for this project. Mr. Chavez advised the inspectors did not want to do a final inspection of the project because there were no plans for construction. They requested a new set of plans and that a licensed contractor to finish the work. They did a full set of plans and submitted it to the City of Tempe and were instructed they needed to get a variance for it so that is what they are trying to do so they can complete the project.

Commissioner Sumners wanted clarification as he thought this project had moved forward with a building permit but not a Use Permit. He asked if there was no building permit or Use Permit submitted at all for this residence. Mr. Chavez advised that when the construction work was started there were no permits for it, but the original contractor started with the remodel. An inspector came and advised them they needed to stop the work and get a building permit. As of right now, the construction is framed and they are trying to finish the project. He advised that the owner, Mr. Rock, is trying to make sure things are done the legal way.

Chair Lyon asked Mr. Chavez if he is also pursuing a building permit and he stated that he was.

Vice Chair DiDomenico asked staff to put attachment 11 that shows the street view of the project in its current condition up on the video screen. Vice Chair DiDomenico asked if the project was in this condition when Mr. Chavez got involved with the project and Mr. Chavez confirmed that was correct. Vice Chair DiDomenico stated he had gone by and looked at the project and this is exactly how it looked at that time. He also stated that this project looked extremely out of character than any of the other residences on the street and he is surprised that residents of the neighborhood have not had a comment about it. Vice Chair DiDomenico asked Mr. Chavez what he plans to do with the design to make it more attractive. Mr. Chavez stated they would not be stuccoing it but would like to put some

stone that matches the current brick wall and that they could put some phased brick into the addition to blend it into what already exists. Vice Chair DiDomenico stated that due to the setback block and current addition, anything other than paint will cause more problems and he does not know what more can be done than tearing it down and doing it the right way. Mr. Chavez advised if they had to change the roofing, or make any other changes, they are willing to do it.

Commissioner Brown asked Mr. Chavez if he had anything to do with the original construction and was advised that he did not. Commissioner Brown stated that the “boxiness” of it and the flush plane is going to be a design problem and he hopes Mr. Chavez can do some things to make it better suited to the neighborhood. He asked if the same contractor would be used for the rest of the project. Mr. Chavez advised it would be a new contractor and they will need to provide their license to the City of Tempe so he can finish the work.

Commissioner Amorosi noted there was a door on the side of the building that leads to the front yard, which makes it seem to him they were just going to build an apartment onto the side of their house. Mr. Chavez advised that was an exit to the front yard. They have a front door, but if anyone wants entrance to the addition right now, they would be easier to exit out the side door. He stated if they had to close that door, they would be willing to do so.

Chair Lyon asked Mr. and Mrs. Chavez if they knew what the intended use is of this new space was and who intends to occupy it. Mr. Chavez advised Chair Lyon that the front of the top floor would be a bedroom, and the bottom would be a bathroom and living room/small playing area for the owner’s children. Mrs. Chavez stated the bottom level would be a restroom and an activity room with a bedroom on the top rung. She advised the owner adopts children and needs the extra space. Chair Lyon asked for clarification that this would be for family use and not an Airbnb rental and was advised it would be strictly for the children.

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, advised that the applicant is meeting all the requirements of an R-8 district regarding setbacks, height, and lot coverage. Mr. Guerra noted that in conversations he had with Building Safety, there were permits issued for an interior remodel and addition in February 2019. When the inspectors noticed there was second story being built, they notified the applicant to contact the Planning Division and submit an application for a Use Permit. He wanted to clarify to the Commission that building permits have already been issued as it seemed there was some confusion about this earlier. The applicant is now just trying to rectify the second story with the Planning Division by applying for the Use Permit. Mr. Guerra advised that no neighborhood meeting was required and that staff received one letter that was neither for nor against the project, but recommended that Tempe require stricter architectural designs. Staff is recommending approval subject to conditions.

