

## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION MARCH 24, 2009

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

### Commission Present:

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

### 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  
Lisa Lathrop, Administrative Assistant II

Chair MacDonald called the meeting to order at 6:00 p.m., which included the introduction of the Commission and City staff. It was determined at the Study Session, that Item Nos. 2 and 3 could be placed on the Consent Agenda. Seeing no opposition from the public, both items are left on the Consent Agenda. There was also a brief presentation at the Study Session by Joseph Nucci, the Historic Preservation Officer and Bob Gasser of the Historic Preservation Commission. The presentation centered around two cases which will be heard before the Development Review Commission in the near future, they are Date Palm Manor and the Elliot/Garbinski House.

### 1. CONSIDERATION OF MEETING MINUTES: POSTPONED

### CONSENT AGENDA

On a motion by Commissioner Nicpon and seconded by Commissioner DiDomenico, the Commission with a vote of 7-0 approve the Consent Agenda as recommended in the staff reports for the following cases:

2. Request for **SSI BUILDING (PL080295)** (Third Street LLC property owner; James Phillips, Phillips Architecture, applicant) consisting of a new two story industrial building with approximately 15,000 s.f. on 0.68 acres, located at 1861 East 3<sup>rd</sup> Street in the GID, General Industrial District. The request includes the following

**DPR09029** – Development Plan Review including site plan, building elevations, and landscape plan.

STAFF REPORT: [DRCr\\_SSI\\_032409.pdf](#)

3. Request for **FIRST BAPTIST CHURCH (PL080376)** (Dr. Roger Ball, Senior Pastor of First Baptist Church of Tempe, property owner; Denise Andreas, AIA, Todd & Associates, applicant) consisting of a new two-story 25,000 s.f. educational facility added to the existing church complex to create a total building area of 73,110 s.f. on 5.2 net acres, located at 4525 S. McClintock Drive in the R1-6 Single Family Residence District. The request includes the following:

**DPR09001** – Development Plan Review including site plan, building elevations and landscape plan.

STAFF REPORT: [DRCr\\_FirstBaptistChurch\\_021009.pdf](#)

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#### **REGULAR AGENDA**

4. Appeal of the January 20, 2009 Hearing Officer's decision to deny the request by the **COREY RESIDENCE (PL080446/ZUP0818)** (Tom Corey, applicant/property owner) located at 1425 East Bell De Mar Drive in the R1-6, Single Family Residential District. The request includes the following:

**UPA09001** – Use permit to allow RV parking in the front yard setback.

STAFF REPORT: [DRCr\\_CoreyRes\\_032409.pdf](#)

This case is presented by Shawn Daffara and represented by Tom Corey.

Mr. Daffara indicated that the request by Mr. Corey for a Use Permit to park his trailer in his front yard setback had been denied by the Hearing Officer on January 20, 2009. The property is located south of Guadalupe Road and west of McClintock Drive. Mr. Corey had received a citation by the City's Neighborhood Enhancement Division after a complaint had been received about the trailer. The Hearing Officer stated his denial of the Use Permit was due to his belief that the request was in conflict with the general plan and did not support neighborhood preservation and enhancement. Staff is also recommending denial of the Use Permit.

Mr. Corey addressed the Commission and indicated they have a nice home and have lived there approximately 13 years. All of the neighbors around him take very good care of their properties and therefore they would not want to do anything that would detract from the value of anyone's property. All of the neighbors were approached and they have received approximately 20 signatures in support of the trailer being parked in the driveway. Although we realize the 2030 plan is for the betterment of the City, there is no direct call out in the plan that references trailers or RV's. We do not have the ability to store the trailer in our backyard. Wanted some clarification regarding the wording and definition of a trailer versus an RV.

Mr. Daffara indicated that a trailer is towed and a recreational vehicle has a motor that under which it is powered.

Commissioner Oteri indicated that maybe that definition in the Code needs to be reviewed.

Chair MacDonald questioned if the side yard fence could be pulled forward.

Mr. Corey indicated that due to the roof overhang and width of the trailer makes that option not feasible.

Commissioner Torregrossa asked Mr. Corey where the closest offsite storage for this type of vehicle would be and if he knew the cost.

Mr. Corey indicated the closest location is at I-10 and the 101 Loop south of Chandler Boulevard and the cost is about \$100 per month. My wife was just laid off so that is a major contributing factor to storing it at home versus offsite. He also indicated that if you drive through the neighborhood, you will see a significant amount of trailers, both recreational and the kind that is used for hauling.

