

## **Minutes DEVELOPMENT REVIEW COMMISSION OCTOBER 23, 2007**

**The Development Review Commission Study Session was held on October 23, 2007, at Council Chambers, Garden Level, 31 East Fifth Street.**

**Present:**

Vanessa MacDonald, Chair  
Mike DiDomenico, Vice Chair  
Stanley Nicpon  
Tom Oteri  
Monica Attridge  
Mario Torregrossa  
Peggy Tinsley

**Absent:**

Dennis Webb  
Heather Carnahan

**City Staff Present:**

Lisa Collins, Deputy Development Services Manager  
Ryan Levesque, Senior Planner

**Study Session convened at 6:30 p.m.**

- Commissioner Mike DiDomenico announces that he will be Acting Chair as Vanessa MacDonald has laryngitis and is unable to speak.
- Item No. 1 to be placed on the Consent Agenda; Item Nos. 3 and 4 to be heard; and Item No. 5 to be placed on the Consent Agenda for continuance at the request of the applicant to the November 13, 2007 hearing.

**Study Session adjourned at 7:00 p.m.**

**The Development Review Commission Public Hearing was held on October 23, 2007 at Council Chambers, Garden Level, 31 East Fifth Street.**

**\*Modifications to any conditions or stipulations made by the Commission are indicated in bold and capitals.**

**Present:**

Vanessa MacDonald, Chair  
Mike DiDomenico, Vice Chair  
Stanley Nicpon  
Tom Oteri  
Monica Attridge  
Mario Torregrossa  
Peggy Tinsley

**Absent:**

Dennis Webb  
Heather Carnahan

**City Staff Present:**

Chris Anaradian, Development Services Manager  
Lisa Collins, Deputy Development Services Manager  
Ryan Levesque, Senior Planner

**Meeting convened at 7:00 p.m.**

**Item #1 – Minutes – Postponed**

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**Consent Items**

**Acting Chair DiDomenico, stated that certain items could be handled in the consent fashion if they were properly represented and if there were no objections.**

**On a motion by Commissioner Nicpon and seconded by Commissioner Tinsley, the Commission with a vote of 7-0, approved the Consent Agenda as follows:**

<b>Item #2</b>	<b>PL070364</b>	<b>BOYKO PROPERTIES</b>
	<b>DPR07193</b>	(Development Plan Review)
	<b>ZUP07138</b>	(Use Permit)
	<b>SBD07015</b>	(Preliminary Subdivision Plat)
		GID, General Industrial District

**DPR07193** – Development Plan Review including site plan, building elevations and landscape plan.

**ZUP07138** – Use Permit to allow rental storage facility.

**SBD07015** – Preliminary Subdivision Plat for one (1) lot on 0.84 acres.

The request includes the following:

1. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.

2. A Final Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits. The Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Development Services Department. Failure to record the plan within one year of City Council approval shall make the plan null and void.
3. Your drawings must be submitted to Development Services Building Safety Division for building permit by October 23, 2008 or the development plan approval will expire.

#### **Site Plan**

4. All parking spaces which are located perpendicular to landscape areas shall be 16 foot in length, with a 2-foot overhang extending into adjacent landscape areas. The adjacent landscape areas shall be widened by 2 foot to accommodate the vehicle overhang.
5. Parking spaces which are located perpendicular to walkways shall be 16 foot in length, with a 2-foot overhang extending over the adjacent sidewalk. The adjacent sidewalk shall be 6 foot to accommodate the vehicle overhang.
6. Provide upgraded paving materials, such as unit pavers, exposed aggregate, or colored concrete, as accents for all pedestrian sidewalks on site, for a crosswalk across parking area to building, and at main entry to building. These materials shall be compatible with Americans with Disabilities Act, ADA.
7. Provide upgraded paving at driveway apron consisting of concrete unit paving. The extent of unit paving shall be from sidewalk edge to 20'-0" on site and from curb to curb at drive edges. Coordinate unit paving with accessible public sidewalk bypass (standard detail T-320) across mouth of driveway. Indicate type and pattern of unit paving on construction drawings. Material and layout of paving subject to approval by Transportation and Planning staff during building plan check process.
8. All transformer boxes, meter panels and electrical equipment, backflow valves, and other utility equipment shall be painted to coordinate with the building color.
9. No chain link fencing, razor wire, barbed wire, etc. will be allowed.
10. Bicycle parking areas shall be designed per City of Tempe Detail T578 which is available from the Engineering Division, Public Works Department or on their web site, [www.tempe.gov/engineering](http://www.tempe.gov/engineering).
11. New CMU block wall on south property line shall be increased in height to 8'-0".
12. Walls for site security must be of substantial construction to resist vandalism and excessive deterioration, with materials and finishes as described in the Zoning and Development Code.
13. Gates for vehicular access control must be reviewed and approved by Development Services Department staff including Planning, Engineering, Building Safety and Fire, prior to issuance of building permits.

