

## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION JULY 8, 2008

Harry E. Mitchell Government Center  
Tempe City Hall - City Council Chambers  
31 E. 5<sup>th</sup> Street, Tempe, AZ 85281  
6:00 PM (Study Session 5:30)

### COMMISSION PRESENT

Vanessa MacDonald, Chair  
Mike DiDomenico, Vice Chair  
Stanley Nicpon  
Monica Attridge  
Dennis Webb  
Heather Swanson  
Tom Oteri

### CITY STAFF PRESENT:

Lisa Collins, Deputy Development Services Manager  
Steve Abrahamson, Planning & Zoning Coordinator  
Ryan Levesque, Senior Planner  
Diana Kaminski, Senior Planner  
Shawn Daffara, Planner II

Chair MacDonald called the meeting to order at 6:10 p.m., including introduction of Commission and City staff.

### 1. **CONSIDERATION OF MEETING MINUTES:**

On a motion by Commissioner Nicpon and seconded by Commissioner Webb, the Commission with a vote of 4-0 approved the minutes of the March 12, 2008 hearing.

On a motion by Commissioner Webb and seconded by Commissioner DiDomenico, the Commission with a vote of 4-0 approved the minutes of the March 25, 2008 hearing.

On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 7-0 approved the minutes of the April 8, 2008 hearing.

On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 4-0 approved the minutes of the April 22, 2008 hearing.

On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 5-0 approved the minutes of the May 13, 2008 hearing.

On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 5-0 approved the minutes of the May 27, 2008 hearing.

**REGULAR AGENDA**

2. Request for **TEMPE (HAYDEN) BUTTE (PL080136)** (City of Tempe, property owner; Joe Nucci, Historic Preservation Officer, applicant) for designation to the *Tempe Historic Property Register*, located at 222 East 5<sup>th</sup> Street in the GID, General Industrial District, the MU-4, Mixed-Use High Density District and in the Rio Salado & Transportation Overlay Districts. The request includes the following:

**HPO08002 – (Ordinance No. 2008.31)** Historic Designation located on approximately 35 acres.

STAFF REPORT: [DRCr\\_TempeButte\\_070808.pdf](#)

This case was presented by Ryan Levesque and represented by Bob Gasser of the Historic Preservation Commission.

Commissioner Nicpon: Will this designation preclude any commercial or recreational activities and has ASU been brought into this process so that the entire butte can be historically designated, not just part of it?

Levesque: This designation will not preclude any type of development but it's the City's intent to keep the butte as it is. Yes, ASU has been informed of the process and they are aware of what the City is doing. Although at this time, ASU is not included in this submittal. ASU may also choose to include their portion of the property at a later date or partake in any future national designation.

Bob Gasser, Chairman of the Historic Preservation Commission, makes a brief presentation on the designation process of the butte and what their part has been in this process.

Commissioner DiDomenico: What does this designation mean at a local level?

Gasser: It brings awareness to the historic significance of the butte.

Nicpon: Do we own the entire mountain?

Gasser: No. ASU owns east of College Avenue.

On a motion by Commissioner Nicpon and seconded by Commissioner Attridge, the Commission with a vote of 7-0 recommend approval of this Historic Designation with all conditions as outlined in the staff report.

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3. Appeal of the May 20, 2008 Hearing Officer's decision to approve the request by **WALGREENS PLAZA - H B TOBACCO (PL060676)** (Steve Stewart/ Date Palm Manor Home Owners Association, applicant) located at 53 East Broadway Road in the CSS, Commercial Shopping and Services District. The request includes the following:

**UPA08003 – (ZUP08068)** Appeal of the approval to allow a hookah lounge/tobacco retailer.

STAFF REPORT: [DRCr\\_HBPlaceAppeal\\_070808.pdf](#)

This case was presented by Steve Abrahamson and represented by the applicant, Steve Stewart.

Commissioner Webb to Mr. Stewart: Do you know of any problems that the Hookah lounge has had?

Mr. Stewart: No.

Webb: Are you familiar with Tempe High's zero tolerance policy?

Stewart: Yes.

Mr. Harzallah, HB Place Tobacco business owner, makes a brief presentation.

Nicpon: You sell tobacco in this establishment; will tobacco be allowed to be smoked inside?

Harzallah: No, only hookah. We also require identification from each customer, no one under 18 is allowed.

Nicpon: What is your ventilation system for smoke?

Harzallah: We have a filtration system.

Oteri: Even though your 2006 use permit indicates no smoking, you took liberties and allowed smoking of hookah, can you explain?

Harzallah: I checked with all hookah lounges and was under impression that the hookah was excluded, and not included in the smoking ordinance. I don't allow tobacco such as cigarettes and cigars to be smoked.

DiDomenico: Can any of the items used to smoke hookah be purchased by anyone under 18?

Harzallah: No.

Chair MacDonald opens the hearing to public input:

Six people from the public voiced support for denial of the use permit, stating concerns that the lounge is located across from a high school and its hours of operation.

Three people spoke in opposition to the appeal stating that there have been no direct complaints against the hookah lounge and indicating that clientele are required to show identification and be 18 or over to enter the establishment; also indicating that Walgreens, which is located in the same plaza, also sells tobacco products.

The hearing was closed for public comment and both the applicant and shop owner finished their closing comments.

A motion was made to approve the appeal (denying the use permit) by Commissioner Nicpon and seconded by Commissioner Attridge (supported by Commissioner Swanson) (motion then failed with a vote of 3-4, (Commissioners MacDonald, DiDomenico, Oteri, Webb opposed).

