



Minutes of the Development Review Commission REGULAR MEETING April 27, 2021

Minutes of the Regular Meeting 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 Don Cassano
Commissioner Philip Amorosi
Commissioner Andrew Johnson
Commissioner Steven Bauer
Alt Commissioner Michelle Schwartz (*for Item #9*)

City Staff Present:

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

Absent:

Alt Commissioner Barbara Lloyd
Alt Commissioner Linda Spears

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 2/23/21
- 2) Development Review Commission – Regular Meeting 2/23/21

Motion: Motion made by Commissioner Cassano to approve the Study Session minutes and Regular Meeting minutes for February 23, 2021 and seconded by Commissioner Amorosi.

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

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

- 3) Request a Preliminary Subdivision Plat for **SOUND & LIGHTING FX**, located at 1245 North Miller Road. The applicant is TEBO, LLC. (PL190221)
- 4) Request a Use Permit to allow a tobacco retailer for **CLOUDSLINGERS VAPE SHOP**, located at 3107 South Mill Avenue. The applicant is Vincent Taylor (PL200051)

- 5) Request a Use Permit to allow a retail store within the GID, General Industrial District for **O'REILLY AUTO PARTS**, located at 1920 East University Drive. The applicant is Torgerson Design Partners. (PL210035)
- 6) Request a Use Permit to allow a second story addition (sun deck above RV garage) for **THE CONNACHER RESIDENCE**, located at 1077 E Carver Road. The applicant is Terry S. Connacher. (PL210051)
- 8) Request a Use Permit to allow parking within the required front yard setback for the **CASTRO RESIDENCE**, located at 5818 South College Avenue. The applicant is Bernardo Ramirez. (PL210059)
- 10) Request a Use Permit to allow an expansion to an existing carwash facility (new self-service vacuum stations) for **NO GIMMICK CARWASH**, located at 8830 South McKerny Street. The applicant is Valley Architecture, Inc. (PL210068)
- 11) Request a Use Permit to allow a bar (series 7) for **THE HUDSON EATERY & BAR**, located at 1601 East Apache Boulevard. The applicant is The Hudson, LLC. (PL210072)
- 12) Request a Use Permit to allow a tattoo and boding piercing establishment for **INK AND EAGLE TATTOO**, located at 414 South Mill Avenue. The applicant is Joe Conti (PL210077)
- 13) Request a Use Permit Standard to allow a 20% reduction of the required side yard setback from seven (7) feet to five (5) feet seven (7) inches for the **ADAMS RESIDENCE**, located at 8661 South Kenwood Lane. The applicant is Geoffrey Adams. (PL210090)

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

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

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

- 7) Request a Use Permit to allow parking within the required front yard setback for the **BAGNOD RESIDENCE**, located at 815 West 11th Street. The applicant is LAM Building Design. (PL210056)

Applicant was not online so the Commission went onto the next agenda item (#8). Once that was completed this item was heard.

PRESENTATION BY APPLICANT:

Mr. Angel Cordova represented the applicant, however due to language barriers Ms. Sylvia Diaz, Junier Lam Architects, spoke on Mr. Cordova's behalf. Ms. Diaz advised that they want to use the slab in front of the property for parking as they would like to close in the existing garage and put in two bedrooms and a bathroom. She advised that most of the neighbors already have the same concept, so they are not having any problems conforming with the preexisting architecture of the area. Ms. Diaz noted that they had spoken with several neighbors and none of them had an issue with parking on the front slab since about 1/3 of the neighborhood has a closed in garage and parking in the front.

Commissioner Sumners noted three comments have been received stating the work has started without any permits and he asked the applicant how that happened and what their plan is moving forward. Ms. Diaz stated that the current owner of the property, Onyx Investments, did not start working without a permit. She noted that there was

another company that had gone in and changed the plumbing, cut out the drywall, and gutted it. Onyx brought this property as an investment property from that sale. They began on the roof, which was one violation, but since then have stopped all work and applied for the permits, especially for the configuration of the garage. Nothing else has been changed or demolished. They only put in some flooring, fixed the walls that were open, and painted.