Commissioner Sumners asked if there was a penalty for this type of thing, such as paying twice the building permit fee, for starting construction without a permit. Mr. Guerra advised there is an option on the fee schedule for unauthorized activity, but he will have to doublecheck and see if it was charged already and defer to Mr. Abrahamson to see if that applied to single-family residences. Commissioner Sumners stated he was only asking as it sets a bad precedent when an applicant starts construction and only deals with it when they get caught. Mr. Abrahamson advised that under circumstances like this there would be a double fee for the Use Permit but he does not know if the second fee was charged. Commissioner Sumners clarified that he was mainly asking about building permits and did not realize it was a possibility for this Use Permit. Mr. Abrahamson advised that he was not sure if Building Safety assess additional fees for unauthorized construction.

Chair Lyon asked Mr. Abrahamson to what extend the Commission members can make comments on the design aspects of this project. Mr. Abrahamson advised that with single-family residential, the Commission does not have any purview over the design, aside from suggestions for window treatments for privacy for the adjacent properties. Chair Lyon noted that one of the criteria for a Use Permit they are to consider is the appropriateness of the structure and asked if that would include the appropriateness of a second story addition of this kind. Mr. Abrahamson advised that he and Mr. Guerra reviewed the plans and that they meet the Use Permit criteria as it stands but it is up the Commission to decide overall the appropriateness of the request.

PUBLIC COMMENT: NONE

APPLICANT RESPONSE:

Mrs. Chavez wanted to advise the Commission that they do plan to make this residence fit in with the other residences on Carmen Street to bring the value of the properties up, not down.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Vice Chair DiDomenico stated that in driving through the neighborhood and looking at the pictures of the project provided in the Commissioners' packets, it does not fit. He stated all the homes on the street are very similar and this project looks like a silo was slapped onto the side of the house with finishes that do not match and a roofline that is out of place. So far, he has not been provided with any information on how the finished project would look.

Commissioner Amorosi commented that it was a shame that the owner of the property could not make this meeting about his own house. He noted that nothing about this house matches and it does not fit in with the rest of the neighborhood. He also stated that the house next door is two-story, but it manages to fit into the area.

Commissioner Cassano also thinks this is a big eyesore that does not fit, and he cannot see what can be done with the exterior to make that happen other than taking it down and rebuilding it or taking the second story off. He does not see how this is a value for the neighborhood. He stated it just seems to be stuck on the side of the house to make room for additional children. He is concerned that it is not appropriate for the neighborhood.

Chair Lyon stated this is an example about not going about things the correct way and "getting what you paid for". He believes it is a real eyesore for the neighborhood.

Vice Chair DiDomenico stated that if they saw some prospective design on how this could be fixed they might be more comfortable with a second story. He suggested that maybe a continuance would give Mr. and Mrs. Chavez a chance to do that and bring it back before the Commission. Chair Lyon noted the Commission is only supposed to decide if the structure makes sense in the neighborhood in general terms but now the Commission is discussing whether it looks good and that is a muddy area to get into.

Chair Lyon asked the Commissioners if anyone else was interested in a continuance. Commissioner Brown stated that as is, the applicant will have to restart in some manner, so he is willing to offer a continuance. Commissioner Johnson agrees that a continuance would be beneficial as there has been a willingness on the part of Mr. and Mrs. Chavez to work with staff and Commission suggestions. Chair Lyon stated he does not think this case is going to change in any way other than possibly how the applicant clads the addition and those design elements are off limits to the Commission. He stated the only thing to consider is the appropriateness of this kind of second story addition and he does not think that will change with the continuance so he would prefer to vote on the Use Permit tonight. Commissioner Brown asked if Mr. and Mrs. Chavez were able to move for a continuance on behalf the Rock family. Mr. Chavez noted the neighbor on the left side of this property has had a second story since 2008 so he is opposed to comments that this one will bring the property values down. He stated there are also other two-story additions in the neighborhood. Chair Lyon asked Mr. Chavez what he thought about a continuance and noted that from what he is hearing from other Commission members, they are not sure that they can support this project. If the Commission gives the applicant a continuance and they come back in a month or two after having prepared some more documents and ideas that will make it more acceptable, they may get a more favorable vote. Mr. Chavez stated he thinks that is fair and he can provide drawings that more clearly show how it would look. Mrs. Chavez asked why the neighboring property was approved for a two-story but this one is having issues and what they can do to make it look more presentable. Chair Lyon stated he does not know the history of that property as he was not involved, but from what he knows of it the two-story section is set back from the street significantly so it does not bare directly on the front of the house and is a little bit less visible. Chair Lyon noted that the shape of the applicants addition is what he has concerns with and if the extra room was 20 feet back from the street somehow that might be different, but right now it looks like a tower. Chair Lyon asked the other Commission members what type of guidance they would offer Mr. and Mrs. Chavez.

