

## **Minutes DEVELOPMENT REVIEW COMMISSION JANUARY 8, 2008**

The Development Review Commission Study Session was held on January 8, 2008, at Council Chambers, Garden Level, 31 East Fifth Street.

**Present:**

Vanessa MacDonald, Chair  
Mike DiDomenico  
Stanley Nicpon  
Tom Oteri  
Dennis Webb  
Monica Attridge  
Heather Carnahan  
Peggy Tinsley

**Absent:**

Mario Torregrossa

**City Staff Present:**

Steve Abrahamson, Planning & Zoning Coordinator  
Ryan Levesque, Senior Planner  
Kevin O'Melia, Senior Planner

**Study Session convened at 5:38 p.m.**

- Item No. 2 will be placed on the Consent Agenda (Commissioner Nicpon will recuse); Item No. 3 will be heard; Item No. 4 has modifications to conditions and will be heard; and Item No. 5 will be continued.

**Study Session adjourned at 5:50 p.m.**

**The Development Review Commission Public Hearing was held on January 8, 2008 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  
Stanley Nicpon  
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Monica Attridge  
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**Absent:**

Mario Torregrossa

**City Staff Present:**

Steve Abrahamson, Planning & Zoning Coordinator  
Ryan Levesque, Senior Planner  
Kevin O'Melia, Senior Planner

**Meeting convened at 6:04 p.m.**

**Item #1 – Postponed**

**Consent Agenda**

**Chair MacDonald 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 DiDomenico and seconded by Commissioner Webb, the Commission with a vote of 7-0 (Commissioner Nicpon abstaining), approved the Consent Agenda as follows:**

**Item #2**

**PL060637  
SBD07055**

**HAYDEN FLOUR MILL**

Preliminary Subdivision Plat  
119 South Mill Avenue

MU-4, Mixed-Use High Density District; the CC, City Center District; the RSOD, Rio Salado Overlay District; and the TOD, Transportation Overlay District

**SBD07055** – Preliminary Subdivision Plat to combine the property into one lot, +/- 5.08 net acres, including the adjustment of public right of way.

The approval includes the following:

1. Place the Subdivision Plat for Hayden Flour Mills into proper engineered format with appropriate signature blanks. Record the Subdivision Plat with the Maricopa County Recorder's Office through the Tempe Development Services Department by January 10, 2009. Failure to record the plan by one year from date of City Council approval shall make the approval of the Subdivision Plat null and void. Record the Subdivision Plat prior to issuance of building permit.

**Item #5**                      **PL070404**                      **ALL SAINTS NEWMAN CENTER STUDENT HOUSING**  
**PAD07027**                      Planned Area Development Overlay  
230 East University Drive  
CC, City Center

**PAD07027 – (Ordinance No. 2007.85)** Planned Area Development Overlay to modify development standards to allow a building height from the required 50 feet to 244 feet in total height, and to reduce the required parking from 426 spaces to 0 spaces.

**On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 7-0, continued this case to the January 22, 2008 hearing.**

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The Commission moves on to the discussion agenda:

**Item #3**                      **PL070167**                      **THE SETS**  
**UPA07007**                      Use Permit Appeal  
93 East Southern Avenue  
CSS, Commercial Shopping & Services District

**UPA07007 – Use Permit Appeal (ZUP07042)** for a billiard parlor and sports bar with live entertainment.

This case is presented by Steve Abrahamson. Mr. Abrahamson reports that a team of City employees from various departments was formed to make site inspections on different dates over the past several months. The team's visits included several different events being held at the establishment on four separate occasions.

Sound measurements were taken at the property line where the commercial property line (The Sets) meets the residential property line to the south (the appellants' property line). The highest decibel reading that we had was 68.5db, which is equivalent to a busy street or small orchestra.

DiDomenico: Using the "reasonable man" standard, much like the Police Department does when they are called to a site, did you hear anything that would make you not want to live across from The Sets?

Abrahamson: To be honest and in my opinion, no. On two different occasions, at two different events, if you focused your ears you could hear the low frequency vibration.

Nicpon: Any vibration felt?

Abrahamson: No.

Tinsley: Were you standing near a vehicle outside doing these measurements?

Abrahamson: When we would arrive, we would park on the west side of the complex, and then we would walk and meet behind The Sets. We would determine that something was going on and then place the meter at the property line. One member of the group would stay with the meter, the others would walk around and check things out and listen from various areas around the building.