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, gave an overview of the Use Permit request. He noted the applicant is maintaining internal access from the proposed addition to the existing part of the home, which makes it an addition to the home versus guest quarters. There was no neighborhood meeting required for this request and staff did receive public comment after the staff report was completed. Staff has since received letters in opposition, and one late-coming letter in support of the request.

Commissioner Sumners asked for clarification on why two parking spaces are required for this property and if it was due to year of construction. Mr. Guerra noted that the home was constructed in 1959 so it predates the ordinance that requires two spaces for a single-family home, so only one space is required.

Chair Lyon noted that the applicant stated there are several homes in the area that have this type of converted garage into living space and asked Mr. Guerra if he could provide information on this. Mr. Guerra noted that he did not see many Use Permits submitted for parking in the front yard setback, however that could be due to converting the garage into livable space but putting the parking in the rear of the property which does not require a Use Permit. As a result of that they would not have come before the Planning Commission, DRC, etc.

PUBLIC COMMENT:

Ms. Suparna Dasgupta, Principal Planner, read the following comment from Mr. Scott Siebel: "Regarding the claim that the property will remain "single family," with the floor plan as proposed, my concern is that the property will, at some point, be accommodating to occupancy by multiple, unrelated tenants. The increase in bedroom and bathroom space, including two "master bedrooms" seems intended for high-density rental by more than just a single family. While single-family rentals work well on our street, I've seen properties occupied by multiple unrelated renters occur on this street with disastrous outcomes, including one where the owner rented to her daughter and some friends that became a frequent "party house." The nuisance and hazard to the neighborhood culminated to the point where a party erupted into a street brawl where police were called and multiple arrests were made. I oppose permitting this parking permit with the concern that a similar outcome will arise from such a configuration, due to the secretive nature of the owners, who have on multiple occasions, refused to provide contact and company information upon request. I therefore have no assurance that their claim of "single family" occupancy will remain so, or that future owners would honor such a claim."

Ms. Monica Wadsworth-Seibel stated she is opposed to this request as she feels it would set the stage for other properties in the area to do the same thing. She stated the owners of this residence began unpermitted and illegal work as far back as December of 2020, including demolition, electrical and plumbing. She noted that she has photos of the construction with large amounts of debris over the months of January, February and even into March. She stated this is still an unresolved complaint and that she does have the tracking number. Unpermitted work has involved drywall and insulation, indicating that the garage building has already begun. There was previous drywall repair done by the previous owner's father but that was well before the purchase of this property in November. She noted that around January 3rd the electrical wires had been moved externally so she believes there has been unpermitted electrical work as well. Ms. Wadsworth-Seibel also stated that work being conducted that does not include a permit has been flimsy and shoddy, such as the roof and fascia replacement. They have boarded up the windows rather than replacing them and there continues to be construction debris and garbage. They finally applied for a permit at the end of February. While the permitting process provides some assurance of quality and safety, she fears this construction is, and will be, substandard and dangerous.

Commissioner Amorosi asked Mr. Guerra if there were any fines or extra cost for permitting due to starting without a permit. Mr. Guerra advised that there are no open code violations for this property therefore the Use Permit application was not double the fee or any extra charge for that request. There is an open investigation through the

Building Safety Division, but he is not able to speak to their fees or their process. Commissioner Amorosi asked if Building Safety would do the inspection as well. Mr. Guerra advised that the demolition work, the building permits, and the inspection would all be handled within the Building Safety Division.

Commissioner Cassano asked for clarification if the property was owned by an investment company or a personal owner. Ms. Dasgupta advised that the applicant could clarify this during their response.