#### **Building Elevations**

14. Incorporate scuppers and downspouts into building elevations so that they do not detract from the building architecture.
15. Locate roof access ladder inside the building.
16. The main building colors and materials shall have a light reflectance value (LRV) of 75 percent or less. Specific colors and materials to be approved by staff prior to issuance of building permits.
17. Details of meter panels and electrical equipment installation and location shall not detract from the architecture of the building and shall be approved by staff prior to issuance of building permits.
18. Coordinate the location of any incidental electrical or other equipment attachment (alarm klaxon, etc.) where exposed into building elevations so that the architecture is enhanced by these elements. Provide detail layout for review during building submittal process.

19. Incorporate locations of address numbers and their illumination source into building elevations so that they do not detract from the building architectural character.
20. All exterior employee service doors shall provide a security vision panel subject to applicable building codes.

#### **Lighting**

21. All light fixtures designed for security lighting shall be vandal resistant, incorporate vandal resistant refractors (lens) and be provided with a gasket or seal that is designed to resist rain, dust and insect contamination within the fixture housing.
22. A copy of all cut sheets for light fixtures shall be submitted and marked as to which information and data applies to the specific light fixture, including the lamp manufacturer.

#### **Landscape**

23. Trees located in parking lot landscape islands shall be canopy type trees, such as Mesquite or Evergreen Elm.
24. Show any existing plant material to remain. Incorporate the existing plant material and irrigation systems into the design of this proposal.
25. Location of trees and shrubs shall be coordinated with building plans in order to avoid conflicts between plant materials at mature size and address number signs located on building elevations and freestanding signs.
26. Place exterior, freestanding reduced pressure and double check backflow assemblies in pre-manufactured, pre-finished, lockable cages (one assembly per cage). If backflow prevention or similar device is for a 3" or greater water line, delete cage and provide a masonry or concrete screen wall following the requirements of Standard Detail T-214.

#### **Signage**

27. Provide details of address signage for review.
28. No exposed conduits or raceways are allowed for any signage.

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At the request of the applicant, the following case was continued to the Development Review Commission's November 13, 2007 hearing:

<b>Item #5</b>	<b>PL070354</b> <b>PAD07021</b> <b>ZUP07137</b>	<b>ONE HUNDRED MILL AVENUE</b> (Planned Development Overlay) (Use Permit) 100 South Mill Avenue City Center, Transportation Overlay and Historic Designated Property Districts
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**PAD07021 – (Ordinance No. 2007.67)** Planned Area Development Overlay to modify development standards for two (2) buildings consisting of 295 hotel suites, 521 dwelling units within 25/26 floors, all in approximately 1.1 million s.f. of building area on +/-3.35 acres.

**ZUP07137 – Use Permit** to allow tandem parking.

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The Commission moves on to the discussion agenda:

<b>Item #3</b>	<b>PL070433</b> <b>ZOA07003</b>	<b>ZONING &amp; DEVELOPMENT CODE AMENDMENTS</b> (Ordinance No. 2007.74)
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**ZOA07003 – (Ordinance No. 2007.74)** Code Text Amendment for changes within the Zoning and Development Code.

This case was presented by Ryan Levesque. The first item proposed for amendment is permitted land use changes for the commercial and mixed use districts, and includes section changes to clarify the definition of massage therapist to massage establishment; as well as identifying specific standards and stipulations related to tattoo and body piercing establishments.

Oteri: Does making this change lead us to assume that the therapists are licensed and that massage establishments don't have to have licensed therapists?

Levesque: The reason for the definition change was to coincide with the City Code definition for this regulation.

Oteri: Are you aware if massage therapists require a license?

