

MINUTES OF THE
DEVELOPMENT REVIEW COMMISSION
DECEMBER 14, 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, Chair
Dennis Webb, Vice Chair
Monica Attridge
Tom Oteri
Stanley Nicpon
Paul Kent
Kolby Granville (alternate)

Commission Absent:

Peggy Tinsley (alternate)
Mario Torregrossa (alternate)

City Staff Present:

Lisa Collins, Deputy Director Community Development
Teresa Voss, Assistant City Attorney
Steve Abrahamson, Planning & Zoning Coordinator
Kevin O'Melia, Senior Planner
Ryan Levesque, Senior Planner
Lisa Novia, Administrative Asst II

Chair DiDomenico called the meeting to order at 6:00 p.m. and introduced the Commission as well as City staff. It had been determined at the Study Session that Item Nos. 2 and 4 would be placed on the Consent Agenda and Items 3 and 5 would be heard.

1. **CONSIDERATION OF MEETING MINUTES: 10/26/10, 11/9/10**

On a motion by Commissioner Oteri and seconded by Commissioner Attridge, the Commission with a vote of 6-0 (Commissioner Granville abstained) approved the minutes of the October 26, 2010 meeting.

On a motion by Commissioner Granville and seconded by Commissioner Kent, the Commission with a vote of 5-0 (Commissioners Oteri and Nicpon abstained) approved the minutes of the November 9, 2010 meeting.

CONSENT AGENDA

On a motion by Commissioner Webb and seconded by Commissioner Kent, the Commission with a vote of 6-0 (Commissioner Nicpon recused from voting on Item 4) approved the Consent Agenda as recommended in the following staff reports (note the modification to Condition 15 for Item 2):

2. Request for **PHOENIX PUMPS (PL090460)** (Don Vise, Phoenix Pumps, Inc., property owner; Michael Jorgensen, Cawley Architects, Inc., applicant) consisting of a two story building containing light manufacturing, office and warehouse functions of +/-36,018 s.f. on a +/-2.27 net acre site and located at 1212 North McClintock Drive in the CSS, Commercial Shopping and Services District, the GID, General Industrial District and the RSOD, Rio Salado Overlay District. The request includes the following:

GEP10002 (Resolution No. 2010.140) – General Plan 2030 Projected Land Use Map Amendment from Commercial to Industrial Land Use.

ZON10002 (Ordinance No. 2010.44) – Zoning Map Amendment from CSS, Commercial Shopping and Services District to GID, General Industrial District.

DPR10185 – Development Plan Review including site plan, building elevations and landscape plan.

ZUP10124 – Use Permit Standard to allow a twenty percent (20%) street side yard setback reduction from 25.0 ft. to 20.0 ft.

SBD10021 – Preliminary Subdivision Plat to unify eight (8) parcels and dedicate public right of way.

STAFF REPORT: [DRCr_PHXPUMPS_121410.pdf](#)

Modified Condition No. 15 to read as follows:

15. Locate electrical service entrance section (S.E.S.) on the west side of the building inside the service yard, as indicated. ~~Provide masonry fin walls on the north and south sides of the service entrance section. Match the height of the top of these walls to the top of first horizontal paint band above the S.E.S. Connect the top ends of the masonry fin walls with a masonry spandrel. Match the depth of the spandrel to the depth of the horizontal paint band. Paint the exposed wall surfaces to match the adjacent building surfaces~~ **IF S.E.S. IS RELOCATED TO ANOTHER PART OF THE BUILDING, RECESS THE CABINET BODY INSIDE THE BUILDING.**
4. Request for **SANDRA DAY O'CONNOR HOUSE (PL100333)** (City of Tempe, property owner; Tempe Historic Preservation Office, applicant) consisting of the Historic Designation and Listing of the Sandra Day O'Connor House, originally constructed in Paradise Valley and relocated to Tempe Papago Park, on one (1) lot of approximately 0.763 acres and located at 1230 North College Avenue in the R1-6, Single Family Residential District and the RSOD, Rio Salado Overlay District. The request includes the following:

HPO09002 (Ordinance No. 2010.45) – Historic Designation and Listing in the Tempe Historic Property Register for the house located on 0.763 acres.

