

# PUBLIC HEARING MINUTES



## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION JULY 14, 2009

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

Commission Present:

Vanessa MacDonald, Chair  
Mike DiDomenico  
Dennis Webb  
Monica Attridge  
Peggy Tinsley

Commission Absent:

Tom Oteri  
Stanley Nicpon  
Heather Swanson  
Mario Torregrossa  
Paul Kent

Chair MacDonald called the hearing to order at 6:30 p.m., which included the introduction of the Commission and City staff. It was determined at the Study Session that Item No. 2 would be heard.

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1. CONSIDERATION OF MEETING MINUTES: 06/9/09 and 06/29/09

On a motion by Commissioner Tinsley and seconded by Commissioner Webb, the Commission with a vote of 4-0 (Chair MacDonald abstained) approved the minutes of June 9, 2009.

On a motion by Commissioner Tinsley and seconded by Commissioner Attridge, the Commission with a vote of 4-0 (Commissioners DiDomenico and Webb abstained/Lisa Collins voted as a stand in) approved the minutes of June 29, 2009.

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REGULAR AGENDA

2. Request for **EMMANUEL LUTHERAN (PL090095)** (Kirk Jungbluth, Emmanuel Lutheran Church, property owner; Dennis Lee, Dennis Lee Architect, applicant) consisting of a new one-story 7,030 s.f. classroom building addition to the existing campus containing 7,555 s.f. of classroom buildings and a 7,870 s.f. church on 3.5 net acres, located at 715 West Southern Avenue in the R 1-6, Single-Family and R-2, Multi-Family Residential Districts. The request includes the following:

**ZUP09082** – Use Permit to allow an expansion of the existing school use.

**DPR09093** – Development Plan Review including site plan, building elevations and landscape plan.

STAFF REPORT: [DRCr\\_EmanuelLutheran\\_071409.pdf](#)

This case was presented by Diana Kaminski and represented by Dennis Lee of Dennis Lee Architect and Eric Brown, Principal of Emmanuel Lutheran. Mr. Lee addressed neighborhood concerns that had been raised in relationship to traffic, light access and perimeter wall height. The storage building that was proposed for the east side of the property will now be located on the west side near the new building. With this new design, the applicant has tried to internalize the noise and create a court yard effect. Mr. Lee shows the Commission photos of large existing trees that will stay and help screen the site. Due to the size and canopies of the trees, the applicant feels that raising the wall height will not change much of the screening that is already there.

Mr. Brown spoke to neighborhood concerns regarding the alley and indicated that the school is more than willing to maintain the alley and keep it clean. He also mentioned there was an access concern with the use of that alley being used as a walkway to the park that is used for sports activities. As the students use that alley way, they are supervised by teachers and or coaches and there are normally no more than 20 to 30 children at a time walking through with 2-4 coaches accompanying the students. This alley way is used approximately 20 times per year.

Mr. Brown also indicated that he understood there were concerns regarding balls entering neighbor's yards and children aggravating pets. He feels he is a proactive principal and addresses issues right away and this was the first he had heard of these types of problems. He had heard from senior staff members about balls going over walls but had been told that the neighbor throws them back over to return them but it had never been indicated to him that it was a problem.

Commissioner Tinsley asked if the applicant is in agreement with the Conditions of Approval. Ms. Kaminski indicated that yes they are in agreement; however, Condition 8 should match Condition 1. The applicant is asking for two years for completion of this project, to 2011 not 2010.

Chair MacDonald opened the hearing for public input.

The neighbor directly south of the property, Eric Stadtmiller, spoke to the Commission regarding his concerns and the block wall that surrounds the property. Mr. Stadtmiller feels that the wall has become unsafe over the years and that children climbing over it to retrieve balls could become hurt. He also indicated he had concerns regarding the noise and the sports court, the students throwing rocks while using the alley and the irrigation ditch that runs along the side of his property.

Commissioner Attridge questioned the purpose of the light that is located at the court.

Ms. Kaminski indicated that the light is a requirement due to the retention basin and it is there to provide a minimum light level and is a full cut-off fixture so the photometrics at the property line will be zero. There are no lights specifically designed for the sports court and it is not intended for night use.

Chair MacDonald asked Mr. Stadtmiller how often kids are coming over the wall. He indicated that he is aware of a couple times a year.

June Meitz is concerned regarding the removal of trees along the common east wall between the church property and the condominium complex and the structural integrity of the wall. The wall is in poor condition.

Chair MacDonald closed the hearing for public input.

Mr. Lee returned to address the concerns raised by Mr. Stadtmiller and Ms. Meitz. He indicated that the irrigation pipe served by the ditch on the side of Mr. Stadtmiller's home will be removed; they will no longer flood irrigate the site. He stated that activity levels will not increase on the playground due to the scheduling of student/teacher ratios. He added that along the backside near the newly planted turf would be  $\frac{1}{4}$  size rock. He indicated there are stipulations that the wall in some areas does need repair and that they are happy to take care of that.

