



Minutes of the Development Review Commission REGULAR MEETING July 26, 2022

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 Michael DiDomenico
Vice Chair Andrew Johnson
Commissioner Rhiannon Corbett
Commissioner Don Cassano
Commissioner Michelle Schwartz
Commissioner Joseph Forte Jr.
Commissioner Linda Spears
Alt Commissioner Charles Redman
Alt. Commissioner Robert Miller (observing only)

City Staff Present:

Jeff Tamulevich Development Director
Ryan Levesque, Deputy Director, Community Development
Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Diana Kaminski, Senior Planner
Lee Jimenez, Senior Planner
Karen Stovall, Senior Planner
Joanna Barry, Administrative Assistant II

Absent:

Commissioner Barbara Lloyd

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

1. Election of Vice Chairperson

Chair DiDomenico introduced Commissioner Andrew Johnson as the new Vice Chair.

Consideration of Meeting Minutes:

2. Development Review Commission – Study Session 6/28/22
3. Development Review Commission – Regular Meeting 06/28/22

**** Commissioner Redman participated in the vote on meeting minutes only, as a quorum was needed to approve the 6/28/22 minutes, and he had been a voting member at the 6/28/22 DRC meeting.***

Motion: Motion made by Commissioner Spears to approve Regular Meeting minutes and Study Session Meeting minutes for June 28, 2022. and seconded by Commissioner Cassano.

Ayes: Chair DiDomenico and Commissioners Cassano, Spears, and Redman

Nays: None

Abstain: Vice Chair Johnson, and Commissioners Forte, Schwartz and Corbett

Absent: Commissioner Lloyd

Vote: Motion passes 4-0

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

5. Request a Use Permit to allow an amusement business (rock climbing facility) for **TEMPE BOULDERING PROJECT**, located at 2626 South Hardy Drive. The applicant is Mithun, Inc. (PL220080)

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6. Request a Use Permit to allow an expansion to a bar for **BRICK & BARLEY**, located at 201 East Baseline Road, Suite G1. The applicant is Brick & Barley. **(PL220136)**

Motion: Motion made by Commissioner Spears to approve Consent Agenda and seconded by Vice Chair Johnson.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Spears, Forte, Schwartz, and Corbett

Nays: None

Abstain: None

Absent: Commissioner Lloyd

Vote: Motion passes 7-0

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

4. Request two (2) Use Permits to allow a bar and entertainment (indoor and outdoor) for **AUNT CHILADA'S**, located at 2019 West Baseline Road. The applicant is Lewkowitz Law Office, PLC. **(PL210336)**

PRESENTATION BY APPLICANT:

Ms. Andrea Lewkowitz is representing the owner of Aunt Chilada's and The Arizona Grand Resort. The resort would like to operate both businesses under one license. No operations would change at Aunt Chilada's.

Commissioner Spears asked how the licensing will work since the license is in Phoenix and Aunt Chilada's in Tempe. Ms. Lewkowitz stated that operationally it does not matter. Any operations that take place at Aunt Chilada's will remain part of Tempe. All revenue and taxes due will be reported to the City of Tempe.

Chair DiDomenico noted that there are no sidewalks on Arizona Grand Parkway from the hotel to the restaurant. and asked where the guests walk safely. Ms. Lewkowitz stated that there is a walkway that comes from the lobby and conference area. The walkway cuts through the vacant land, not near the main road.

Chair DiDomenico asked is the walkway large enough for a golf cart and Ms. Lewkowitz advised that she is unsure of the size of the path or the size of a golf cart.

STAFF PRESENTATION:

Lee Jimenez, Senior Planner gave a brief presentation of the project and requests being made. This request did not require a Neighborhood Meeting. Tempe Police was contacted to verify if calls were made for this area out of the ordinary in the last four (4) years and none were found. Condition #4 is to provide the correct amount of bicycle spaces per code. Looking at the site it did not appear there were any at all.

PUBLIC COMMENT:

Steve Abrahamson read five (5) public comments that were received online. First one is from Tempe resident Barb Brooks. Ms. Brooks had a scheduling conflict and was unable to make it to the meeting, so she submitted the following questions:

- * What the hours will be for the restaurant.
- * She asked about the sound/noise levels that the events at the restaurant might bring to the neighborhood.
- * If there could be a probationary period regarding the entertain part.