Attridge: Did you identify yourselves as being from the City when you would enter the establishment?

Abrahamson: The owner and manager were there, and they know who we are. At the point in time, the reading was underway and no attempt to lower the volume was made.

Steve Bonaguidi: I haven't heard a sound in two months. If it stays this quiet, I would have no further complaints. It is not just me against The Sets; I have support of many neighbors on my street.

Harry Hekmatian: I would like to address the DVD that was just played. There is absolutely no music coming from that video. The noise was from patrons and that has been mitigated since that video was taken. We were unaware of the visits by staff prior to them being out there.

Attridge: What about the 4:00 am trash pick up?

Hekmatian: I am not the owner of the property; I have nothing to do with the time the trash is picked up.

Nicpon: How do you explain seven other neighbors complaining about noise?

Hekmatian: I can't. The noise isn't coming from The Sets.

Oteri: Can conditions be added that if we get a noise complaint and the decibel level exceeds those taken onsite, that the Use Permit be pulled?

Abrahamson: I would be hesitant to suggest that as conditions can change and variables can affect the outcome of the readings.

DiDomenico: Is it this Commission's responsibility or right to modify the conditions or can we just approve or deny?

Abrahamson: An approval or denial is all that is needed.

Paul Benewitz: Noise has been reduced in the last couple of months.

Jay Reader: Report looks good and we have to take the gentleman at this word that there will be no noise.

Richard Keeney: Work with The Sets and Mr. Hekmatian for about 9 years and he has gone above and beyond the call for noise mitigation.

Randy Nussbaum: Mr. Hekmatian was told to take steps for noise mitigation; he had done that back in the summer of 2007.

Scott Ford: I have worked for The Sets since 1995 and we do everything we can to be a good neighbor and many times I have walked Police Officers through the establishment and they hear nothing when they walk around the outside.

Bonaguidi: Would like to continue the peace and quiet we've had in the past two months.

Chair MacDonald closes the public portion of the hearing.

Carnahan: How long is the Use Permit good for?

Abrahamson: It is indefinite.

Oteri: What would trigger that Use Permit to come under our scrutiny again?

Abrahamson: Regularity of complaints and a consensus with the Attorney's Office, Development Services and possibly the Police Department would initiate a revocation hearing.

Nicpon: Have been out there twice and heard no noise. I believe the noise did exist in the past and Mr. Hekmatian has done everything he could possibly do to mitigate that noise.

Oteri: Concerned this is not the end of this case and I feel as long as we have some structure in place that allows the residents to come back and again raise the issue, then I am comfortable with what we have so far.

Attridge: I am not comfortable and I feel this will come back and will be an issue again.

Tinsley: I also went by three separate times and one night I could hear crowd noise as I stood right outside the patio, loud conversation but no music.

Chair MacDonald: I thank staff for going above and beyond and I think Mr. Hekmatian has done a wonderful job these last few months and I encourage him to keep it up and keep the neighbors happy.

**On a motion by Commissioner Nicpon and seconded by Commissioner DiDomenico, the Commission with a vote of 6-1 (Attridge dissenting) denied the appeal of the Use Permit.**

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<b>Item #4</b>	<b>PL070397 DPR07189</b>	<b>CHRIST LIFE CHURCH</b> Development Plan Review 1137 East Warner Road AG, Agricultural District
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**DPR07189** – Development Plan Review for a site plan, building elevations and landscape plan.

This case was presented by Kevin O'Melia. Mr. O'Melia reads modifications of Conditions 6B, 7 and 11F into the record.

Jason Harwell (applicant) discusses Condition 3a and revised elevations.

O'Melia: The intent of the additional landscape islands was to break up that west elevation visually and provide additional shade at that west entrance.

Harwell: Since our last meeting (12/11/07) new conditions have added over \$200,000 in additional costs in landscaping and aesthetic improvements.

Chair MacDonald opens the hearing to public input.

Mary Garrett (neighbor): I live in Wingfoot and I feel the inadequacy of the landscaping needs to be addressed, including the east side. I would like to see more shielding of the parking lot lights. I would also like to see waterproofing done along their side of our wall.

Harwell: We have had multiple meetings with the Wingfoot Homeowner's Association President, John Campbell, and have discussed the lighting and landscaping issues with him. He has mentioned not putting in additional landscape as to not further add to the watering issue.