RESPONSE FROM APPLICANT:

Ms. Diaz stated that the property is owned by Onyx Investments LLC. She noted that the work that the complainant is talking about, or alleging occurred, was done by Plumbing Smart, which is a company that came up prior to the previous owner passing the property onto Onyx and coming back to finish the work they were contracted to do. They could not do anything to the property until that company finished the HVAC, replacement of the plumbing and everything else they had left open. That is the company that came back and they have the documents to support that. The current owner did not do any of that work. All they did was close up the drywall, which does not require a permit, and put in some flooring and cabinets. All the larger work was done and paid for by the previous owner.

Commissioner Cassano asked if the investment company that owns this property owns any other properties since the claim was made that this property would turn into a rental with multiple bedrooms added. Ms. Diaz stated that to her understanding the property will not be a rental but that it will be sold to a single-family. She also noted that it is not zoned for a multi-family property.

Ms. Diaz introduced Mr. Victor Bagnod to speak. Mr. Bagnod stated that on the first day that they visited the property demolition was done around the house. Electrical and plumbing were done in the property, and the walls only had halfway of the drywall put up. When they spoke to the person who sold the house to Onyx Investments he said the company would go back and put in the walls, finish the plumbing, and do all the other items that the previous owner had paid them to do. They have the proper documentation that it was done in October, November and December according to the previous owner he had a contract with. Mr. Bagnod stated all they did was put in new flooring and carpet in the bedrooms, added kitchen cabinets, and repainted the house. He advised that the windows have to be covered with plywood because the previous owner could not get any windows and it was broken into twice. They put the plywood up to keep it safe. He stated that the garage has not been touched at all and that it is exactly as it was from day one. He believes the neighbor thinks it has been them doing all the work, however it was previous company coming to finish the work.

Commissioner Bauer asked if work on the new bathroom that is part of the garage enclosure has started yet and was advised that it was not. Commissioner Bauer asked for further clarification that all the reference plumbing that has been done was to the interior of the house and Mr. Bagnod stated it was.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Amorosi stated he was glad to see that they are not adding an extra doorway or a separate entry for this addition. It just seems like they want to make a larger house out of an older one. They have the room for this addition, they are not adding a second story, so he does not have any issues with the request.

Commissioner Johnson noted that the Use Permit is for allowing parking in the front yard setback. He stated he is not too far from that neighborhood and this is a very common practice throughout the neighborhood so he does not believe this would cause any unusual parking to occur in that area. As far as the renovations, he thinks it is great they are taking an existing older property and adding square footage and fixing it up. He will be in support of the request.

Commissioner Sumners stated that he is familiar with the neighborhood and there is a lot of on-street parking in the area. He noted that while parking in the setback is very common, it would be very easy to add a garage in the back of this property for parking. He has a hard time with there being four bedrooms in the home with only two parking spaces right up to the property line. Commissioner Sumners stated that the bigger issue for him is that when they

have a request like this, and the property owner is not coming forward and asking for this on their own. He is not willing to support this request.

Commissioner Bauer stated he does not necessarily like parking in the front yard, but he does not see another option unless part of the rear yard is taken away. He is okay with this application and is happy that the City of Tempe is now involved and that the Building Safety Division will make sure that everything is done properly and to the existing code. He will be supporting the project.

Motion: Motion made by Commissioner Bauer to approve PL210056 and seconded by Commissioner Amorosi.

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

Nays: Commissioner Sumners

Abstain: None

Absent: None

Vote: Motion passes 6-1

Ms. Dasgupta asked Chair Lyon to remind the public that the chat feature in Webex is not monitored. Once a public comment is made by someone, that is their time to speak. She also asked him to enforce the three-minute rule for public comments. Chair Lyon advised the public about the way to submit comments and reiterated the three-minute rule.