On a motion by Commissioner DiDomenico and seconded by Commissioner Webb, the Commission with a vote of 4-3 (Nicpon, Swanson and Attridge opposed) denied the appeal (upholding the Hearing Officer's approval of the use permit).

The following condition was modified on the Use Permit:

11. THE HOURS OF OPERATION FOR ON PREMISES SMOKING ARE LIMITED TO ~~7:00 PM TO 2:00 AM~~  
8:00 PM TO 3:00 AM
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4. Request for **LAKESHORE OFFICE PLAZA (PL070461)** (Al Slaten, Teledraft, Inc., property owner; Don Andrews, Andrews Design Group, applicant) consisting of a three-story building with approximately 18,928 s.f. of office space above 9,230 s.f. of first floor parking and lobby, on .79 net acres, located at 4611 S. Lakeshore Drive in the PCC-2, Planned Commercial Center General District. The request includes the following:

**DPR08092** – Development Plan Review including site plan, building elevations, and landscape plan.

**ZUP08100** – Use Permit to reduce the required side yard setback from 30'-0" to 27'-0".

**ZUP08101** – Use Permit to increase the maximum building height from 40'-0" to 47'-0".

STAFF REPORT: [DRCr\\_LakeshoreOfficePlaza\\_070808.pdf](#)

This case was presented by Diana Kaminski and represented by Don Andrews, Andrews Design Group.

After a brief presentation by staff and the applicant, Chair MacDonald opened the hearing to public input.

Two citizens spoke to concerns they had, but have since been addressed by City staff and the applicant.

On a motion by Commissioner Nicpon and seconded by Commissioner Attridge, the Commission with a vote of 7-0 approved this Development Plan Review and Use Permits with the conditions as outlined in the staff report with two additional conditions to read as follows:

21. **THE MATERIALS AND COLORS SHALL NOT BE SIGNIFICANTLY CHANGED WITHOUT RETURN TO THE DEVELOPMENT REVIEW COMMISSION AND NOTIFICATION PROVIDED TO PROPERTY OWNERS PER THE ZONING AND DEVELOPMENT CODE REQUIREMENTS OF SECTION 6-404, INCLUDING NOTICE TO ALL PROPERTY OWNERS WITHIN 300'.**
22. **THE TREES ALONG THE NORTHERN PERIMETER OF THE PROPERTY SHALL BE A MINIMUM OF 15 FEET TALL AT THE TIME OF PLANTING, AND SHALL BE PLANTED IN ACCORDANCE WITH THE ZONING AND DEVELOPMENT CODE REQUIREMENTS OF SECTION 4-706, SPACED 20 FEET APART ON CENTER.**

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5. Request for **6<sup>th</sup> & WILSON CUSTOM LOTS (PL080154)** (Joseph Lewis, Sunny Tempe Investments, property owner; Barry Goldstein, Vincent Goldstein Architect, applicant) consisting of four new lots for three-story custom homes, ranging from 2,000-2,800 s.f. within a 1,114 s.f. building footprint on four 2,800 s.f. lots totaling .27 net acres, located at 430 W. 6<sup>th</sup> Street in the R-3, Multi-Family Residential Limited District. The request includes the following:

**ZON08005 – (Ordinance No. 2008.29)** Zoning Map Amendment from R-3, Multi-Family Residential Limited to R1-PAD, Single-Family Residential District.

**PAD08009** – Planned Area Development Overlay for four new single-family lots with development standards to allow for future custom homes on 2,800 s.f. lots, with a 40'-0" building height, 50% lot coverage, 25% landscape area, 5'-0" front, side and street side-yard setbacks and a 15'-0" rear yard setback.

STAFF REPORT: [DRCr\\_6th&WilsonCustomLots070808.pdf](#)

This case was presented by Diana Kaminski and represented by Barry Goldstein.

After a brief presentation by staff and the applicant, one card was read into the record indicating opposition to the project based on the proposed increase in building height from 30' to 40'. A condition was also suggested to address this concern, limiting the height to 30' except for a stairwell to an open roof top amenity.

The Commission raised concerns regarding approving a PAD without knowing what the final product will be, the Commission discussed continuing the case so the owner may be present to address concerns.

On a motion by Commissioner DiDomenico and seconded by Commissioner Nicpon, the Commission with a vote of 7-0 continued this case to the July 29, 2008 hearing.

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6. Request for **ZONING AND DEVELOPMENT CODE AMENDMENTS (PL080143)** (City of Tempe Development Services, applicant) consisting of changes within the Code, providing investment opportunities in our single-family residential neighborhoods relating to provisions for increased fence heights in the front yard, rear yard building setbacks when adjacent to an alley, and establishing time limitations when holding a required neighborhood meeting. The request includes the following:

**ZOA08001 – (Ordinance No. 2008.28)** Code Text Amendment for the Zoning and Development Code Sections 4-202, 4-706, 6-308, and 6-402.

STAFF REPORT: [DRCr\\_ZDCamendments\\_070808.pdf](#)

On a motion by Commissioner Nicpon and seconded by Commissioner DiDomenico, the Commission with a vote of 7-0 continued this case, at the request of City staff, to the July 29, 2008 hearing.

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7. **ANNOUNCEMENTS – JULY 22<sup>ND</sup> HEARING HAS BEEN CANCELLED AND RESCHEDULED TO JULY 29, 2008**

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