Joey Hanby (Christ Life Church Board Member): The lighting that was installed was the lighting that was required. I understand that Ms. Garrett doesn't want the light flowing over into her property, but I disagree that it is "stadium type" lighting and I believe we have done what we needed to do to shield her property. We have never had a complaint from other homeowner that backs up to the church or the President of the association or been asked to shield those lights adjacent to the other homes. As for the size of the trees, these are the size and type we were required to put in. And, as these trees grow, there will not be room for additional trees between. In answer to the waterproofing problem; the problem is not on our side of the fence, water is migrating from the Wingfoot side. We have been asked by the President of the Wingfoot Homeowner's Association to not plant any additional landscaping along that wall.

Nicpon: I agree with Commissioner DiDomenico that an exposed south exterior stair will be concealed by landscape over time. I support project and think it's a great part of the neighborhood.

**On a motion by Commissioner DiDomenico and seconded by Commissioner Nicpon, the Commission with a vote of 7-0, approved this Development Plan Review with the following conditions:**

**General**

1. Obtain your building permit from the Building Safety Division by January 08, 2009 or the Development Plan approval expires. Be aware that the Use Permit approval for the 33'-0" Family Center building height (ZUP07156) expires on December 11, 2008.

### Site Plan

2. Work with Wingfoot Homeowner's Association to accomplish the following prior to installation of perimeter landscape and restoration of irrigation on the Christ Life property. Excavate the east perimeter site retaining wall to the toe of the footing for the length of the property. Install weeps through wall if none found near low finish grade level for the length of the church property, or clean out the existing weeps if found at the proper level. Install water-proofing on the church side of the east perimeter site retaining wall to the high finish grade level for the full length of the church property. Repair damage to existing perimeter wall, flood irrigation pipeline, landscaping and landscape watering system as necessary.
3. Adjust parking to provide additional landscape islands--minimum 7'-0" wide, the length of the adjacent parking space, and minimum 120 square foot in area--that help to screen the Family Center west and south elevations:
  - a. Provide ~~two~~ **one** additional landscape islands in the parking row adjacent to the west elevation. Position these islands so the trees in the islands will provide some afternoon shade for the glazed west entrance to the Family Center as the trees mature. This condition means there are a total of ~~three~~ **two** (rather than one) intermediate landscape islands in the parking row adjacent to the west elevation. **(MODIFIED BY THE COMMISSION)**
  - b. Remove the parking immediately in front of the roll up door on the south elevation. Place two landscape islands in the parking row adjacent to the south elevation so a clear paved path that is the width of the roll-up door is bracketed by these landscape islands. Remove the other intermediate island indicated in this area. This condition means there are a total of two intermediate landscape islands (rather than one) in the parking row adjacent to the south elevation.
4. Finish exterior utility equipment boxes, including existing boxes on site, in a neutral color (subject to utility provider approval) that compliments the coloring of the buildings. Locate service entrance section for the Family Center inside the building.

### Floor Plans

5. Glazing for visual surveillance and safety:
  - a. Provide security vision panel at exterior service and exit doors (except fire valve and electric panel room entrances) with a 3" wide high strength plastic or laminated glass window, located between 43" and 66" from the threshold. Vision panel is not required at glazed entrances.
  - b. Avoid upper/lower divided glass in exterior curtain walls at grade level on north and east elevations. Match full height, undivided ground floor glass panels similar to entrance glass indicated at revised west elevation. Do not propose landscaping or screen walls that visually conceal lower windows.

### Building Elevations

6. Material and Color Finishes:
  - a. Repaint the Worship Hall and site walls with colors that match the exterior plaster paint and the integral color masonry of the Family Center. Present color modifications for the exterior of the Worship Hall as part of a separate Development Plan Review application.
  - b. ~~Provide a matching two-tone color striping pattern on the exposed masonry of the Family Center and Worship Hall, similar to the striping pattern as exists on the Worship Hall currently.~~ **(DELETED BY THE COMMISSION)**
  - c. The red color accent proposed is allowed on the Family Center as indicated in the revised elevations of sheet A-200. Remove the red cornice from the elevations indicated on A-201 and A-700 so the revised color accent intention is matched on all four elevations.
7. ~~Provide exposed concrete unit masonry for the lower walls of the Family Center in pattern that embeds two horizontal courses of 8x4x16 plain CMU separated by a single course of 8x8x16 split face CMU in a field of 8x8x16 split face CMU, the same as exists at the Worship Hall. Provide exposed split face masonry for the mechanical equipment farm and refuse enclosure.~~ **(MODIFIED BY THE COMMISSION)**
8. ~~If a second floor exterior exit is required on the south side of the Family Center, conceal the stair within the building elevation—do not provide an exposed stair on the south elevation.~~ **(DELETED BY THE COMMISSION)**
9. Conceal roof drainage system within the interior of the building. Minimize visible, external features, such as overflows, and where needed position these to enhance the architecture of the building. Likewise incorporate lighting, address signs, incidental equipment attachments (alarm klaxons, security cameras, etc.) into the design of the building elevations so that the architecture is enhanced by these elements. Do not expose conduit, piping or ductwork on the surface of the building.