- 9) Request a Use Permit to allow a tobacco retailer for TAIGA SMOKE AND VAPE, located at 8707 South Priest Drive. The applicant is Moditech Import & Export LLC. (PL210067)

Commissioner Bauer and Vice Chair DiDomenico recused themselves from this item due to a conflict of interest. Alternate Commissioner Schwartz sat in on this item as a voting member. Chair Lyon advised the applicant that due to the recusals of two members, the quorum for voting on this item will be six (6) Commissioners instead of seven (7) and asked if they were okay with this or if they would like a continuance. The applicant advised that they would like it voted on today.

PRESENTATION BY APPLICANT:

Mr. Mohamad El Lakiss advised this is a cigar, smoke and vape store. They have three other stores that have been in nice neighborhoods without any complaints. The Commission had no questions for the applicant.

PRESENTATION BY STAFF:

Mr. Dalton Guerra, Planner I, went over the Use Permit request and how it meets the required criteria. The proposed site does meet the separation requirement from any schools. No public meeting was required for this request. Staff did receive one email in opposition from a property owner.

PUBLIC COMMENT:

Ms. Suparna Dasgupta, Principal Planner, read the public into the record: "As owners of property within Emerald Center located at the NWC of Priest Drive and Warner Road, we vehemently oppose the approval for a Use Permit to allow a tobacco retailer (Taiga Smoke and Vape) at the location of 8707 S. Priest Drive, Tempe, AZ. Smoking and vaping is a public health concern of which both have been linked to cancer. Nicotine whether smoked or vaped is an extremely addictive substance to all age groups. Additionally, smoke and vape shops have a stigma associated with the use and therefore a negative impact on surrounding residential and commercial properties located in close proximity. We strongly urge the City of Tempe Development Review Commission not to approve the Use Permit to allow a tobacco retailer" signed by Tom Tait, Sr., Tom Tait, Jr., Will Tait, Matt Tait, Dave Johnson, Laurie Smith, Kris Keniston – on behalf of Emerald Center.

RESPONSE FROM APPLICANT:

Mr. Lakiss stated they would like to be good neighbors and hopefully they can talk to them and ease their angst over this business. They had spoken to the owners to the left and right of their store and no one had any concerns.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Cassano noted that the public comment appears to be from someone who does not like smoking and that is not the Commission's role here as that is something that is allowed in Tempe. He does not feel this business will negatively affect the others across the street.

Commissioner Amorosi stated that the fact that Mr. Lakiss has other shops and there have been no complaints against them, it appears he is a very responsible business owner. Since smoking is not banned, he has a right to this business.

Commissioner Sumners agreed with Commissioners Cassano and Amorosi. He noted that there are five criteria for Use Permits that the DRC votes on however whether you agree with smoking is not one of them.

Motion: Motion made by Commissioner Cassano to approve PL210067 and seconded by Commissioner Amorosi.

Ayes: Chair Lyon, Commissioners Cassano, Sumners, Amorosi, Johnson and Schwartz

Nays: None

Abstain: Vice Chair DiDomenico and Commissioner Bauer

Absent: None

Vote: Motion passes 6-0

- 14) Request a Use Permit to allow a residential use in the Commercial Shopping & Services (CSS) zoning district, a Use Permit Standard to increase the maximum building height from 35 feet to 37 feet, and a Development Plan Review for a new three-story 11-unit attached single-family development for **MCCLINTOCK HOMES**, located at 1020 South McClintock Drive. The applicant is Palmer Architects. **(PL200262)**

PRESENTATION BY APPLICANT:

Mr. Jerry Palmer, Palmer Architects, stated that what they are proposing are eleven 3-story units with a two-car tandem garage on the first level. The homes are 2-bedroom, 3-bath with a den option and are approximately 1,600 square foot of livable space. These properties will be for sale. He went over the exterior aspects and products used on the homes. High quality materials will be used on the homes, with high energy efficiency products, with a full variety of amenities such as a pool, ramada, and common areas. An HOA will take care of the maintenance of the facility. Each of the units will have a private patio area with a three-foot wall surrounding them. The yards vary from 160-300 square feet. They have sufficient parking, including guest parking, along with bike racks and a variety of other site amenities.