Levesque: Both the therapist and establishment require a license.

Levesque: In Section 2 of the proposed Code Text Amendment includes separation requirement proposal for tattoo and body piercing establishments. The proposed change includes separating tattoo and body piercing establishments from each other by 1,320 feet, as well as the separation requirement from a residential lot by 500 feet. The proposed regulations include standard stipulations that we have with tattoo and body piercing establishments such as maintaining proper procedures for the sterilization of equipment related to those procedures, conditions related to the practice of training in blood borne pathogens in the establishment and posting thereafter of written instructions related to the care of the tattoo or body piercing, as well as the proper disposal of used needles.

Nicpon: I'm going to quote the fourth line "staff has proposed regulations based on public concern for uses creating negative secondary effects from businesses impacting the neighborhood community", which I happen to agree with. The question I have is how is that discerned? What procedure would that take?

Collins: Are you asking how we determine if there are secondary effects?

Nicpon: No I'm asking if there is an appellate process. If staff agrees there is a negative effect, can that be appealed to the DRC?

Collins: Absolutely. The way the Ordinance is constructed now, they are first heard by the Hearing Officer and then appealable to the DRC, and then that is appealable to the City Council and then to the Superior Court, if necessary.

Attridge: It states that all practitioners must have training in blood borne pathogens and cross contamination, verification of such must be maintained on the premises at all times. Is there a standard or some OSHA requirement and should that not be referenced?

Levesque: We don't have the specific guidelines that regulate blood borne pathogens and cross contamination, we are aware of the procedures that are in place for that but there is no specific certification that is required for that and that is why we have added this as a general standard and condition that those procedures are met.

Attridge: How will you judge if they have been met if there is no standard?

Collins: I would just follow-up to say that there is work that is currently being done with the State to create some very definite regulations so that we will know in the future for certain that those are being met, but right now we are requiring certification by the business owner to show that they feel they have met this requirement and we are waiting for the State requirements to clarify it more.

Attridge: Am I right that OSHA does require that the employees do this anyway?

Collins: I believe there is a requirement.

Oteri: Do we know who is going to do the inspections to assure this is being done? Will that be done at the State level?

Collins: For the conditions that we have in our Zoning Ordinance, our Commercial Code Enforcement staff will be going out and checking these. The criteria say that before the business can be occupied, the criteria that Ryan is reading need to all be met. Our Commercial Code Enforcement staff will ensure that all of these conditions have been met. Our staff will ensure that the certification for the staff working at the establishment is up to date and onsite.

Oteri: So we are inspecting to establish certification and the certification comes from the State level and it's their responsibility to make sure that they are following the proper guidelines and have had proper training?

Collins: That is correct.

Tinsley: Can I suggest that we add in No 2 in that same section: current verification shall be maintained on premises at all times? Because I'm sure that is something that would need to be updated from time to time.

Levesque: The third section item has to do with outdoor seating areas. Currently, the existing provisions in the code permits process for outdoor seating in the public right of way; what we have attempted to do with these procedures is to unify outdoor dining as it relates to onsite, as well as within the public right of way and create a more uniform and simplistic version of establishing the guidelines and requirements to process such requests. The Sales Tax and License Department is no longer involved in this type of request; and that subject to certain design and parameters based on how they utilize the outdoor seating area determines what specific standards may be required. One specific provision we removed was the barrier fencing requirement from all patio fence areas. So the procedure that we are proposing at this time is that we first require a minor development plan review application, which is an administrative review of the outdoor seating and fencing design. If it is located in the public right of way, then there is an Encroachment Permit and Right of Way Permitting process that is authorized by the City Engineer. If outdoor seating is established which includes liquor consumption, there is a licensing and security plan requirement per Tempe City Code, as well as any State regulations that may mandate specific design and intent for use of liquor in that area.

DiDomenico: With the changes as written, even if the public right of way is not impacted it will still go through Development Services administrative review? And if alcohol is involved then it will hit different levels of review?

Levesque: Correct.

Nicpon: This is very well written and very concise. Just a point of clarification, if there is an appeal that it goes through the DRC, correct?

Levesque: Correct.

Nicpon: Secondly, the part about barriers and alcohol. If an applicant has to go to the Police Department, is that appealable?