10. Provide secure Family Center roof access from the interior. Do not expose roof access to public view.

### Lighting

11. Conform to the illumination requirements of ZDC Sec. 4-801 through 4-805 and follow the guidelines listed under ZDC Appendix E "Photometric Plan", with the following additions:
- a. Illuminate the mechanical equipment farm enclosure with 2.0 foot-candles of light from dusk to dawn.
  - b. Illuminate ground floor exterior entrances, including fire valve and electric panel room entrances, and second floor Café' entrance from dusk to dawn.
  - c. The Pastor's second floor balcony door is not required to be illuminated from dusk to dawn.
  - d. Limit required security lighting within this work scope to the area immediately around the Family Center and to outlying areas that are directly affected by this scope of work, such as at parking lot paving revisions to the west of the Family Center, existing parking lot lighting re-installation after the portables are removed and at the refuse enclosure.
  - e. Provide a photometric plan of the entire site that indicates light from existing security and street lights.
  - f. Provide house side shields **at existing east perimeter security light fixtures in agreement with Wingfoot Homeowner's Association** and where new security light fixtures are installed on the perimeter and factor the presence of the shields into the light spread on the photometric plan. **(MODIFIED BY THE COMMISSION)**

### Landscape

12. Prepare an on-site survey of site yards, site frontage, parking and perimeter landscape areas. Compare the survey with the previously approved site landscape plan, dated (delta 7) April 27, 2000 and stamped "approved" by City of Tempe planning plan check: Verify the extent of existing plant material, including trees, shrubs and plant groundcovers that has been removed, and indicate restoration of this landscape material on the site landscape plan. Provide replacement trees of 24" box installation size on site except provide replacement trees of 36" box installation size at the south, east and west perimeter landscape areas (adjacent to residential neighbors). The replacement trees may vary in species and genus from those indicated on the previously approved site landscaped plan. Provide replacement trees on the site perimeter adjacent to the residential neighbors that are non-deciduous.
13. Landscape watering system:
- a. Repair existing irrigation system (on site or in the adjacent public right of way) where damaged by work of this project. Provide temporary irrigation to existing landscape for period of time that irrigation system is out of repair. Design irrigation so existing plants on site or in public right of way frontage are irrigated as part of the reconfigured system at the conclusion of this construction.
  - b. If valve controller is updated, locate in a vandal resistant housing, conceal the valve and power conduits and hardwire controller power source (a receptacle connection is not allowed).
  - c. Provide pipe distribution system with mains and distribution laterals of buried rigid (polyvinylchloride), not flexible (polyethylene). Use of schedule 40 PVC mainline and class 315 PVC ½" lateral feeder line is acceptable. Class 200 PVC lateral feeder line may be used for sizes greater than ½". Provide details of water distribution system.

### Signage

14. On the Family Center, provide at least one 0'-12" high address letter sign on the north elevation and one on the west elevation near the southwest building corner. Locate signs at uniform height. Conform to the following for address signs described in this condition:
- a. Compose of individual mount, metal reverse pan channel characters. Match Worship Hall detail.
  - b. Coordinate locations so signs are unobstructed by trees, vines, etc.
  - c. If the existing Worship Hall continues to be identified as "1137 B", identify the Family Center as "1137 A". Otherwise remove the "B" from the existing Worship Hall address signs and identify both buildings simply as "1137".
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**Item #9. Announcements - none**

The hearing adjourned at 8:30 p.m.

The next public hearing of the Development Review Commission is scheduled for Tuesday, January 22, 2008, 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  
02/29/2008 9:07 AM

APPROVED