Commissioner Amorosi stated that he thinks the layout is working, he likes the use of energy efficient products and that the properties will be for sale. He does not have an issue with the rezoning request for commercial to residential. His issue is the bright, redwood siding when the Apache character area is looking more towards southwest architectural colors. He does not think it fits into the area and asked if they would consider changing the color to something more natural. Mr. Palmer stated that the panel system was meant to simulate actual redwood. He likes the color but if the Commission wants him to mute it a bit he would consider that. He also noted that it is difficult to represent the colors accurately and that they are a little more muted than it shows. Commissioner Amorosi stated that he does not see any redwoods in the southwest, so redwood siding does not seem like it blends into the area. He suggested that they look at a different kind of siding to use.

Chair Lyon noted that part of the request is to increase the allowable height by a couple of feet. He can understand that, however looking around the area he does not see any other 3-story structures, only 2-story and even 1-story structures. In looking at the plans he notes that the site is very dense, and the homes are very narrow and everything feels packed in very tightly. He is hesitant to approve the increase in height that will enable them to put all the structures in as the site does not seem like it can support all the units. Mr. Palmer stated that this site is on the

corner of a TOD district and typically that is where higher density and higher heights occur. They are spending a lot of money on the roof and would like to expose it as it is a nice attribute and that is why they are looking for the additional height.

STAFF PRESENTATION:

Mr. Lee Jimenez, Senior Planner, gave an overview of the project. He stated there was no neighborhood meeting required for this proposal and staff did receive inquiries by email and phone. Staff received one letter of support and then a late coming letter from a resident just to the west in the Borden Homes subdivision which stated there was little to no relief of interest from the street elevations, and he is also concerned that the driveway is too close to the intersection and that the overall design is out of place with the neighborhood. Regarding the intersection and the driveway, Mr. Jimenez advised that the site layout was reviewed by Transportation and the Traffic Engineer had no concerns with the proposed driveway and how it is laid out. Mr. Jimenez then went over the site plan for the proposed project. A condition of approval that the applicant is agreeable with is providing some bike spaces which will be to the east of the mailboxes which is just north of the ADA space. The garages also have adequate space for bikes. Staff recommends approval based on the conditions of approval. There are two non-standard conditions of approval for the DPR, #7 pertains to the utility easement gate and #8 is for adding the bike racks.

Mr. Jimenez stated that he does have a response from the applicant to the email from the resident opposed to the project and advised that if the applicant needs to show the renderings that they are at the end of Mr. Jimenez' presentation slides.

Commissioner Johnson noted that there are a lot of these 3-story townhomes that continue to go up around the town and the valley. However, the one thing that jumps out of him on this one is that there is no patio space on the second or third floor and he was curious if that was a direction from the City or a design choice by the applicant. Mr. Jimenez stated that was a design choice by the applicant. He stated that when the City looks at the project they would like to have one or the other, a balcony or a patio, but would prefer both.

PUBLIC COMMENT:

Ms. Dasgupta noted that Mr. Daniel Cifuentes, who is about to speak, had provided exhibits and that they had been forwarded to the members of the Commission.

Mr. Daniel Cifuentes stated he lives about 450 feet west of the subject parcel in the Borden Homes historic neighborhood. He objects to the aesthetic of the project as it does not fit what they are seeing along the historic area on McClintock, which is mid-century architectural style. All the homes in the area are single-story, some from the WW2 era. He has an issue with the height of this project which is not typical for the area and it would be visible from his backyard. He stated that the redwood panels stick out like a sore thumb and that is not something that is typically seen in the southwest. The design feels very monotonous and there is not a lot of play other than a couple of feet on a couple of the units. There is not a lot of undulation or interest for a surface plan that would be about 40-feet tall. He asked that staff work with the applicant to redesign this or add a little architectural relief for the neighborhood and community members. He is also worried about switching from commercial to multi-family designation.