Levesque: It depends upon whether or not State law predetermines other requirement for that Police enforcement.

Levesque: The next item is a modification to employee service entrances and exits, specifically for security vision panels. This is a modification based on our current building code that require ADA compliant and vision panel. Currently our provision requires a 6" Lexan laminated glass that is at a higher level and cannot be viewed by an individual in a wheelchair. This provision now allows for that visibility.

DiDomenico: We routinely have approved fish eyes instead of panels and although we haven't built that into the code, is that still possible?

Levesque: Correct. We still have that option at the discretion of the Development Services Manager, or designee, that they may approve other types of vision panels or equal surveillance.

Levesque: The other proposed modifications within Section 5 include modification to menu board signs to include the use within a patio fence and also clarifying the height requirement of that sign at the lower portion level of that menu sign. The other changes proposed in Section 6 for sign permits and fees are that we now require certain gravity and wind load calculations when the request reaches a certain height, exceeding 8 feet. Section 7 has a proposed clarification of the PAD procedures, since repealing the RRC this was an omission. Within Section 8, this is an amendment to clarify the notification requirement within 300' of a lot line of a residential use. Also, clarifying that when a public hearing is required that it is the items relating to the neighborhood meeting requirement, which includes variances, PAD's, Zoning Map Amendments and General Map Amendments.

Attridge: I just want to clarify; you are saying that if there is a development that has a requirement for a neighborhood meeting, the developer does not have to present the development plan at the meeting?

Levesque: Typically when we see a project that includes a Zoning Map Amendment with a development plan, the applicant will show that development plan. It's implied within the provisions of the zoning request to have and require that neighborhood meeting, so the plans for the development are shown.

Attridge: What is this fixing?

Levesque: Part of the confusion, was in the previous code where we had a Use Permit require a neighborhood meeting, that was also a public hearing requirement. During a previous Code Text Amendment with this Commission, we had deleted that provision of the neighborhood meeting requirement. So, if someone was to request a development plan with a Use Permit, one may misinterpret this request as requiring a neighborhood meeting with the development plan.

Levesque: The other proposed modification within this section includes providing notification for all tenants within the boundary subject property. The other Section 9 amendments include clarification on how Development Services processes public hearing signs. At certain times, the Development Services Department does not install the sign. With larger cases such as zoning amendments and PAD's, we require the applicant to post the sign. This is clarification for our new procedures. Section No. 10 again clarifies the changing of the definition of massage therapist to massage establishment per Tempe City Code.

Tinsley: My problem is that we are saying that massage establishment means a person, is a person an establishment? What I would propose might be language of massage establishment means a business that employs persons who practice or administer with the City, etc.

Levesque: So noted.

Nicpon: Going back to sidewalk cafes, on Attachment 13 in the "B" Section, No. 3 where it starts with pedestrian walkways, if you would include it to read "pedestrian walkways shall not be split laterally." This does two things, it does what you intend it to do and also will allow people to walk in vertically. Also, on Attachment No. 14 in letter "C" regarding sidewalk café permit certificate of insurance, if the City is going to allow and permit for a café on your sidewalk, then you should require them to list the City of Tempe as additional insured.

Levesque: Just to clarify, this is the current City Code provision for sidewalk cafes, this portion of the City Code will be repealed as part of the City Council action that amends the Zoning and Development Code.

Nicpon: Will you allow a restaurant to have a walkway between two sets of seating's, one by the curb and one by the establishment?

Levesque: Yes.

Nicpon: You are eliminating the insurance requirement?

Levesque: We are letting the Encroachment Permitting process handle any necessary insurance relating to the request. The Engineering Division has certain procedures and policies regarding the insurance requirements.

Collins: I just want to add that some of the provisions that we are proposing to relax some of those standards, such as the railings requirement, whether there is alcohol or not and the division of outdoor patios from the main establishment.

Levesque: Section 11, directional signs; this is just to clarify the limitations as to what type of information can be placed on a directional sign. Lastly, Section 12 includes the new definition for a tattoo and/or body piercing establishment. This was originally derived from the City of Peoria's definition for this use.

