



Minutes of the Development Review Commission REGULAR MEETING October 10, 2023

Minutes of the **Regular Meeting** of the Development Review Commission, of the City of Tempe, was held in Council Chambers
31 East Fifth Street, Tempe, Arizona

Present:

Chair Andrew Johnson
Vice Chair Michelle Schwartz
Commissioner Don Cassano
Commissioner Barbara Lloyd
Commissioner Linda Spears
Commissioner Joe Forte
Commissioner Larry Tom

City Staff Present:

Jeff Tamulevich, Director, Community Development
Ryan Levesque, Deputy Director, Community Development
Karen Stovall, Senior Planner
Chris Jasper, Senior Planner
Joanna Barry, Administrative Assistant II

Absent:

Alt Commissioner Rhiannon Corbett
Alt Commissioner Charles Redman
Alt Commissioner Robert Miller

Hearing convened at 6:00 p.m. and was called to order by Chair Johnson

Consideration of Meeting Minutes:

- 1) Development Review Commission – Study Session 9/12/23
Development Review Commission – Regular Meeting 9/12/23

Motion: Motion made by Commissioner Cassano to approve Study Session minutes and Regular Meeting minutes for September 12, 2023 and seconded by Commissioner Spears.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, and Forte

Nays: None

Abstain: Vice Chair Schwartz and Commissioner Tom

Absent: None

Vote: Motion passes 5-0

The following items were considered for **Consent Agenda**:

* **Item #5 was voted on separately since Commissioner Cassano recused himself from this item**

- 5) Request a Use Permit to allow an Assisted Living Facility with ancillary uses including movie theater, salon, restaurants, and nano brewery with a Series Three liquor license in the R-4 zoning district for **FRIENDSHIP VILLAGE LIFECARE RETIREMENT COMMUNITY** located at 2645 East Southern Avenue. The applicant is LCS Development. (PL230272)

Motion: Motion made by Commissioner Spears to approve Consent Agenda Item #5 and seconded by Commissioner Lloyd.

Ayes: Chair Johnson, Vice Chair Schwartz, Commissioners Lloyd, Spears, Forte, and Tom.

Nays: None

Abstain: Commissioner Cassano

Absent: None

Vote: Motion passes 6-0

- 2) Request a Development Plan Review for three new industrial buildings totaling 268,775 net square feet for **ELLIOT AND HARDY**, located at 835 West Elliot Road. The applicant is Gammage & Burnham, PLC. **(PL230180)**

- 6) Request for a Code Text Amendment, consisting of changes within Section 3-428, Vacation and Short Term Rentals, and Section 6-313, Security Plans, based on prior City Code changes, and a change to Section 4-204, Standards for building height in GID and HID District, from 35' to a maximum 65' height, for **TEMPE ZONING AND DEVELOPMENT CODE**. The City of Tempe is the applicant. **(PL230295)**

Motion: Motion made by Commissioner Forte to approve the remaining Consent Agenda (Items #2 & #6) and seconded by Commissioner Tom.

Ayes: Chair Johnson, Vice Chair Schwartz, Commissioners Cassano, Lloyd, Spears, Forte, and Tom.

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

The following items were considered for **Public Hearing**:

- 3) Request a Use Permit to allow a second-story addition to a single-story, single-family residence for **CLOUD RESIDENCE**, located at 5817 S Alder Drive. The applicant is Marshall Cloud. **(PL230204)**

PRESENTATION BY APPLICANT:

Applicant did not have a presentation, so they did not present.

PRESENTATION BY STAFF:

Chris Jasper, Senior Planner, gave a brief overview of the request. He noted that staff has a Condition of Approval that the windows on the second story of the south elevation be frosted or tinted since they face the rear yard of an adjacent property. Commissioner Spears asked if the east elevation faces McClintock Drive. Mr. Jasper stated it is somewhat angled, but it can be viewed from McClintock Road.

Mr. Jasper noted that a neighborhood meeting was not required. Staff received one letter of opposition expressing concerns for the height of the structure and potential noise nuisances. This letter was provided to the Commission prior to the meeting.

Commissioner Cassano asked what the total height was for the second story and was advised it was 26 feet from grade. Commissioner Cassano asked if the RV garage was lower than that. Mr. Jasper stated that the top of the garage is about 15 feet and seven inches.