Commissioner Webb asked if it had been determined who owned the wall.

Mr. Lee indicated that when the school was built the wall was shown existing. He does not know.

Commissioner Tinsley asked if there was damage to the wall during removal of the dead trees or during construction, would the wall be brought up to standards and repaired.

Mr. Lee agreed.

Chair MacDonald questioned Ms. Kaminski as to the outcome of a similar case (Lowes at Baseline and Rural) to this one and how the wall issue was resolved.

Ms. Kaminski indicated that a new wall was not required on that previous case. However, Ms. Kaminski stated there was another case (2150 Southern Campus Masterplan) where a school was adjacent to single-family residential and that an 8' wall was required to be built up to code adjacent to single family.

Chair MacDonald asked the applicant if they would be willing to build an 8' wall to ease concerns of the adjacent residents.

Mr. Miller indicated that they would like to add a rod iron fence on top of the block wall if it's structurally feasible. If that does not work structurally, the applicant indicated they would agree to an 8' rod iron fence built on the church property next to the wall.

Chair MacDonald doesn't feel that would be aesthetically appealing due to the different heights of the block wall.

Commissioner Webb stated that there are two issues with the wall, aesthetics and safety.

Commissioner Tinsley proposed a modification to Condition 9 to state the wall shall be repaired where needed and add a phrase that states the southern portion shall be replaced with a new 8' CMU block wall.

The applicant and Mr. Stadtmiller agreed that the modified condition would be acceptable.

On a motion by Commissioner Tinsley and seconded by Commissioner Webb, the Commission with a vote 5-0 approved the Use Permit and Development Plan Review as recommended in the staff report with the modified conditions to read as follows:

8. Your drawings must be submitted to the Development Services Building Safety Division for building permit by JULY 14, 2011 or Development Plan approval will expire. An expiration of the building permit will result in expiration of the development plan.
9. Repair any broken portions of the perimeter wall AND THE SOUTHERN PORTION OF THE PERIMETER WALL SHALL BE REPLACED WITH A NEW 8' CMU BLOCK WALL.

### 3. ANNOUNCEMENTS – None

The hearing adjourned at 7:25 P.M.

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



Lisa Collins, Deputy Development Services Manager

MINUTES OF THE  
DEVELOPMENT REVIEW COMMISSION  
STUDY SESSION

JULY 14, 2009

HARRY E. MITCHELL GOVERNMENT CENTER  
DEVELOPMENT SERVICES – LOBBY CONFERENCE ROOM  
31 EAST 5<sup>TH</sup> STREET  
5:30 PM to 6:30 PM

The Development Review Commission reserves this time to discuss informally any item(s) appearing on the Public Hearing/Meeting Agenda, including questions/answers. Only procedural decisions will be made in the Study Session.

- Review of July 14, 2009 Agenda
- Review of past and future applications with staff
- Review of future application for PROPOSED Zoning and Development Code Amendments, regarding: Commercial Abatements; APAC Committee repeal; Hearing Officer duties; Uses with revised regulations on Accessory Buildings, Small Animals, Card Rooms, Recycling Centers, Commercial/Restaurant uses in Industrial Districts, and Outdoor Retailing; Legal Non-Conforming Developments, Service Entrance and Exits; Outdoor Dining Parking; Development Plan Review Criteria and Time Limitations; Use Permit and Variance Time Limitations; Notice of Appeals; Extension Requests; Revocations; and definitions for Card Room, Columbarium, Donation Bins, Livestock, Poultry, Recycling Centers, Reverse Vending Machines, Small Animal and Smoking Lounge

Commission Present:

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Mike DiDomenico  
Dennis Webb  
Monica Attridge  
Peggy Tinsley

Commission Absent:

Tom Oteri  
Stanley Nicpon  
Heather Swanson  
Mario Torregrossa  
Paul Kent

Chair MacDonald called the Study Session to order at 5:30 p.m.

Ryan Levesque made a brief presentation on the proposed amendments. Commissioners and staff discussed the proposed amendments, and following are the specific sections of the amendments that the Commission had questions and comments on:

Section 3-102 If dwellings are allowed in the AG District, other permitted use items need to be addressed in the chart.

Section 3-401 Discussed proposal of accessory building changes. Questions on maximum allowed height, area of building versus allowable height. Do we know what percentage of residential is in HOA's? Staff will provide research from other cities and past applications. It was suggested that there be alternate requirements for smaller versus larger lots.

Section 3-404 Comments on grammar for small animals.

Section 3-417 Discussed temporary outdoor retail and potential limitations on certain uses.

Section 6-306 Comments on grammar of new Subsection 1.

Section 7-210 Comments made on the definition of "small animal".

Staff, with consensus from the Commission, will bring forward the proposed amendments at the August 11, 2009 hearing for further consideration.

Diana Kaminski briefly presented her case that was scheduled to go before the Commission that evening. It was determined that it would not be placed on the consent agenda, but be heard.

The Study Session adjourned at 6:10 p.m.

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