Chair Lyon suggested that they tear the second floor down and if they build another one to set it back or they could just add square footage at the ground floor.

Commissioner Brown observed that in looking at the photos of the property he noticed that an arch was removed and that was not listed on the plans. He stated that he hopes that a structural engineer would be involved in the plans.

Commissioner Cassano did not have any comment.

Vice Chair DiDomenico stated he concurs with the previous comments. He noted this that this will be the second two-story in the neighborhood and striving to make it look like it is not an afterthought from the previous design and make sure it blends. He has an issue with how it looks from the pedestrian scale from the street.

Commissioner Sumners stated he would like to hear from the owner as to what happened and how we got here. He feels the owners put themselves in this situation.

Commissioner Amorosi would prefer the second story be set back. Without being able to see how the finish is going to work with the bricks, he would prefer to see a final drawing. He does not understand the purpose of the long window on the second story that is next to the horizontal one. He wants to know how they will landscape around the addition and how they will address the side door that people can go in and out of without a fence. There is currently not enough information available to see what the applicant is doing so he cannot approve something if he can see what is being done.

Commissioner Johnson agrees with the earlier comments and does not have any additional suggestions.

Motion: Motion made to continue PL200011 to a date to be determined by the applicant by Vice Chair DiDomenico and seconded by Commissioner Cassano.

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

Nays: Chair Lyon and Commissioner Sumners

Abstain: None

Absent: None

Vote: Motion passes 5-2

- 6) Request a Use Permit to allow a massage establishment for **YOSHI MASSAGE SPA**, located at 4415 South Rural Road. The applicant is Yoshi Massage Spa. **(PL200015) – Continued from 4/28/20 DRC Meeting**

* *Mr. Harris was having issues with speaker/audio so the Commission requested staff present first so that he could fix the technical issues.*

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, advised the Commission that this item was continued from the 4/28/20 DRC hearing. He stated it is the same request and plan from that meeting. No neighborhood meeting was required for this request and staff received one letter in opposition and one phone call in support since the last hearing. Mr. Guerra advised the Commission that the Tempe Police Department did not have any issues with extending the hours of operation. A condition of approval has been added stating that if complaints arise in the future regarding this request it will come back before the Commission for possible revocation.

* *Mr. Harris was still having issues with speaker/audio so the Commission moved onto agenda items #7 and #10 so he could continue trying to resolve the issue.*

PRESENTATION BY APPLICANT:

Upon completion of agenda items #7 and #10, this case continued to be presented. A phone call was made via Webex to Mr. Harris and a connection was established.

Mr. Michael Harris, Yoshi Massage Spa, apologized for his connection issues. He advised he is not sure what staff recommended on this item. He stated they are requesting what they did in the original request to operate six days a week and then add the seventh day, Sunday. He noted the issues they had at the last meeting related to another facility they had in Glendale, Arizona. He advised that since then they have sold that location and it should be clearing all the hurdles at the end of this week. He stated that employees at his store are contract employees and they check for licenses. Last August, an employee at the Glendale location was alleged to have solicited a Glendale Police officer. They fired her and she moved on and he has no clue where she is. He noted they have been closed almost three months due to the virus and at this point the request for the additional hours would be much more helpful than it was the last time they presented. He also advised they had held a license in Glendale for almost 13 years and never had a violation. This particular employee was just a bad apple.

