



Minutes of the Development Review Commission REGULAR MEETING March 22, 2022

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 Michael DiDomenico
Alt Commissioner Charles Redman
Commissioner Scott Sumners
Commissioner Don Cassano
Commissioner Philip Amorosi
Commissioner Barbara Lloyd
Commissioner Michelle Schwartz

City Staff Present:

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

Absent:

Vice Chair Steven Bauer
Alt Commissioner Linda Spears
Alt Commissioner Rhiannon Corbett

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

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 02/08/22
- 2) Development Review Commission – Regular Meeting 02/08/22

Motion: Motion made by Commissioner Cassano to approve Regular Meeting minutes and Study Session Meeting minutes for February 8, 2022 and seconded by Commissioner Amorosi.

Ayes: Chair DiDomenico, Commissioners Cassano, Amoroso, Sumners, Lloyd, and Redman

Nays: None

Abstain: Commissioner Schwartz

Absent: Vice Chair Bauer

Vote: Motion passes 6-0

- 3) Development Review Commission – Study Session 02/22/22
- 4) Development Review Commission – Regular Meeting 02/22/22

Motion: Motion made by Commissioner Cassano to approve Regular Meeting minutes and Study Session Meeting minutes for February 22, 2022 and seconded by Commissioner Lloyd.

Ayes: Chair DiDomenico, Commissioners Cassano, Amoroso, Sumners, Schwartz, and Lloyd

Nays: None

Abstain: Commissioner Redman

Absent: Vice Chair Bauer

Vote: Motion passes 6-0

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

- 5) Request a Preliminary Subdivision Plat consisting of two (2) lots for **SOUTH POINT PLAZA**, located at 2720 West Baseline Road. The applicant is Superior Surveying Services, Inc. **(PL210137)**
- 7) Request a Use Permit to allow entertainment as an accessory use (live bands, DJs, karaoke, acoustic performances, and open mic) for **TEMPE EATS**, located at 85 East Southern Avenue. The applicant is Tempe Eats, LLC. **(PL210162)**
- 8) Request a Use Permit to allow temporary outdoor vending (ghost kitchen) for **REEF KITCHENS**, located at 85 East Broadway Road. The applicant is REEF Kitchens. **(PL210322)**

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

Ayes: Chair DiDomenico, Commissioners Cassano, Amoroso, Sumners, Schwartz, Lloyd, and Redman

Nays: None

Abstain: None

Absent: Vice Chair Bauer

Vote: Motion passes 7-0

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

- 6) Request a Use Permit to allow a second story addition to an existing single level single-family residence for **THE HALE RESIDENCE**, located at 1849 East Hayden Lane. The applicant is Whitney Hale. **(PL210353)**

PRESENTATION BY APPLICANT:

Mr. Whitney Hale gave an overview of his request, the height restrictions, and the neighborhood zoning setup. He believes the home is within the height restrictions that are in place. He plans to live in the residence with an aging family member and his adult sons and it was designed based on their needs. He believes the parking also accommodates this. Mr. Hale plans to use the mezzanine space as his master bedroom. He does not believe any future use of the property should affect his current request.

Chair DiDomenico asked how many adults of driving age would live on the property and was advised that there would be five. Chair DiDomenico asked Mr. Hale about the parking design he plans for the property. Mr. Hale advised that there are four spaces (two sets of tandem spaces) and he does not anticipate that there will be any other vehicles there.

Commissioner Amorosi stated that he does not understand the need for three kitchens, for one family, on one floor and a total of seven complete bathrooms in the residence. He noted that one of the bathrooms is next to the dining room where people will be eating. Commissioner Amorosi stated that this, along with outdoor entrances for every room, shows how easily it can be turned into a boarding house. Mr. Hale noted that he is not sure if every bathroom will be built or used, however they are for an elderly family member that he does not want them to have to run for a bathroom. He explained that the external doors on each bedroom are in case of a fire. He also wants his adult children to come into the house and their entrance anytime they want without disturbing him. Regarding the kitchens, he stated he has two adult sons who like fighting on a verbal and mental scale and he does not want the mixture of food going on. The kitchen in the back is intended to be a pizza kitchen and is not necessarily intended to be a full kitchen, and he does not know if he will even put a stove in there. He prepared for it in case he wanted to do it. He stated that what has been called a kitchen on the mezzanine level is actually a wet bar and laundry area.

Commissioner Sumners noted that he was on the DRC the last time Mr. Hale's case was heard and asked if anything has changed. Mr. Hale advised that nothing has changed since that time.