APPLICANT RESPONSE:

Mr. Palmer stated that regarding the concern about the color, he could find a more muted system as the panels come in a variety of colors. They could possibly go with a tan color or something more southwestern. Regarding height, they are trying to expose the steel roof and make it part of the ambiance of the façade. He feels there is quite a bit of play in the exterior elevations with the cantilevers and window borders.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Amorosi stated that he is glad that the applicant will change the panels from redwood. He suggested that the applicant read the Apache character area plan because there is a full color palette there that they can look at and choose from. There are no three-story townhomes in the area, but if you go east of McClintock down Don Carlos that is what they are building down there. Commissioner Amorosi noted that is only a block away from a major light

rail station and Tempe needs more housing, especially 'for sale' housing and not multi-family. He will be in support of the project as long as the redwood siding is replaced.

Vice Chair DiDomenico stated that normally he does not want to be the color police, but in this case he is not a fan of the dark red color as he feels he is looking at a case from Flagstaff instead of Tempe. He will be in support of the case and hopeful for a color change.

Commissioner Cassano stated he has driven by this lot for 47 years and this is an improvement over what has been seen there. He feels this project will help buffer the homes to the west. He does not feel it will impact the residents to the east because it is a long way away from some of those homes. He will be in support of the project because that corner has been a blight for some time.

Commissioner Bauer stated that he drives by this site almost daily and this will be an improvement. He requested that whoever makes the motion for the vote on this project add a stipulation that the applicant work with staff and Mr. Cifuentes on an alternate color for the panel siding. He will be supporting the application.

Commissioner Sumners is happy to support this project. He noted that a few weeks ago the Commission discussed how everything looks the same along Apache and here comes something bold and the Commission does not like it. He feels that at some point we should tell applicants what we are looking for as well. He is happy to see the sidewalk area more presentable as the current sidewalk is not in good shape.

Chair Lyon stated that he struggles with the 16-foot wide units as it looks like they are being crammed in. He is not comfortable with this project not just because of the color or siding. He stated it feels arbitrarily cut up into mini-volumes due to the different colorations but otherwise the façade is basically flat. He cannot support the project.

Motion: Motion made by Commissioner Amorosi to approve PL200262 with the added stipulation that the applicant work with staff on the color palate. Seconded by Vice Chair DiDomenico.

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

Nays: Chair Lyon,

Abstain: None

Absent: None

Vote: Motion passes 6-1

- 15) Request a Code Text Amendment for **GROUP HOME REGULATIONS**, consisting of changes within Section 3-409 of the Zoning and Development Code for modifications and update to group home standards and related definitions. The request is from the City of Tempe. (PL210105)

STAFF PRESENTATION:

Mr. Ryan Levesque, Deputy Director – Community Development, gave a brief overview of Tempe group homes and what the procedures are today and the process. Currently, ZDC Section 3-409 is the regulatory requirement for land use allowances for group homes. That category includes assisted living homes, adult foster care homes, child shelters, adult behavioral health therapeutic homes, and sober living homes. This group home category does not include developmentally disabled homes, fraternity/sorority houses, or other non-defined groups without a disability.

The current group home application policy is that the applicant contacts Community Development and completes an application form for subject site and provide contact information. This is an administrative process. The application will be reviewed by both Planning and Building Safety. The Planner will then check the address and verify measurement from other group homes. The code requires a 1,200-foot separation from lot line to lot line to another group home. If it meets the distance requirements that it will be reviewed by Building Safety for occupancy. The two occupancies are an R-3 occupancy which is up to five residents and only requires a permit inspection, and an R-4 occupancy which is six to ten residents and requires a permit plan review, change in occupancy and inspection of permits, and additional life safety measures for the home. Once approved, that applicant is responsible for licensing with the State, mainly the AZDHS, which will also respond to any complaints on the group home.

