

MINUTES OF THE DEVELOPMENT REVIEW COMMISSION JANUARY 12, 2010

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

Commission Present:

Mike DiDomenico, Acting Chair
Stanley Nicpon
Monica Attridge
Tom Oteri
Dennis Webb
Paul Kent

Commission Absent:

Vanessa MacDonald, Chair
Heather Carnahan
Peggy Tinsley
Mario Torregrossa

City Staff Present:

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Lisa Lathrop, Administrative Asst. II

Acting Chair Mike DiDomenico called the meeting to order at 6:00 p.m., which included the introduction of the Commission. It had been determined in Study Session that Item No. 2 would be continued and Item 3 would be heard.

1. **CONSIDERATION OF MEETING MINUTES: 10/27/09**

On a motion by Commissioner Oteri and seconded by Commissioner Webb, the Commission with a vote of 5-0 (Nicpon abstained) approved the minutes of October 27, 2009.

2. Request for **FRY'S FUELING CENTER (PL090086)** (Tempe School District 3, property owner; Daniel Filuk, KDF/JMS Architects, applicant) consisting of a single-story 5000 square foot canopy and fuel service facility with kiosk, on a portion of 10.596 net acres, located at 3255 South Rural Road in the PCC-1, Planned Commercial Center District. The request includes the following:

DPR09226 – Development Plan Review including site plan, building elevations and landscape plan.

ZUP09170 – Use Permit for retail fuel sales.

STAFF REPORT: [DRCr_Fry'sFuel_011210.pdf](#)

On a motion by Commissioner Kent and seconded by Commissioner Attridge, the Commission with a vote of 6-0 continued this case to the February 23, 2009 hearing.

REGULAR AGENDA

3. Appeal of the December 15, 2009 Hearing Officer's decision to deny the request by the **WEILER RESIDENCE (PL090382)** (Robert Weiler, applicant/property owner) located at 1929 East Apollo Avenue in the R1-7, Single Family Residential District for:

UPA09003 – Use Permit appeal (ZUP09145) to allow a recreational vehicle to be parked in the front yard setback.

STAFF REPORT: [DRCr WeilerRes 2 011210.pdf](#)

This case is presented by Sherri Lesser and represented by Robert Weiler, applicant/property owner. Mr. Weiler made a brief presentation which addressed his key points in requesting this appeal of the Hearing Officer's December 15, 2009 decision. Mr. Weiler stated that he had contacted the City, prior to purchasing the trailer ten years ago, to inquire as to the requirements which would allow the parking of the trailer at his home. He indicated that he was told that the vehicle needed to be parked on either a concrete slab or on a gravel surface and that it may not protrude into the sidewalk/right of way area. Mr. Weiler presented current photos and included a petition to indicate that he has the support of the neighborhood. Two neighbors addressed the Commission and spoke in support of this appeal.

Acting Chair DiDomenico clarifies with staff that should the Use Permit be granted and the conditions change, i.e., a new trailer is purchased or the condition of the trailer deteriorates, that Use Permit becomes invalid and the applicant would be required to apply for a new Use Permit.

Commissioner Nicpon stated that he is in support of the Use Permit for many reasons; the trailer is well maintained, it will not be on the premises 365 days of the year, there appears to be no opposition from the neighborhood and doesn't feel that by granting Mr. Weiler a Use Permit that there will be an influx of requests for Use Permits for recreational vehicles on his street.

Commissioner Kent spoke about the General Plan and that the stipulations for a Use Permit are placed in the Code for specific reasons, but felt this case is unique enough and would support the appeal.

Commissioner Webb spoke in reference to the petition and how it is viewed by the Commission as an inaccurate measure of opposition and that many neighbors feel obligated to sign petitions. Commissioner Webb stated he cannot support the appeal.

Commissioner Oteri stated that it has been his experience in his work around the City that trailers, boats, etc. are in more driveways and yards in declining neighborhoods and does not support the appeal.

Chair DiDomenico also made reference to petitions not being an accurate measure of neighborhood support and that neighbors often sign petitions not because they are in support, but often it is because they have to live in the neighborhood. He also stated that the lack of opposition by email or appearance before the Commission makes a much bigger impression.

On a motion by Commissioner Nicpon and seconded by Commissioner Kent, the Commission voted 3-3 in favor of the appeal (Commissioners Nicpon, Kent and DiDomenico in favor/Commissioners Attridge, Oteri and Webb opposed). Due to lack of majority, the appeal is denied and the Hearing Officer's decision is upheld.

4. **ANNOUNCEMENTS** - None

The hearing adjourned at 7:15 p.m.

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



Lisa Collins, Deputy Development Services Manager

APPROVED