STAFF REPORT: [DRCr_OConnor_HistDesig_12142010.pdf](#)

3. Request for **ALL SAINTS CATHOLIC NEWMAN CENTER (PL100304)** (Roman Catholic Diocese of Phoenix, property owner; Phoenix Design Group, applicant) consisting of a new chapel building with offices, social hall, classrooms and a residence, all within approximately 34,300 s.f. of building area, while maintaining the existing church (Old Saint Mary's Church) on approx. 0.72 acres, located at 230 East University Drive in the CC, City Center District, Transportation Overlay District, Historic Designated Property, and within a Planned Area Development Overlay. The request includes the following:

DPR10173 – Development Plan Review including site plan, building elevations and landscape plan

STAFF REPORT: [DRCr AllSaintsNewmanCtr 121410.pdf](#)

Commissioner Kent recused himself from this case, but remained seated on the dais.

Ryan Levesque, Senior Planner, made an abbreviated presentation. Chair DiDomenico, seeing no one from the audience who wished to speak on this case, opened it for Commissioner comments.

Commissioner Granville wished to speak in regards to transit issues on University Drive as well as on College Avenue. Commissioner Granville indicated he felt this would be an opportunity to provide a bus pull out on the south side of the Newman Center where a very busy bus stop already exists. He indicated that there is an even greater issue on the east side of this project, which is the west side of College Avenue. College Avenue is a single lane road and due to the high volume of pedestrian traffic, only one vehicle may be able to make a right turn on a light. He also indicated there is a pull out for a fire lane, so many people pull into that fire lane thinking it is a right hand turn lane, and therefore cause more issues when trying to pull back into traffic after it is realized that it is not a full turn lane.

Commissioner Oteri questioned staff in regards to the efficiency and sustainability of the building.

Trevor Barter of Espiritu Loci spoke in regards to the design of the new sanctuary and indicated that they are not building to any particular energy standard in an effort to construct an affordable building. As the long term owners and users, they are concerned in regards to the long term maintenance and sustainability of the building.

On a motion by Commissioner Nicpon and seconded by Commissioner Oteri, the Commission with a vote of 6-0 (Commissioner Kent abstained) approved this Development Plan Review as recommended in the staff report.

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5. Request for **AZ MEDICAL MARIJUANA ACT (PL100378)** (City of Tempe, Community Development, applicant) consisting of changes within the Zoning and Development Code regarding Proposition 203, a voter-approved initiative for the legalization of Medical Marijuana. The request includes the following:

ZOA10003 – (Ordinance No. 2011.01) Code Text Amendment for Sections 3-102, 3-202, 3-302, 3-426, 6-313, and 7-114.

STAFF REPORT: [DRCr MedicalMarijuanaAct 121410.pdf](#)

This case was presented by Ryan Levesque. Mr. Levesque spoke in regards to the proposed code text amendments, which include separation requirements for churches, schools, from other dispensaries and cultivation facilities, child care facilities, public parks, libraries, public community buildings and residential districts.

The proposed separation requirements would be 1,320 feet, as well as a 500 foot separation from residential districts. These distance separation requirements are similar to requirements found in the current ordinance.

The proposed operation requirements are set forth to take into consideration the health, safety and welfare of the citizens of Tempe and the patrons that frequent the establishments. The requirements proposed include the facility be a permanent building, maximum tenant size based on a secure exterior doorway for the purpose of ingress and egress of the facility, no drive through facilities will be permitted, limiting the business hours between 8 a.m. and 6 p.m., disposal and security plans on file and control of dust, odors or vapors.

Commissioner Oteri asked if the security issues apply to both the dispensaries and the cultivation facilities and if the hours of operation were for all seven days of the week. He also indicated that there may be the need to create a definition in regards to what a "permanent" building is.

Mr. Levesque indicated yes, the security issues are for both facilities and the hours of operation included all seven days of the week.

Chair DiDomenico brought up the concern that the hours may be too limited for the cultivation of the plants and that someone might be needed onsite outside of the 8-6 hours of operation.

Commissioner Granville inquired as to the County islands and if those locations are able to house dispensaries and how the separation requirements are affected in relationship to ASU residence housing.

Mr. Levesque indicated that the County is looking to include in their Ordinance verbiage that would limit dispensary locations to their C-2 and C-3 districts with a 1500' separation requirement from schools, churches, public parks, daycare centers and adult oriented businesses or another dispensary. The offsite cultivation has a 500' separation requirement from schools for daycare centers.