DiDomenico: On Attachment 9, Section 12 the definition of what a tattoo establishment means, we list some exceptions. Businesses that offer permanent facial cosmetics as a service to their customers shall be exempt from this definition. If I was running a tattoo establishment and I read this, I would probably put on my board that I offered these services. I'm not sure how you go about keeping this from happening, but it doesn't address the percentage of business this should be. Also, I understand that the existing tattoo establishments are grandfathered in, but what if you have a shopping center who wants to relocate a tenant to another portion of the same center, I would like to see if we could loosen this up a bit so that a move of that type doesn't trigger this non-conforming use and create a problem.

Tinsley: In regards to the loop hole that Commissioner DiDomenico has found, what if we added language that prevented tattoo establishments to do both, facial cosmetics as well as the "regular" tattooing?

Collins: Yes, I have also jotted down language that states if it is ancillary to the primary business, so your language along with this would be further clarification.

Acting Chair DiDomenico opens the hearing to public input.

Darlene Tuesing: I have a question in regards to notification to neighbors. I would say that six years ago that used to happen, but it no longer does. Can we please have a website or written notification of anyone that puts in for a business permit?

Levesque: With the application of a Use Permit, we require notification of a 300' radius for all property owners; as well as all neighborhood and homeowners associations within a 600' radius. That notice is provided at least 15 days prior to the first public hearing.

Darlene Justus: Section A-2, in regards to separation, we would very much like to see schools and churches added to the residential requirement. The reason I bring this up is that there are tattoo shops that market to youth. Under the General Regulations B, the shops need to maintain records of their customers. Currently, when a tattoo shop is given a Use Permit with stipulations, no inspection is done to make sure that the stipulations have been met. The City has agreed to go out and inspect prior to opening to verify all conditions have been met, but no periodic inspections will be done. Under Section 12, Definitions, there are new inks coming out that do not require surgical procedure to remove, we want to make sure that we don't exclude shops that may use these types of inks. A little further down they talk about scarring, there is also branding and I hope that they will include branding in that wording. If you go to the back where there is a spreadsheet about other cities, Goodyear has a 1000' separation from schools. I would also ask that any questionable Use Permit goes directly to the Development Review Commission for your review and that they are appealed to City Council. I don't feel that Use Permits with a lot of opposition go before one person, such as the Hearing Officer.

Collins: I would just like to confirm that if we have a Use Permit that we feel meets the criteria and we want to bring to the Development Review Commission to be heard, the Code currently gives us the authority to do just that.

Collins: I would like to bring up a couple of things; distance separation requirements, you may recall that when we did an amendment for tobacco retailers, we did include a separation from certain schools. We excluded instructional and vocational school. I think that is an amendment that is supportable and that we have done in the past. We have not looked at churches but if you would like us to, we can go back and look at that, but that's not something we have traditionally done. Some of the suggestions to the definition I think are good, the ones including branding. I certainly don't want to exclude or take anything out of the code without further research. I believe I answered the question regarding the Hearing Officer and bringing some of those items to the DRC.

DiDomenico: I am a little uncomfortable about adding churches and schools without mapping it.



Tinsley: Not only would I like to see it on a map, but have the proposed language. I would like to see this continued so that staff has time to do the mapping and the language.

DiDomenico: If we were to continue this item, would we be holding anything up?

Collins: It is our intention to get something on the books as quickly as possible because at this time, we have very little.

**On a motion by Commissioner Tinsley and seconded by Commissioner Nicpon, the Commission with a vote of 7-0 continue this item to the November 13, 2007 hearing.**

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<b>Item #4</b>	<b>PL060549</b> <b>PAD07019</b>	<b>CENTERPOINT ON MILL</b> (Planned Area Development Overlay) 640 South Mill Avenue City Center District
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**PAD07019** – Amended Planned Area Development Overlay for Centerpoint on Mill, Lots 2, 4, 5 & 6 to modify development standards for five (5) buildings consisting of 256 hotel suites, 434 dwelling units within approximately 1,228,099 s.f. of total building area.

Commissioner Nicpon recuses himself. Acting Vice Chair gives the applicant the choice, due to a short commission, to have the item continued at no penalty to them; Ms. Vaz declines and would like to have the item heard.

This project is presented by Ryan Levesque and represented by Manjula Vaz, Eric Zobrist and Kathryn Heffernan.

Vaz: The purpose of this application is to start a long-term redevelopment process. I will be happy to answer any questions you may have.