Chair DiDomenico referred to the original design and noted that in the current version there are now exterior entrances to each of the bedrooms on the second floor. He asked Mr. Hale if these changes were new. Mr. Hale advised that he originally submitted his plans in 2017 and was not aware at that time that he would be subject to a Use Permit for a full second floor above the first floor. Once he submitted the plans and was advised he could not do the addition he immediately revised his plans so that he could get his start date and start building thinking that he would not have any problem getting a Use Permit considering the neighborhood that the property is in. Chair DiDomenico asked if the structure has been lived in and was advised that it had not.

PRESENTATION BY STAFF:

Mr. Lee Jimenez, Senior Planner, advised the Commission that the Hale Residence was a partially constructed, two story residence. The applicant was issued a building permit in October of 2018 to construct a single-family home. The building permit that was issued did not include a second story in the original scope of work. The applicant applied for a Use Permit in April of 2020 to legitimize the second story. That request was eventually denied by the DRC on June 11, 2020 and it was appealed to the City Council on August 13, 2020, and the appeal was also denied. Pursuant to the Zoning and Development Code, an applicant must wait one year for reapplication of the same project, which was August of 2021. Mr. Jimenez stated that the zoning code began requiring a Use Permit for a second story addition to a single-story residence on December 19, 1987. Any homes that were existing or demolished after that date would be required to apply for a Use Permit for any additions concerning a second story.

No neighborhood meeting was required for this request. Staff received three public comments. The first is from a resident, Jim Bland, who lives south of Mr. Hale and is concerned about the privacy of his yard and house considering the proposed second story deck at the rear of the house, as well as the placement of the windows and doors. Mr. Hale responded via email to Mr. Bland's concerns, and both emails were included for the Commission members. A second email was received from Mr. Tom Brown, a former DRC member, expressing concerns about the proposed number of bedrooms, bathrooms, and kitchens in the residence. These are the same concerns he expressed when he originally heard this case as a DRC member. The third public comment came from the resident, Jeff Harcrow, who lives directly south of Mr. Hale. He is not concerned about the second story use, but rather a half-finished project, as he thinks it might attract negative activity from the surrounding lots. Staff does not support this Use Permit based on criteria and comments from the public. If the Commission decides to approve this application, staff has recommended specific Conditions of Approval to remove the second bathroom on the second floor, the second kitchen facility on the second floor, and to remove the east curb cut on Hayden Lane and replace it with a curb, gutter, and sidewalk. This is because the City does not allow two accessways onto the property. Also, all exterior doors and decks on the second floor will be removed from the plans, and only clerestory windows will be allowed on the second story on the south elevation. Second story egress windows may be provided on the east and west elevations.

Chair DiDomenico asked Mr. Jimenez if he was assigned to this application when it was first presented in 2020 and he advised that he was not. Chair DiDomenico asked if he was aware of any significant alterations that may have been done to the application or design from when it was first voted on until now and Mr. Jimenez advised there were not. Chair DiDomenico requested clarification that the Use Permit was triggered because the building permit was issued for a one-story design, and it was under construction when a request for a second story was added. He asked that if this had initially come in as a request for a designed two-story residence before dirt was turned if it would have gone through a Use Permit process. Mr. Jimenez advised if that would have occurred, during plan review the Building Safety they would have flagged it and notified the applicant that a Use Permit was required before they could process any building permits. Chair DiDomenico asked if the Use Permit was not triggered because it was a change to an existing structure but because it is a two-story structure and Mr. Jimenez advised this was correct as the previous structure was a single-story residence.

Commissioner Summers noted that the applicant stated there were four parking spaces, however the staff reports stated there were only two. Mr. Jimenez advised that there is a parking stall shown on the west side behind the 20-foot setback along the western edge of the property. He stated that the parking area that Mr. Hale plans on using is located on the east side. The City code does not allow for two separate driveway access to two parking areas, so if

he removes one, he should have enough room to have two cars parked in tandem along the western side. Mr. Jimenez noted that the required parking for a single-family home is two spaces.

Commissioner Redman asked if it was normal or not that we do not have second story buildings next to backyards of single-story buildings. He was curious how one person complaining was creating all the caveats for this application. Mr. Jimenez advised that with property design many homeowners can design a way to mitigate privacy concerns. Sometimes they will use clear story windows where there is a façade facing the neighbors of the neighboring property. There are different ways that a homeowner can design their second story to reduce the potential for privacy concerns from neighbors.