Mr. Levesque also stated that the Commission's question in regards to residential uses had been addressed and the code proposal now includes a 500' separation from the property line of a parcel solely devoted to residential use, such as dormitories.

Commissioner Oteri asked for clarification regarding the single doorway requirement and the size limitation of the allowable space according to building code.

Mr. Levesque indicated that if the entire facility space was mercantile, 1470 s.f. would be the maximum size allowed. As an example, a site was looked at that could have retail, storage and an area dedicated to growing, which would be identified as agricultural. Based on the occupancy and building code requirements, this size tenant space is approximately 3100 s.f.

Chair DiDomenico opened the hearing to public input.

Thirteen people spoke and five comments were read into the record by Chair DiDomenico. Comments made by citizens centered around the proposed separation requirements being too restrictive, especially as it relates to residential districts; separation requirements versus use permit process, access, security requirements and restricted hours of operation. One gentleman commented that in order to produce 600 lbs of product, it requires a growth space of 6000 s.f.

Chair DiDomenico closed the hearing to public input.

Mr. Levesque indicated the requirement for one entry is not an interpretation of state law but a proposed regulation for security measures for both the patrons and employees. He also spoke in regards to separation requirements versus use permit and indicated that due to the time constraints placed on the public hearing and use permit process and the involvement and coordination with DHS, it's the recommendation of staff that we do not pursue a Use Permit process.

Mr. Levesque commented on the concerns regarding tenant size requirements and indicated that the Department of Health Services identifies dispensaries and also identifies the ability to have one offsite cultivation facility, so this would enable a business to cultivate more product and would increase the number of facilities statewide.

Chair DiDomenico asked staff to speak to the restrictive hours of operation and the idea that the dispensaries are being pushed to areas that pose a safety concern.

Mr. Levesque indicated that due to the residential separation requirement, it is primarily the regional parts of town that would allow this type of use. The restricted hours of operation were based on security issues and were recommended in association with the Police Department. Various cities have a variety of hours proposed, Tempe falls very much in the middle and wanted to keep business hours of operation to available daylight hours.

Ms. Collins indicated that the City is very concerned not only for the safety of the patrons but for the people who work at these facilities as well and wants to keep the activity limited to daylight hours.

Ms. Collins also addressed the concern in regards to the restrictive residential separation requirement. She indicated that Tempe's residential land area is large and staff feels it's important to separate uses and therefore there are a great many of areas where this use would not be allowed and that is what land use regulations and the Zoning and Development Code are in place to provide.

Commissioner Oteri questioned the security requirements proposed of removing hats, sunglasses, etc., as well as security cameras, etc.

Ms. Collins stated that when going through the security plan that these are the types of things required by the Police Department and we felt it was necessary to include this verbiage in the ordinance. She also indicated that the specifics of cameras, etc., had not yet been determined but that staff would be working with the Police Department.

Chair DiDomenico asked the Commission if they had any further questions or comments.

Commissioner Kent said he supported the ordinance but was concerned over the restrictive separation requirements in regards to residential districts.

Commissioners Attridge and Oteri support the ordinance as written.

Vice Chair Webb commented that we will have only three or four of the dispensaries in the City, they should be placed in the best locations and placed where the people want them located; not in industrial areas that may not be near a major thoroughfare.

Chair DiDomenico stated that he felt the ordinance requirements for cultivation is right on but felt that it is too restrictive in regards to the dispensaries and hours of operation and separation requirements.

Commissioner Granville stated that he is concerned in regards to "grandfathering" and if this ordinance is not done right the first time that any mistakes will not be able to be corrected due to dispensaries and/or cultivation facilities already being in place. He indicated he felt it is better to start out more restrictive.

On a motion by Commissioner Kent and seconded by Commissioner Attridge with a vote of 5-2 (Chair DiDomenico and Vice Chair Webb opposed) recommended approval of the Code Text Amendment.

6. ANNOUNCEMENTS

The hearing adjourned at 8:40 p.m.

Prepared by: Lisa Novia, Administrative Assistant II
Reviewed by: Lisa Collins, Deputy Director Community Development Department



Lisa Collins, Deputy Director Community Development Department

APPROVED