Mr. Corey referenced a previous case that was heard before the Commission, the Messer case. Mr. Corey felt that his case passed the key test that was referenced in the Messer report. The key test refers to criteria that a Use Permit must follow in order to be approved. Criteria that must be met includes the parking surface the vehicle is to be parked upon, the vehicle must be currently licensed and registered, the vehicle does not overhang onto the sidewalk or curb and does not interfere with normal pedestrian or vehicular traffic, the vehicle is kept in a safe and presentable manner, it does not obstruct or pose a hazard to persons having rightful access and all gas appliances and tanks are in compliance with all federal regulations.

Mr. Corey commented that the complaint system seems to have changed and that anyone can go online and make a complaint and it can be anonymous. He wondered what had happened to the previous process of having three signatures for a valid complaint. He is concerned that people can just drive down the street and make complaint after complaint with no validity.

Ms. Collins addressed the concern and stated that if something comes to the City, whether it's proactive or complaint driven, we are obligated to look into it to see if there is an Ordinance violation. She indicated that Mr. Corey could be correct and we could have a lot of complaints for things that are not Ordinance violations. But once it is determined that a violation exists, it is incumbent upon us to follow up on it and that one way or another, the violation is resolved. That may be one reason the form is not used anymore, we are required to follow up on it regardless of the number of complaints.

Commissioner DiDomenico questioned Mr. Corey as to how many days the trailer is gone versus being parked onsite.

Mr. Corey stated the days vary but felt the trailer could be parked for three months without being moved.

Mr. Corey summarized by stating that they have neighborhood support and that they are meeting all criteria of the key test and if necessary, he will shorten the length of the trailer with a removal hitch to bring the trailer down to less than 21 feet.

Chair MacDonald opened the hearing to public input.

Four neighbors spoke in support of the appeal.

Chair MacDonald closed the hearing to public input.

Commissioner Oteri asked Mr. Corey how many trailers in the neighborhood are too many.

Mr. Corey indicated he would have no problem if everyone had one.

Commissioner Torregrossa commended Mr. Corey on a great presentation and said he liked to see the neighbors stand up for each other and felt that the City should look at these definitions to be make it easier on the citizens and then they would know where the City stands on these sorts of things.

Commissioner Tinsley is bothered because this is an anonymous complaint. This Use Permit would be valid for this trailer only so all bets would be off if you sold this one and got another. The neighborhood is in support and I am inclined to go along with them.

Commissioner Oteri also commended Mr. Corey on the thoroughness of his presentation but thinks we need to look at the impacts of these decisions on the entire City and not just one neighborhood. I will support the Hearing Officer's decision.

Commissioner DiDomenico indicated he voted against the boat issue and the reason we don't allow these types of vehicles to park in the front yard setback is because of mass. We also wouldn't allow you to build a storage unit for that same reason. Because of the support of the neighborhood and not wanting to put you through another process, I am going to support your appeal. I also urge staff to look at the definitions and also look at large work vehicles that people bring home.

Commissioner Attridge indicated that she agreed with Commissioner Oteri and setting a precedence here and if it was up to me there would be no Use Permit for this, it just wouldn't be allowed. I also commend your presentation but have concerns regarding using petitions and involving neighbors who often times feel they have to sign because it's for a neighbor. It's good that you brought folks with you.

Commissioner Nicpon indicated that the Commission should be in support of Mr. Corey keeping the trailer at his home and I feel the same as Commissioner Tinsley about the anonymous complaint. This Permit would be site and trailer specific and will support the appeal.

Chair MacDonald indicated that due to the way the lot is uniquely situated and because it meets the criteria as you indicated, I am in support of your appeal.

On a motion by Commissioner Nicpon and seconded by Commissioner Tinsley, the Commission with a vote of 4-3 (Commissioners Attridge, Oteri and Torregrossa dissenting) approved this appeal for a Use Permit.

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5. Request for **LEMON MIXED USE DEVELOPMENT (PL080449)** (Rick Kafka, Colgate Tempe 268, LLC, property owner; Manjula Vaz, Gammage & Burnham, applicant) consisting of three (3) mixed use buildings of commercial and residential totaling approximately 694,000 s.f. of total building, including 478 units and approx. 16,000 s.f. of commercial area on approx. 5.73 acres, located at 919, 1011, and 1019 East Lemon Street, in the R-4, Multi-Family Residential District and the CSS, Commercial Shopping and Services District and in the TOD, Transportation Overlay District. The request includes the following:

**GEP09001 (Resolution No. 2009.15)** – General Plan Land Use map amendment from 'Residential' to 'Mixed-Use'.

**ZON09001 (Ordinance No. 2009.14)** – Zoning Map Amendment from R-4, Multi-Family General District and CSS, Commercial Shopping and Services District in the TOD, Transportation Overlay District to MU-4, Mixed-Use High Density District in the TOD.