Commissioner Brown asked Mr. Harris if he understands he cannot use an A-frame sign to advertise on the street. Mr. Harris noted that Commissioner Brown asked this question the last time and again confirmed they would not be using them. Commissioner Brown asked Mr. Harris to confirm that what happened in Glendale would not happen in Tempe. Mr. Harris stated they do their best to hire the best people but they got a bad apple. They only had her employed for a week. He advised that his wife is the manager and usually handles the hiring but she was recovering from surgery, so they had another person come on board who looked at licenses but not the history. Commissioner Brown noted that if they have multiple locations it would be better to have two employees at each location instead of one employee for both.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made to approve PL200015 by Commissioner Cassano and seconded by Vice Chair DiDomenico.

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

- 7) Request a Use Permit to allow a massage establishment for **MASSAGE 90210**, located at 655 West Warner Road, Suite 123. The applicant is Massage 90210 LLC. (**PL200056**)

PRESENTATION BY APPLICANT:

Ms. Suparna Dasgupta, Principal Planner, advised the Commission that the Planning Technician just contacted her to state the applicant had to go to work and could not participate in the hearing.

PRESENTATION BY STAFF:

Mr. Adrian Zambrano, Planning Technician, advised the Commission that this owner has an existing location in Chandler that has been in operation for nine years. They will provide professional massage services conducted by licensed massage therapists registered with the State of Arizona. The business will have five to seven employees at this location and the hours of operation will be 9:00 a.m. to 9:00 p.m. daily. There was no neighborhood meeting required and staff received no public input.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Brown stated the fact that they will have five to seven employees on staff makes it feel more legitimate. He sees no reason not to approve this case.

Motion: Motion made to approve PL200056 by Commissioner Amorosi and seconded by Vice Chair DiDomenico.

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

- 10) Request a General Plan Density Map Amendment from Medium Density (up to 25 du/ac) to High Density (up to 65 du/ac); a Zoning Map Amendment from CSS TOD and R-4 TOD to MU-4 TOD; a Planned Area Development Overlay to establish development standards; and a Development Plan Review for a new four-story, mixed-use development consisting of 187 dwelling units and commercial uses for **BLUE AT EASTLINE VILLAGE**, located at 2058 East Apache Boulevard. The applicant is Gammage & Burnham P.L.C. (PL190249)

PRESENTATION BY APPLICANT:

Mr. Rob Lane, Gammage and Burnham, gave an overview of the project located at the northeast corner of Apache Boulevard and Smith Road. It is 12 parcels totaling just over four acres in size and comprised of unimproved or underutilized properties.

Mr. Kristjan Sigurdsson, Principal Architect – K & I Homes, stated this is a very long site in the east and west direction and that when the buildings are constructed they will face north and south. Due to the length of the property, they decided to split it in the middle by putting in an open-air amenity space to break up the massing along the street. The vehicular access is purposely limited to one driveway along Apache Boulevard at the southeast corner of the site and one driveway along Smith Road at the northwest corner of the site. They are located at the Smith light rail station, however the access to the station is located further west so they have created a pedestrian crossing directly to the light rail platform.

Mr. Lane advised that the proposed development is representative of the ongoing reinvestment occurring along the light rail corridor that has been planned and envisioned for decades.

Chair Lyon asked the applicant how they plan to treat the top surface of the yellow architectural elements. Mr. Sigurdsson advised that at the top it is only two feet deep so they will have the same stucco finish on all sides. They are not deep enough where they will create a water issues and they have also sloped them down a little bit to waterproof them.

Commissioner Sumners inquired how the applicant came up with the number of parking spaces that they are proposing. Mr. Lane advised that the whole Eastline project has areas that have different parking needs, and in this particular case there are different demographics where there are a lot of different transportation choices and he believes the parking ratio they have proposed is good based on that. They are also requesting a reduction from the code requirement.