Second email was from Tempe resident Kathleen Nieboer. Would like to vote "No" on the entertain part during the hours of 8pm-2am.

Third email was from Tempe resident Noelle Fontaine. Stated she is voting "No" on live entertainment at Aunt Chilada's.

Fourth email is from Point Office Condominium Association, Torres Consulting and Law Firm (Israel G.Torres Board President) located at 2239 West Baseline Road. He stated that they did not receive a notice of the hearing regarding the Use Permits. He would like to request a continuance of the hearing to allow time to research the impact of granting the permits and the impact on the business.

Fifth email was from an anonymous Tempe resident. Resident neither supports nor opposes. Would prefer that outdoor entertainment is limited until 9:00 p.m. or 10:00 p.m. Sunday-Thursday rather than 2:00 a.m. on Friday and Saturday.

All public comments that were received by staff in writing are also documented and archived with the project file.

Chair DiDomenico asks the public if they have any comments.

Dr. Taylor expressed his concern over the noise issue for the last 26 years in the community. He does not believe the noise in the community is healthy with the children and elderly living there. Chair DiDomenico asked Mr. Taylor where his neighborhood is located, and he stated that he is north of Baseline Road. Chair DiDomenico asked Mr. Taylor if he had any luck reaching out to the resort regarding their noise. Mr. Taylor stated that he had not reached out to the resort. Commissioner Schwartz asked Dr. Taylor if there are specific examples of Aunt Chilada's having any events that have disturbed his neighborhood. Dr. Taylor stated that in the past he has, however not since Covid. He is concerned that things might pick up now.

APPLICANT RESPONSE:

Ms. Lewkowitz stated that any noise in the past has not come from Aunt Chilada's. They do not hold concerts and music is limited to a private event. Current operating hours of the restaurant are Sunday-Thursday 11:00 a.m.-9:00 p.m. and Friday and Saturday 11:00 a.m.-10:00 p.m. Private events may go until 11:00 p.m. or 12:00 a.m. Commissioner Spears referenced one of the letters stating that the restaurant showed they would be open six days a week and asked that if they are operating as a restaurant or bar, why would they not be open seven days a week. Ms. Lewkowitz stated that they would like to be open seven days a week but currently are Wednesday-Sunday. Chair DiDomenico asked Ms. Lewkowitz if her or her client would be willing to reign in the time limit of 2:00 a.m./ seven days a week to something more neighborhood friendly (example 10:00 p.m. Sunday-Thursday and 12:00 a.m. Friday and Saturday). Ms. Lewkowitz stated that they would be agreeable to that. Chair DiDomenico asked Ms. Lewkowitz if she would be willing to have staff revisit the Use Permit in six months to verify if there were any noise complaints and she stated she would.

Mr. Lee Jimenez stated that if this is approved and Aunt Chilada's becomes a bar and has entertainment there is an additional layer of security. Aunt Chilada's would have to meet Tempe Crime Prevention and create a security plan.

Chair DiDomenico would like to modify Condition of Approval No. 2 that has the blanket 8:00 a.m.-2:00a.m./ 7 days of the week for entertainment and have it resemble something that is typically done with a staggered time based on days of the week. Additionally, he would like to see a revisit of the Use Permit in six months from now to see how it is working. Mr. Jimenez stated that condition No. 2 can be modified to outline that hours of operation for the entertainment use should end no later than 10:00 p.m. Sunday-Thursday, 2:00 a.m. on Friday and Saturday, and condition that they return in six months to revisit the Use Permit. Commissioner Spears asked if staff could review the Use Permit in six months instead of the applicant returning to the DRC unless there is an issue. Mr. Jimenez stated that condition No. 2 can be modified to be an administrative review and it would be on Commission agenda only if there is any concern after administrative review. Chair DiDomenico asked the applicant if the conditions were acceptable to move forward and she stated that they were.

Motion: Motion made by Commissioner Spears to approve PL210336 with modified Conditions of Approval and seconded by Commissioner Schwartz

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Spears, Forte, Schwartz, and Corbett.

Nays: None

Abstain: None

Absent: Commissioner Lloyd

Vote: Motion passes 7-0

7. Request an Amended Planned Area Development Overlay; a Use Permit to allow residential use in the CSS RCC zoning district; and a Development Plan Review for a new five-story multi-family development consisting of 591 dwelling units on 16.8 acres for **EMERALD MULTIFAMILY**, located at 1607 West Commerce Drive. The applicant is Berry Riddell, LLC. **(PL220008)**

PRESENTATION BY APPLICANT:

Ms. Wendy Riddell, Berry Riddell LLC, gave a brief presentation on the request.

