



## Minutes of the Development Review Commission REGULAR MEETING April 12, 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  
Vice Chair Steven Bauer  
Commissioner Philip Amorosi  
Commissioner Michelle Schwartz  
Alt Commissioner Linda Spears  
Alt Commissioner Rhiannon Corbett  
Alt Commissioner Charles Redman

**City Staff Present:**

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

**Absent:**

Commissioner Scott Sumners  
Commissioner Don Cassano  
Commissioner Barbara Lloyd

**Hearing convened at 6:05 p.m. and was called to order by Chair DiDomenico**

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**Consideration of Meeting Minutes:**

- 1) Development Review Commission – Study Session 3/22/22
- 2) Development Review Commission – Regular Meeting 3/22/22

**Motion:** Motion made by Commissioner Amorosi to approve Study Session Meeting minutes and Regular Meeting minutes with a minor correction for March 22, 2022 and seconded by Commissioner Schwartz.

**Ayes:** Chair DiDomenico, Commissioners Amorosi, Schwartz, and Redman

**Nays:** None

**Abstain:** Vice Chair Bauer, Commissioners Corbett, and Spears

**Absent:** Commissioners Cassano, Sumners, and Lloyd

**Vote:** Motion passes 4-0

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

- 3) Request a Use Permit to allow a tobacco retailer for **BIG D SMOKE LLC**, located at 7520 South Rural Road, Suite A-13. The applicant is Jinglin Du. (PL220050)

**PRESENTATION BY APPLICANT:**

The applicant, Jinglin Du, was not in attendance either in person or via Webex

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**PRESENTATION BY STAFF:**

Ms. Lily Drosos, Planner I, gave an overview of the request. She stated that a neighborhood meeting was not required for this case. 14 public comments were received: 13 in opposition and one of interest. Most of the comments expressed concern about the childcare facility in the same shopping plaza, that there were other smoking shops in the complex, and it would not fit the character of the neighborhood.

Commissioner Amorosi asked if the applicant owns any other smoke shops in the area and Ms. Drosos advised that she is not aware of that.

Chair DiDomenico referenced Ms. Drosos' comments in pre-session that she has made several attempts to contact the applicant and he has not responded. Ms. Drosos advised that the applicant was responsive during the review period, and they were able to make revisions on his submittal during that time, however she has kept a log of all their communication, and he has not responded to anything since March 10, 2022. She has made ten attempts to contact him since that date. Ms. Suparna Dasgupta, Principal Planner, advised that contact was attempted by both email and voicemail to the applicant.

Commissioner Redman asked what the appropriate procedure is as there is local concern about the establishment. Chair DiDomenico advised that the Commission will take public comments, if there are any, however it is not inappropriate for the Commission to act on an item if one is presented and seconded either for or against. The participation from the applicant, while not irrelevant, could make it more difficult to get questions answered, but the Commission could still move forward.

**PUBLIC COMMENT:**

Ms. Sue Rolan, Tempe resident, stated she lives in the development just behind the shopping center. She is also the co-chair of the Chipperwood neighborhood association. She noted that within 2-1/2 miles there are four tobacco stores that also sell vapes, two designated vape stores, as well as a marijuana dispensary. That is a lot of tobacco for a small amount of people. The shopping center where the applicant wants to open his store is a family shopping center. It has four restaurants, a Dairy Queen, car washes for both high schools and a church to have fundraisers. She feels that to put a tobacco retailer in there is abhorrent to what the neighborhood wants. They worked on the character area plan with the City, and this does not work for that plan at all. Their target audience would be college age students and middle-aged adults. It does not seem to fit the smoke free Arizona. There are programs in high school promoting against tobacco.

Ms. Dasgupta read an online comment that was submitted:

Sonia Kulpaka, Alegrias Childcare & Learning Center – Oppose - "I am reaching out to you regarding this public notice we received last week in regard to Big D Smoke LLC coming into the Fiesta Plaza. We are a family-owned business here in Tempe and are natives to Tempe, Arizona. We have had our Childcare/ Learning Center business in this plaza for 11 years. We do not support a permit to allow a tobacco retailer in our area due to us having over 60 children in our center. Our community does not support this as well. Our business is Alegrias Childcare & Learning Center and we have been involved in this community and we will continue to serve this community.

We have been in this same position back in 2018 with another smoke shop, Oasis Vape and Blue Dragon Vapor. If you look back on this case, I believe they were able to open but not distribute tobacco products in this same location.

Pursuant to ZDC Section 3-423, Use Separation Requirements, tobacco retailers shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school, which provides elementary or secondary education.

We would like the city to reconsider this permit and not allow this to go through. We have a partnership with the State and even though we are a childcare center, we are still considered an education facility. Our children are our priority and we will fight to stop this permit for them and for the good of our community."

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**COMMENTS AND DISCUSSION FROM THE COMMISSION:**

Vice Chair Bauer stated that normally he would be reticent to hear a case without the applicant present to answer questions and defend their position. However, the use that is in question is a permitted use and is allowed in the district subject to meeting the Use Permit criteria. This request is not something the Commission can deny simply because they do not like the use in this location. This shopping center has an existing tobacco retailer at the Circle K, and Ike's used to be a liquor store. He believes staff has done an excellent job outlining the reasons for approval for this request. It is not as though the Commission does not care about the concerns of the community, but that this is a permitted use.

Commissioner Spears agreed with Vice Chair Bauer about the allowed use, however she is concerned that the applicant is not present, and she believes it may be a good idea that they delay this matter and send a certified letter to the applicant advising that it has been postponed to a date to be determined. She suggested stating to them that if they do not respond their case will be withdrawn.