PRESENTATION BY STAFF:

Ms. Karen Stovall, Senior Planner, advised that a neighborhood meeting was required for this request and was held on March 30, 2020. Staff attended this meeting and one individual from the public attended and expressed support for the project. No other public input was received by staff. There is one unique condition of approval that requires that prior to issuance of the first certificate of occupancy, the developer shall construct a pedestrian/light rail crossing on Apache Boulevard or place money in escrow.

Vice Chair DiDomenico asked Ms. Stovall to describe what the general vision is for the pedestrian crossing/tie-in to the transit station and if it was similar to what has been done at Apache and McClintock. Ms. Stovall advised it would be a standard pedestrian crossing that are all along Valley Metro. To her knowledge there is no specific design

planned yet and the applicant will work with Valley Metro and the Transportation Division once the project is approved. It will be a signalized section where pedestrians would hit the signal and vehicles would stop. It would align with the cul-de-sac development on the south side.

PUBLIC COMMENT:

Ms. Dasgupta advised the Commission that staff received a message from Mr. Andrew Paez via Webex chat but she is not sure if he wants to speak on this item. Vice Chair DiDomenico noticed that in his comment Mr. Paez advised he owns the apartments immediately north on Lemon Street. Chair Lyon attempted to speak with Mr. Paez however Ms. Dasgupta advised that he just informed her that he does not have a microphone. In the chat message he stated he has no objection to the project but wanted to understand the nature of the wall to be constructed between the parking lot for the development that backs up to Mr. Paez' property on Lemon Street. The wall is an eight-foot-high CMU wall and next to the other multi-family it steps down to six feet. It is basically a six-foot-high masonry wall with a pattern and intricately colored and has landscaping in front of it that provides an additional buffer. Ms. Dasgupta advised the Commission that Mr. Paez thanked them for the answer.

RESPONSE FROM APPLICANT:

Chair Lyon asked the applicant if there were any comments they would like to respond to and was advised there were not.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Amorosi stated he thinks this project shows a real sensitivity to what they are trying to accomplish on Apache Boulevard. He likes that it is four stories and not eight and that they created a buffer for Escalante by placing single family homes behind the project.

Vice Chair DiDomenico commented that he is a big fan of this project and wants to commend the applicant on the presentation.

Commissioner Johnson thinks the project looks very nice and likes the techniques used to break up the masses. He likes the breeze blocks and other shade elements that were used. He feels the new light rail connection walkway will not only make it more convenient to use the light rail for the development, but it will also make it safer for people by not having to cross extra intersections.

Commissioner Sumners appreciates the density and the height and that it achieves what they are trying to do with the general plan along the light rail yet still compatible with single-family neighborhood to the north. He observed there was a note on the plans that says the murals will be hand painted by local artists and he is pleased with that.

Commissioner Cassano stated there have been many attempts in the past to redevelop the Apache Boulevard area and he is glad it did not happen too soon because projects of this type and style do not come along every day. With what is going on along the south side of Apache Boulevard and this project to the north, it will just anchor that part of Tempe and make it a statement area for people who drive in or travel on the light rail in Tempe. He commends everyone who has been involved in the project.

Chair Lyon stated he agrees with everyone in that it is a great project and he would like to add to anyone listening that if they are going to give them a big wall that a mural is the way to go and a winner with him.

Motion: Motion made to approve PL190249 by Commissioner Brown and seconded by Commissioner Cassano

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

Staff Announcements:

Ms. Dasgupta advised the Commission that the next meeting will be on June 9, 2020 and will most likely be via Webex again.

There being no further business the meeting adjourned at 7:58.

Prepared by: Joanna Barry

Reviewed by: Suparna Dasgupta

A handwritten signature in black ink, appearing to read 'Suparna Dasgupta', written in a cursive style.

Suparna Dasgupta, Principal Planner, Community Development Planning