Chair DiDomenico asked Ms. Riddell to speak more about the walkability between the project and future development. Ms. Riddell stated that the piece to the South of the project will be developing as commercial. There will be crosswalks and sidewalks to be connected.

Commissioner Schwartz asked if any of the proposed access points will have signals. Ms. Riddell stated that there is currently a signal at Priest and Commence Drive and no additional signals are proposed as part of this development.

Commissioner Spears asked if there was a rendering of the parking garage. Ms. Riddell stated that the parking garages are wrapped by the units. Residents will be looking outward and parking garages will be inward. Garages are fully screened from perimeter.

Vice Chair Johnson asked if there were rooftop and ground floor amenities and Ms. Riddell stated there would be.

PRESENTATION BY STAFF:

Ms. Karen Stovall gave an additional overview of the project and requests being made by the applicant. Staff is requesting approval with conditions, to provide a maximum 20% opening for metal screen trash chutes.

PUBLIC COMMENTS:

Mr. Nolan Williams, Tempe resident stated he is in favor of this development as he would always encourage friends and family to move to Tempe.

Ms. Suparna Dasgupta, Principal Planner, stated that Commissioner Miller commented that the design could be more inspiring.

COMMENTS AND DECISION FROM THE COMMISSION:

Commissioner Spears shares the concern about the design as well as the traffic signal as there are times of traffic congestion currently in the area.

Vice Chair Johnson expressed concern over the design of the project and the amount of artificial turf where pedestrians will be walking. He asked if that can be reduced. Ms. Stovall clarified that there is no artificial turf proposed outside of the building. There is existing landscape berms with turf along a lot of the street frontages, but she does not see any on the plans. Vice Chair Johnson stated that he misinterpreted the hash marks on the renderings.

Commissioner Schwartz agrees the project can use some additional architectural design.

Chair DiDomenico stated a concern of the City continuing to take developable property out of the tax base. When the City takes retail property space that is planned for office and hotels and then turn it into apartments instead, we are doing a long-term disservice to the economics of running our City. Chair DiDomenico did note that his comments about residential development in commercially designated areas is not specifically to this particular one and if ever there is a site that fits, it is this one as the mixed-use they are looking for is there already.

Motion: Motion made by Commissioner Cassano to approve and seconded by Vice Chair Johnson
Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Forte, Schwartz, and Corbett.
Nays: Commissioner Spears
Abstain: None
Absent: Commissioner Lloyd
Vote: Motion passes 6-1

8. Request an Amended Planned Area Development Overlay and a Development Plan Review for a new 21-story, mixed-use development consisting of 352 dwelling units and commercial use on 2.23 acres for **LINCOLN SOUTH BANK**, located at 1122 East Vista del Lago Drive. The applicant is Snell and Wilmer, LLP. **(PL220072)**

PRESENTATION BY APPLICANT:

Mr. Nick Woods, Snell & Wilmer, representing Lincoln, gave a presentation on the request. The property will consist of a leasing office, building center and retail. The property will have studios-3 bedrooms. 577 parking spaces will be available at the property. No stucco will be used on the outside of the buildings. The landscape area between the property and lake will have to be approved by flight control. There will be 18 workforce housing units, 10 charging stations, 29-30 guest parking spaces on ground level, 55 guest parking spaces on the top level.

Chair DiDomenico asked about the sunshade and if it could be mounted to the south side of the sidewalk due to the sun. Mr. Woods stated that due to the sewer it cannot be moved. They could possibly move the canopy out further. Chair DiDomenico asked if the staff made any suggestions that Mr. Woods was not able to accommodate or did not work. Mr. Woods stated that pick up and drop off area was not able to be accommodated. Pick up and drop off will be located by the lobby inside the property and not on the street. Chair DiDomenico stated that the retail area was under 1%. He stated that we continue to build on the lake and yet no restaurant or bar is built so that someone can view the lake from inside. Only the residents will be able to enjoy the view of the lake. Mr. Jim Paton, Lincoln Property Company, stated that he worked with staff and viewed what is there today. He advised that when you look at the city of Tempe there is a need for residential. Mr. Woods stated there is a retail side on the eastern side of the building that they may be able to add to.