Chair DiDomenico stated that the lack of participation from the applicant concerns him because the City is looking for a good operator that would be a good neighbor and is going to stand behind what they put in their application regarding how they are going to operate the business. The lack of communication for over a month, and lack of participation in this process tonight, tells him that they are either not going to be the good neighbor that they hoped, or else they have decided not to move forward. There were several comments from those opposed to this use in the shopping center and he is surprised they did not go to the property owner instead of the Commission. Chair DiDomenico stated he is thinking of continuing this item however since staff has not heard from the applicant, he does not know if it should be to a specific date, or one determined by the applicant. Ms. Dasgupta advised that either the Commission can choose a specific date that is a little further out to give staff the opportunity to try to reach out to the applicant and send a certified letter, or they can not specify a date. Either way the request will need to be advertised to the public again. Chair DiDomenico suggested that if a motion for a continuance is made, the Commission should leave the onus on the applicant to set the date that would fit the calendar.

Commissioner Redman is agreeable to a continuance, but he is also concerned that 14 members of the public expressed concerns about this request, but the applicant failed to show up for the hearing. He stated he is uncomfortable with Vice Chair Bauer's position as it may be uniformly held. It appears to him that the reason the Commission is here is to decide things that are not crystal clear in the law, or there are overriding issues. If it is strictly what works for the current use and zoning, then he is no sure what the Commission's job is.

**Motion:** Motion made by Commissioner Amorosi to continue PL220050 to a date to be determined and seconded by Vice Chair Bauer

**Ayes:** Chair DiDomenico, Vice Chair Bauer, Commissioners Schwartz, Amorosi, Corbett, Spears, and Redman

**Nays:** None

**Abstain:** None

**Absent:** Commissioners Cassano, Sumners, and Lloyd

**Vote:** Motion passes 7-0

- 4) Request a General Plan Land Use Map Amendment from Industrial to Mixed-Use and a General Plan Density Map Amendment from No Density to High Density Urban Core (more than 65 du/ac); a Zoning Map Amendment from GID to MU-4; a Planned Area Development Overlay (PAD) to establish development standards; and a Development Plan Review for a new four-story mixed-use development consisting of 395 dwelling units and 3 live-work units with an attached five-level parking structure for **PRIEST & 3RD STREET**, located at 1416 West 3rd Street. The applicant is Huellmantel & Affiliates. **(PL210288)**

**PRESENTATION BY APPLICANT:**

Mr. Charles Huellmantel, Huellmantel & Associates, gave a presentation on their request. Based on some suggestions that they had received from the Commission that they would like some commercial space, a proposed stipulation was added as follows: *"Applicant shall work with staff to convert, prior to submitting for building permits, a*

minimum of 500 square feet of space marked as "Leasing Coworking" space on the site plan (the Commercial Space Exhibit, dated April 12, 2022) to a commercial use which shall be open to the public, which may include a coffee shop. This shall not change the parking requirement for the project." Crescent Communities is developing this project and they have an agreement with a company called Land of a Thousand Hills that does coffee in many cities. A question was raised in pre-session if the commercial space would be in place of the live/work unit or in addition to it. He advised this will be additional space. Staff agrees with the added stipulation.

**PRESENTATION BY STAFF:**

Mr. Lee Jimenez, Senior Planner, gave an additional overview of the project and the requests being made by the applicant. A neighborhood meeting was required for this project and was held on March 8, 2022 at 5:30 p.m. Staff were present, however no one from the public attended. Throughout the advertisement of this process there has been no public comment received by staff. He advised there are two unique Conditions of Approval in the DPR section of this project, specifically #29 and #30. These deal with the placement of the trees along the street frontage, especially regarding the easement. If the applicant's proposed Condition of Approval is added, it would become DPR condition #14.

Commissioner Amorosi asked if this will be market rate housing or luxury housing. Mr. Huellmantel advised that it would be market rate. Chair DiDomenico asked what the expected timeline of this project would be and was advised that he expects to spend the next six to nine months doing construction documents. They are anxious to move into construction and he anticipates that being 18-24 month build time. Ms. Dasgupta advised that the first hearing for this item before the City Council will be on April 28, 2022.

**Motion:** Motion made by Vice Chair Bauer to approve PL210288 and seconded by Commissioner Amorosi  
**Ayes:** Chair DiDomenico, Vice Chair Bauer, Commissioners Schwartz, Amorosi, Corbett, Spears, and Redman  
**Nays:** None  
**Abstain:** None  
**Absent:** Commissioners Cassano, Sumners, and Lloyd  
**Vote:** Motion passes 7-0

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**Staff Announcements:**

Ms. Dasgupta advised that she is finalizing some details on the DRC tour of project sites, and she will send them out to the Commissioner for the April 22<sup>nd</sup> and April 29<sup>th</sup> tours.

Ms. Dasgupta reminded the Commission to RSVP for the Board & Commission Appreciation get-together for May 6<sup>th</sup>.

Ms. Dasgupta also advised the Commission that she would be sending them a letter from Ambika Adhikari, Principal Planner, and Shauna Warner, Neighborhood Services Program Manager, regarding the process for the General Plan 2050 that is starting. The City is requesting two members from the DRC participate in the technical advisory group. She will be putting it on the agenda for the May 10, 2022 DRC hearing so we can discuss and nominate two people at that time. She will give them the information in advance, so they are aware of the time commitment, etc.

**There being no further business the meeting adjourned at 6:48 p.m.**

Prepared by: Joanna Barry, Administrative Assistant II



Reviewed by: Suparna Dasgupta, Principal Planner