**PAD09001 (Ordinance No. 2009.14)** – A Planned Area Development Overlay to modify development standards to allow for a modification in the minimum TOD parking requirements from 1,425 spaces to 1,133 spaces; a proposed density of 83.4 dwelling units per acre; a maximum building height of 180'-0"; maximum lot coverage 70%; minimum landscape area 30%; and minimum building setbacks 0' front, 15' sides, 30' rear and maximum 20' setback.

STAFF REPORT: [DRCr\\_LemonMixedUse\\_032409.pdf](#)

This case is presented by Ryan Levesque and represented by Manjula Vaz.

Ms. Vaz gave a brief overview of the case which included proposed height, phased construction, building elevations and public outreach.

Jason Ploszaj of RSP Architects gave a brief presentation regarding the site plan, proposed architectural design and photo-simulations which show the new building in relationship to existing structures and views.

Ms Vaz indicated that this project is not speculative.

Commissioner Oteri commented regarding concerns about parking.

Ms. Vaz indicated that approximately 70% of that parking lot is not used currently by the residents. With students, we are seeing that not everyone has a car. This site is about location. Paul Basha will address concerns regarding the parking and how he came to the numbers in the parking study.

Paul Basha addressed the Commission and indicated that the intention of this site is to minimize automobile use. The site will have fewer parking spaces and that will be known. Three different reductions were used to calculate the parking, one being the Transportation Overlay District, the second being shared parking and the third reduction is because the site is so close to Arizona State University and most residents will be students.

Commissioner Oteri stated his concern that there could be potentially 400 vehicles that would need to be placed somewhere and the concern is for the surrounding neighborhoods.

Mr. Basha stated that there is a commitment from ASU and the City of Tempe to minimize vehicle usage and provide student living close to campus. There are really no single family neighborhoods adjacent to this site; they are fairly far removed from this site.

Commissioner Nicpon questioned the shared parking reduction.

Mr. Basha indicated that the reduction allowed by shared parking was only 40 spaces.

Ms. Vaz indicated that this site is planned to use the flex cars.

Commissioner DiDomenico questioned Mr. Basha as to the use of scooters and bicycles and if they have any numbers as to the usage of these other modes of transportation.

Mr. Basha indicated that in the last two years they are seeing a greater use of these smaller types of vehicles. Tempe is becoming much more urbanized and not as automobile dependent as it used to be.

Commissioner DiDomenico stated that he is not as concerned about parking as the other Commissioners and that a three-phased project is self-correcting. If there is a lack of parking in phase one, they have the ability to "tweak" the ratios in phases two and three. Also after reviewing the aerials, doesn't see any neighborhoods that will be affected by any lack of parking.

Mr. Levesque agreed with Commissioner DiDomenico and indicated that this site is located in what is predominantly an apartment community.

Chair MacDonald opened the hearing to the public.

One resident of the University Heights neighborhood spoke with concerns regarding height and parking.

Five students from ASU spoke in regards to concerns over the cost of monthly rent and building height.

Commissioner Oteri commented that the Commission doesn't judge the marketability of a project.

Chair MacDonald closed the hearing to public input.

Ms. Vaz addressed the Commission regarding the height. After having conversations with the City and looking at the proximity of this site to ASU and to other student housing projects along Apache, this is an area where the City would like to see some height.

Commissioner Torregrossa thinks that architecturally the developer has done a great job but doesn't agree with the heights and is concerned about parking. Can support the Zoning and General Plan Amendments but not the PAD.

Commissioner Tinsley agreed with Commissioner Torregrossa that the plan is a good one and is not bothered by the height but is concerned about the parking (inaudible).

Commissioner Attridge is concerned about the height and parking and is reluctant to approve any of the pieces.

Commissioner Nicpon agreed with Commissioner Attridge and is supportive of the concept and the height but would like see more brought forward before we approve anything.

On a motion by Commissioner DiDomenico and seconded by Commissioner Tinsley, the Commission with a vote 5-2 (Commissioners Nicpon and Attridge dissenting) recommended approval of this General Plan Map Amendment as recommended in the staff report.

On a motion by Commissioner DiDomenico and seconded by Commissioner Torregrossa, the Commission with a vote of 5-2 (Commissioners Nicpon and Attridge dissenting) recommended approval of this Zoning Map Amendment as recommended in the staff report.

On a motion for approval by Commissioner Nicpon and seconded by Commissioner DiDomenico, the motion failed by a vote of 2-5 (Commissioners Nicpon, Attridge, Oteri, Tinsley and Torregrossa dissenting) resulting in a recommendation of denial of the Planned Area Development Overlay.

The meeting is adjourned at 8:20 p.m.

Prepared by: Lisa Lathrop, Administrative Assistant II  
Reviewed by: Lisa Collins, Deputy Development Services Manager

A handwritten signature in black ink, appearing to read "Lisa Collins", written in a cursive style.

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Lisa Collins  
Deputy Development Services Manager