DiDomenico: Can you walk us through the phasing? From the demolition to the start of construction.

Vaz: Phasing will start with the theatre building. We will be honoring our leases with the tenants. So the first building that will be going vacant will be the theatre. The hotel and the retail plaza will be built first as part of Phase I.

Torregrossa: Will the parking garage be operational?

Vaz: Yes, that is my understanding.

Zobrist: Yes, special shoring and staging will take place to insure the integrity of the parking garage.

Vaz: The second building will be the residential building. The office building's leases expire next after the theatre, so that will be Phase II. The retail building's leases expire last so that will be the final stage.

DiDomenico: Can you put general time frames on the three phases?

Vaz: Hotel construction 2012, Phase II 2015, and Phase III 2017.

Torregrossa: How does landscaping get phases in with these?

Zobrist: We would be open to discussion about how the landscaping from Mill Avenue could be brought along and into 7<sup>th</sup> Street to Phase I. The rest would be done with Phase II.

Oteri: What is the thinking in regards to these buildings being LEED/green buildings?

Zobrist: I feel LEED will be similar to what ADA is now and will be merely just a part of what is expected when designing new buildings. The reality is it will influence everything that we do. We pursue it with every project that we are working on.

Oteri: What do you see as alternative energy sources? What do you have planned for the roofs that can be seen from higher floors?

Zobrist: What we have now may be very different 10 years from now. It has more to do with how do you conserve energy rather than how to produce energy. As far as the roof goes, we normally try to bring out amenities to the roof area. As an example, pool areas and small garden areas. We also try to bring some of the architectural elements up.

Attridge: Can we talk for a moment about traffic and shared parking?

Heffernan: Based on standard trip generation rates, at build-out, we will actually generate less traffic than we do today. The reason for this is that we are not dealing with a vacant patch of land. We are dealing with a piece of land that already has a four-story office building, significant retail and an 11 screen multi-plex on it. Although we are making it more dense, we are adding a residential component, which on a per square foot generates less traffic than commercial does. In Phase I we will be generating more traffic because of the hotel; by build-out we will actually be generating an estimate 600 less trips per day. They will basically get in and out the same way that they do today.

As far as shared parking goes, we are not really doing anything different. We will just be updating with the new standard City model. We are not proposing any modifications. We have done a phase by phase analysis so we don't foresee any shortage of parking during construction.

Acting Chair DiDomenico opens the hearing for public input:

Trevor Barter?: I like what DMB has presented, I think it will take the dark corners away and keep people from hanging out there. I like the addition of the hotel. I ask that you approve the project; I think it will be a great addition to the downtown area.

Michael Wasko: Generally I like the plan going forward, but I have a concern with the height. The Brickyard sits on the other corner at about 100' and it's a very massive building right at the sidewalk. The building is not very pedestrian friendly. Also there is no ingress/egress from 6<sup>th</sup> Street into that plaza area. Also, how does the turnaround work in that plaza? Is there parking?

Roberto Salinas (read by DiDomenico): I like the look of the hotel and I like the high rise density look.

Lisa MacGregor (ready DiDomenico): I support this project and think it will bring new life to the area. DMB is a responsible company that will bring new energy to our downtown.

Vaz: I can answer Mr. Wasko's questions. You can access the residential buildings off of 7<sup>th</sup> Street (referencing a site plan, shows the access points in question).

Zobrist: We want to keep the energy around the block of Mill Avenue and 6<sup>th</sup> & 7<sup>th</sup> Streets (referencing the site plan).

DiDomenico: Do you care to address the height concern of the Phase II & III buildings?

Zobrist: I prefer not to comment at this time.

DiDomenico: Ryan, would you like to give us your presentation?

Levesque: Staff is recommending approval of the project with seven Conditions of Approval. We have modified Stipulation No. 2 with the applicant, and the applicant is in agreement; it shall read "The applicant will work with staff to make refinements to design and overall connectivity of 7<sup>th</sup> Street and Maple Avenue that provides a cohesive path of travel for pedestrians and motorists, subject to final determination through the development plan review process."

Oteri: I am coming to the conclusion that saturation is going to be a big problem here in the downtown area. I'm not opposed to the project; I would just simply like it to stay in the bounds and guidelines we have for height. If that is not part of the final motion, I will not be able to support it.