Vice Chair Johnson asked if there is a possibly to add more electric car parking in the future and Mr. Woods stated there was.

STAFF PRESENTATION:

Ms. Karen Stovall, Senior Planner, gave an additional overview of the project and requests being made by the applicant. Staff is recommending an approval subject to Conditions of Approval. Ten (10) electric vehicle spaces with charging stations are to be maintained by owner. Development Plan Review for landscaping North of the multi-use paths and proposed guest spaces on ground floor remain unrestricted. Ms. Stovall responded on relocating the canopy and advised that due to the large utility lines underground, the applicant worked with staff on the canopy that would be acceptable to the City.

PUBLIC COMMENTS:

Nolan Williams, Tempe resident. In favor of this project.

COMMENTS AND DECISION FROM THE COMMISSION:

Commissioner Spears states she hopes this project gets built and looks forward to it being completed.

Commissioner Schwartz is appreciative of the material on the 5-story wood structure and stated it is a great addition to the project.

Chair DiDomenico stated that he does not have an issue with what is in the drawings only with what is missing. We are missing an opportunity to invite the public down to the lake. He will not be voting in favor of the project.

Commissioner Spears asked if we could stipulate that they must have additional space dedicated to retail or vote for a continuance. Chair DiDomenico stated we can stipulate that, but it is a big ask for the applicant on the spot. He stated the Commission must define what the stipulation is. Mr. Woods stated that if any significant changes are made, the plans would need to start over. Retail could be wrapped around the game event area to add outdoor dining. Chair DiDomenico encourages developers to add more to sites on the water. Mr. Woods stated they can commit to 4,000 SF feet of retail space.

Motion: Motion made by Commissioner Schwartz to approve PL220072 with the Condition to increase the retail space to 4,000 SF and seconded by Commissioner Spears.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Spears, Forte, Schwartz, and Corbett.

Nays: None

Abstain: None

Absent: Commissioner Lloyd

Vote: Motion passes 7-0

9. Request for code text amendment to the **ZONING AND DEVELOPMENT CODE**, consisting of clarifications, modifications and additions to various sections of the code. The applicant is City of Tempe. **(PL220132)**

STAFF PRESENTATION:

Mr. Ryan Levesque, Deputy Director Community Development, gave a brief presentation of the requests being made. Mr. Levesque gave an example of the parking ratios. 2 parking spaces are required for up to 5 bedrooms. If there are 6 or more bedrooms a third (3rd) onsite parking would be required for that site. Example: If the carport or garage was converted into a livable space and the additional parking could not be accommodated a Use Permit would be required. Commissioner Schwartz asked about a non-conforming use, for example a smoker outside of a restaurant, and asked what happens in the case where the tenant is already doing that. Mr. Levesque stated that if they are already in operation, they will be able to continue to use the current Use Permit. If the site of business goes away for over one (1) year, then they would need to comply with the current standards.

Chair DiDomenico acknowledged that this text amendment was a lot of work and staff did great work.

Motion: Motion made by Vice Chair Johnson to approve PL220132 and seconded by Commissioner Cassano.

Ayes: Chair DiDomenico, Vice Chair Johnson, and Commissioners Cassano, Spears, Forte, Schwartz, and Corbett.

Nays: None

Abstain: None

Absent: Commissioner Lloyd

Vote: Motion passes 7-0

PUBLIC COMMENTS: None

COMMENTS AND DECISION FROM THE COMMISSION:

None

Announcements:

Ms. Suparna Dasgupta, Principal Planner, advised the Commission on the status of Time Out Lounge at 3129 South Mill Avenue. Time Out Lounge was given a six-month Administrative Review timeframe. In May it was reviewed with Tempe Police Department and there were no complaints. Ms. Dasgupta will also review with outgoing Commissioners. There will be two (2) meetings in August. The first meeting is on August 9, 2022, there are two agenda items. The second meeting is on August 23, 2022. There are no study sessions to presentations planned to date.

Chair DiDomenico and Commissioners congratulated Commissioner Johnson for becoming Vice Chair and welcomed the new Commissioner Miller.

There being no further business the meeting adjourned at 7:58 p.m.

Prepared by: Jennifer Daniels, Administrative Assistant II

Reviewed by: Suparna Dasgupta, Principal Planner

A handwritten signature in cursive script, appearing to read "Suparna Dasgupta".