PUBLIC COMMENT:

Mr. Tom Brown, Tempe resident, expressed that this design has all of the appearances of being a multi-family home but does not have all of the features that a multi-family development should have, and he opposes its configuration. Chair DiDomenico asked Mr. Brown what his main concern was. Mr. Brown advised that he feels the parking is adequate for a single-family home, however if it is turned into a boarding home some time in the future that there could be as many as 14 people there since there are seven bedrooms and seven bathrooms. This would create more traffic and parking on the street, and this is already a very narrow street.

Commissioner Lloyd asked Mr. Brown how he feels about staff's Conditions of Approval if this application was to be approved. He feels they address the neighbor's concern nicely, but he believes it is a multi-family boarding home disguised as a single-family home.

RESPONSE FROM APPLICANT:

Mr. Hale stated that what he plans to do will increase property values in the neighborhood, not diminish them. He noted that his home always had two driveways, and both were put in by the City. Regarding the number of people living in the residence, he again stated that he is not building a fraternity house. He stated that all he is doing is adding 285 square feet to the inside of his mezzanine floor.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Commissioner Lloyd stated she is inclined to approve the request with the added Conditions of Approval. She asked what the City's remedy would be if a change of use occurred in the future. Mr. Jimenez stated that if it was converted to a multi-family use in the future it would be in violation of the zoning code. Ms. Suparna Dasgupta, Principal Planner, advised that there are different development standards for a multi-family development.

Commissioner Cassano stated that something would have to trigger to show the use has changed to multi-family since we do not have the ability to go into the property.

Commissioner Sumners asked if the applicant would agree to move forward with the staff's Conditions of Approval. Mr. Hale stated that he is not in agreement with staff's Conditions of Approval. Chair DiDomenico asked if he was comfortable with any of the conditions and Mr. Hale said he was not.

Commissioner Sumners stated that his main concern with this project is parking. He believes that the way the structure is designed it would lead to additional parking on the street.

Commissioner Amorosi noted that Mr. Hale stated that he could not speculate on what someone would do to the property in the future. He stated that if this project was approved, there could be investors who would make Mr. Hale an offer that he could not refuse.

Chair DiDomenico stated he does not have issues with second story additions; however the look of the exterior stairways and doors is not something that is commonly seen in single family residences.

Commissioner Redman stated that looking at the plans he sees a boarding house as well, however he has an issue rejecting the project based on potential future uses.

Motion: Motion made by Commissioner Lloyd to deny PL210353 and seconded by Commissioner Cassano.

Ayes: Chair DiDomenico, Commissioners Cassano, Amoroso, Sumners, Schwartz, and Lloyd

Nays: None

Abstain: Commissioner Redman

Absent: Vice Chair Bauer

Vote: Motion passes 6-0

- 9) Request for code text amendment to the **ZONING AND DEVELOPMENT CODE**, consisting of modifications to the Home Occupation allowed uses and definitions for Beauty Salons and Barber Shops. The applicant is the City of Tempe. (PL200216)

PRESENTATION BY STAFF:

Ms. Diana Kaminski, Senior Planner, gave a brief overview of the amendment. Some of the changes in the amendment include some clarifications on signs, allowing up to two client stations in the dwelling, removing barber shops and beauty parlors from the prohibited use list, and adding definitions for barber shops and beauty parlors. A neighborhood meeting was not required however staff did go to the Neighborhood Advisory Commission in September of 2020 and received some recommendations. As this was a pilot program during the pandemic, a neighborhood meeting was held on February 24, 2020 to get feedback on how it was going. A survey was also conducted online with 18 participants responding and an approval of 89% for the program.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made by Commissioner Lloyd to deny PL210353 and seconded by Commissioner Cassano.

Ayes: Chair DiDomenico, Commissioners Cassano, Amoroso, Sumners, Schwartz, and Lloyd

Nays: None

Abstain: Commissioner Redman

Absent: Vice Chair Bauer

Vote: Motion passes 6-0

Staff Announcements:

Ms. Dasgupta advised the Commission that the O'Connor Residence had initially been continued from a previous meeting and slated to be heard this evening. However, the applicant ended up withdrawing their application.

Ms. Dasgupta gave an update on plans to tour some projects with the Commission. This can either be split up into two days; one a walking tour and another being via bus or completed in one day. She asked the Commission to provide her with their preferred method, which dates work best for them, and any suggestions for sites to tour.

There being no further business the meeting adjourned at 7:19 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Suparna Dasgupta, Principal Planner