Tinsley to Oteri: Are you suggesting that the heights that they are proposing are higher than they should be?

Oteri: Heights are higher than the current regulations for those areas.

DiDomenico: Could staff give us a little bit of history to how the downtown height guidelines were set?

Anaradian: The guidelines for downtown are just that, guidelines. They are not policy or regulation, Council very purposefully put those out there. We will be addressing those guidelines with Council again. The City Architect was the main person involved in setting those guidelines, and although he is not here tonight, I have heard him speak previously to this point. He likes to remind people that the guidelines were established as a starting point of a design discussion and the Council to varying degrees on different projects has used the guidelines to inform their decision making process. We have noticed in terms of a trend that away from some other landmark areas, the guidelines become a little more fluid and flexible, and in all cases, usually context is the primary mechanism through interpreting to what extent the guidelines become final policy.

DiDomenico: Why is Building H identified as Urban Core? Is it due to its proximity to University?

Anaradian: Multiple considerations in the development of that guideline map and they don't all center around Mill Avenue.

Vaz: We originally came in under the guidelines but after speaking to the DTC, the Council and several other neighborhood groups, one of the reasons we changed the height was that they felt the graduated skyline would look better.

DiDomenico reading Chair MacDonald's comments: I agree with staff on the building height in this area, it's entirely appropriate and I support the project.

**On a motion by Commissioner Tinsley and seconded by Commissioner Torregrossa, the Commission with a vote of 5-1 (Commissioner Oteri dissenting) recommended approval of this Planned Area Development Overlay with the following conditions:**

#### **General**

1. Prior to the effective date of this ordinance, the property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, or the zoning approval shall be null and void.
2. ~~Provide further review and modifications to the vehicular and pedestrian pattern along 7<sup>th</sup> Street connection to Maple Avenue, while providing a cohesive path of travel. Maintain Maple Avenue connection that is perpendicular to the existing road. Orient access from the parking garage of Buildings A and B/C perpendicular to the street. THE~~  
**APPLICANT WILL WORK WITH STAFF TO MAKE REFINEMENTS TO** design an overall connectivity from 7<sup>th</sup> Street to Maple Avenue that **PROVIDES A COHESIVE PATH OF TRAVEL** ~~reduces excessive turns and potential conflicts with~~ **FOR** pedestrians/motorists. Subject to final determination through development plan review process.
3. Building A, maximum building height, including all mechanical equipment, shall be two hundred twenty-one (221) feet.
4. Building B/C, maximum building height, including all mechanical equipment, shall be one hundred fifty-eight (158) feet. Building height exceeding fifty (50) feet, shall be setback along Mill Avenue, fifteen (15) feet from the property line. Building height exceeding seventy-five (75) feet, shall be setback along Mill Avenue, twenty-five (25) feet from the property line.
5. Building H, maximum building height including all mechanical equipment shall be 255 feet.
6. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
7. An Amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits. A Condominium Plat shall be recorded prior to an occupancy permit.

- Verify all comments by the Public Works Department, Development Services Department, and Fire Department given on the Preliminary Site Plan Reviews dated 9/08/06 and 7/18/07. If questions arise related to specific comments, they should be directed to the appropriate department, and any necessary modifications coordinated with all concerned parties, prior to application for building permit. Construction Documents submitted to the Building Safety Department will be reviewed by planning staff to ensure consistency with this Design Review approval prior to issuance of building permits.
  - Provide public art as part of this development in conformance with the Art in Private Development Ordinance and the Zoning and Development Code; see the Zoning and Development Code Sec. 4-407 and Appendix D. Contact the Cultural Services Administration (Adrienne Richwine or Liz Lagman 480-350-5287) if any questions regarding implementation of this requirement.
  - Measure height of buildings from top of curb along front of property (as defined by Zoning and Development Code).
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#### **Item #9. Announcements**

None

#### **Meeting adjourned at 9:00 p.m.**

The next public hearing of the Development Review Commission is scheduled for Tuesday, November 13, 2007, located at City Council Chambers, 31 East 5<sup>th</sup> Street.

Prepared by: Lisa Lathrop, Administrative Assistant II

Reviewed by: Lisa Collins, Deputy Development Services Manager



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Lisa Collins  
Deputy Development Services Manager

LC/II  
12/12/2007 4:26 PM