This process was started in 2020 when there were some neighborhood concerns about group homes in the area. The residents had concerns about the regulations, the impact of the character of the neighborhood, possible overflow parking or traffic issues in the area, and concern that it would detract from the home or community. Based on a search of 2019 records for existing group homes, 17 code violations were identified with 12 of them actually being violations, which consisted of about 16% of all group homes in Tempe. If you compare that to all the single-family homes in Tempe, 22% of all single-family homes received a violation in 2019. As of today, there are a total of 74 group homes in Tempe, with another 68 developmentally disabled homes that are regulated by DES.

When addressing concerns from residents, the City wanted to be sure they were in compliance with the Federal Fair Housing Act, the Americans with Disabilities Act, any recent court rulings and a review with the City Attorney's office that if new regulations are proposed that they are compliant with those actions.

Mr. Levesque provided a comparison of local cities throughout Arizona. Compared to those cities, Tempe's group home regulations are very basic when it comes to occupancy allowances, separation requirements, and permitting process.

The changes that are being proposed to the ZDC Section 3-409 are revised language and format with definitions, a comprehensive list of standards, limit the occupancy to no more than five residents (excluding staff), require parking to be maintained on site, an approval period of 90 days requiring evidence of State license, and a new "reasonable accommodation waiver". Existing group homes that currently have 6-10 residents allowed will still be able to remain at the occupancy that they were originally granted.

Some changes that are not specific to the ordinance itself is looking to improve public awareness with new website materials on group homes and application procedures. The application form will also be updated with a new acknowledgement statement box and verification of any required CC&R's (signature sign-off). The City will maintain the 1,200-foot separation requirement and current administrative review process.

There were two City Council Work Study sessions on this item in August and staff was given direction by the City Council to move forward on the hearing process. Staff had a meeting with the Neighborhood Advisory Commission on the draft ordinance on April 7, 2021 and received a lot of good input. They suggested the City reach out to current group homes in the area, so notifications were sent out via postcard to them.

If the Development Review Commission recommends approval tonight, the item will be before the City Council on May 27, 2021 and June 10, 2021.

Commissioner Cassano stated that the changes that are being proposed seem very well thought out and were very much needed as there has been a lot of concern in the past about group homes. This will offer a clearer process for the group homes. Mr. Levesque noted that the ordinance has not been updated since 1996 so some of the language was very antiquated and needed to be updated.

Commissioner Amorosi asked about Section B, number 2, where it references a group home that may not be licensed under any governmental authority and how that could be. Mr. Levesque stated that currently all the group homes in this category are required to be licensed by the state. This section gives the City an option that if there is a new type of category group home that is determined to provide disability for group homes that the City can administer the process without the requirement of the State and still require that zoning clearance.

Commissioner Johnson asked if there were any group homes that would be out of compliance if this is implemented or if there is a 'grandfathering' of those existing homes. Mr. Levesque noted that of the 74 group homes currently in Tempe, about 24 of them are in the category of six to ten occupants. This ordinance change does not affect their occupancy and they will be able to maintain that allowance based on the permit occupancy they have today. If the business was to close down, then the site would need to come into compliance. There have been concerns brought up about the potential of group homes that may have closed due to the pandemic period. Staff would like to follow up

with those group homes to see what the situation is. There is a process where they may be able to apply with the state for a reissuance.

Commissioner Schwartz asked what the parking requirements are for group homes as it relates to both staff and visitors. Mr. Levesque stated there are no additional parking requirements however they are still required to maintain residential parking which is two spaces on site outside of the front yard setback.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Motion: Motion made by Commissioner Cassano to approve PL210105 and seconded by Commissioner Amorosi.

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

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

Staff Announcements:

Ms. Dasgupta advised that the next DRC meeting will be held on May 25, 2021 and staff will provide the Commission with an agenda in the first week of May.

There being no further business the meeting adjourned at 7:50 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Suparna Dasgupta, Principal Planner