Chair Johnson asked if the Condition of Approval for the east elevation windows were for both floors and was advised it was only for the second story windows.

PUBLIC COMMENT:

BJ Pennington, neighborhood resident, expressed opposition to the request. He stated it is not a two-story neighborhood and he does not want this request to set a precedent. He is also concerned that the addition will be used for renters. He appreciates the request for frosted windows, but if the applicant moves out there is nothing stopping the new buyer from changing them out.

Jane Schieffer, neighborhood resident, stated that she lives next door to the site and the second story would look directly into her backyard. She is concerned about privacy as the windows look down on her backyard and pool. She appreciates that the windows will be frosted but does not know if that will prevent them from seeing out. The RV garage will also go all along her fence line. She would like some assurance that her privacy will be maintained.

RESPONSE FROM STAFF:

Mr. Jasper stated that if the property was to be sold the design features that are a condition of this project would still be in effect. If changes were made from what was approved and permitted, then a complaint could be made to the City to enforce compliance.

Commissioner Forte asked if the frosted windows also prevent someone from seeing out and was advised that they do. There are natural lighting and egress window requirements for a bedroom by our Building Safety department so there is no option to remove the windows.

Commissioner Spears asked if this addition meets with the City's intent to encourage ancillary dwelling units (ADUs). Mr. Jasper stated that this would not be considered an ADU and would not be classified to be rented out.

Commissioner Cassano asked if the only access to the addition is through the existing home. Mr. Jasper stated that on the first floor of the proposed development there is an outdoor exit through the kitchen at the rear.

Commissioner Tom asked if the five-foot setback applies to the proposed addition and was advised that it does. He then asked what the maximum height would be if the guest room was a single-story structure. Mr. Jasper stated that the maximum allowable height would be 30-feet.

Commissioner Lloyd asked if all the second story windows that face the neighbor's backyard need to be egress windows. She also asked if it could be possible to have more of the windows, but smaller and higher up so as to provide natural light but not allow viewing in or out. Mr. Jasper stated there are two larger egress windows on the south elevation bedroom. He is not sure of the exact requirements for the number of egress windows but knows it is at least one.

Chair Johnson asked if the definition of egress meant that they could be opened to exit in some way. Mr. Jasper stated an egress window allows for the opportunity to exit the window and also enable a firefighter to enter the building safely. Chair Johnson stated it is a catch-22 where you want to be able to open the window in case you needed to exit, however you do not want to be able to look out of this.

Commissioner Lloyd recommended that the applicant work with staff to identify alternative designs of the windows to allow for the minimum requirement for safety and natural light purposes but also to design it with the minimal amount of visibility into the backyard. Mr. Jasper stated that one potential solution could be to reconfigure the bedroom so that the windows face McClintock Road and not the neighboring property.

Commissioner Schwartz stated that in the past the Commission has seen Use Permit requests for second story viewing decks. She noted that on the east side of the plans it shows a deck and asked what triggers the need for a Use Permit for it. Ryan Levesque, Deputy Director – Community Development, stated that the deck is accessible as part of the second story, so a Use Permit is required.

RESPONSE FROM APPLICANT:

Marshall Cloud, applicant, stated he has spent a couple of years and ten thousand dollars to get this project going. This addition will not be rented out and it is stipulated that if someone buys the house, they cannot rent it out. He stated they can change things around and he is willing to put the windows for the bedroom on east.

Commissioner Tom asked if the applicant was willing to work with staff to redesign the floorplan on second floor so that the windows are facing McClintock Road instead of the neighbor's backyard. Mr. Cloud stated that he was.

COMMENTS AND DISCUSSION FROM THE COMMISSION:

Motion: Motion made by Commissioner Lloyd to approve PL230204 with an added Condition of Approval that the egress window be relocated from the south elevation of the second story. Seconded by Commissioner Spears.

Ayes: Chair Johnson, Vice Chair Schwartz, Commissioners Cassano, Lloyd, Spears, Forte, and Tom.

Nays: None

Abstain: None

Absent: None

Vote: Motion passes 7-0

Staff Announcements:

Ryan Levesque, Deputy Director – Community Development, advised the Commission of the items on the September 24th DRC agenda.

There being no further business the meeting adjourned at 6:43 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Ryan Levesque, Deputy Director – Community Development