

## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION FEBRUARY 14, 2012

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

### Commission Present:

Mike DiDomenico, Chair  
Dennis Webb, Vice Chair  
Monica Attridge  
Tom Oteri  
Peggy Tinsley  
Kolby Granville  
Nick Miner  
Jim Delton

### Commission Absent:

Paul Kent

### City Staff Present:

Lisa Collins, Deputy Director Community Development  
Steve Abrahamson, Planning & Zoning Coordinator  
Ryan Levesque, Senior Planner  
Kevin O'Melia, Senior Planner  
Sherri Lesser, Senior Planner  
Diana Kaminski, Senior Planner  
Lisa Nova, Administrative Asst. II

Chair DiDomenico called the meeting to order at 6:05 p.m., which included the introduction of the Commission and City staff. It had been determined at the Study Session that Item Nos. 2 and 5 could be placed on the Consent Agenda and Item Nos. 3, 4 and 6 would be heard. Item No. 6 was moved and would be the first case heard for the evening.

### **1. CONSIDERATION OF MEETING MINUTES: 1/24/12**

On a motion by Commissioner Miner and seconded by Commissioner Tinsley, the Commission with a vote of 6-0 (Commissioner approved the minutes of the January 24, 2012 meeting.

### **CONSENT AGENDA**

On a motion by Commissioner Tinsley and seconded by Commissioner Granville, the Commission with a vote of 7-0 approved the Consent Agenda as proposed in the following staff reports, with a modification to Condition No. 1 for Item No. 5, 1407 E McKellips, as reflected below.

2. Request for **MCDONALD'S RESTAURANT (PL110290)** (Greg Kozlowski, McDonalds USA LLC, property owner; Scott Rasmussen, Synectic Design, Inc. applicant) consisting of demolition of existing restaurant and site features and replacement with a one story, +/-4,700 sf. restaurant with drive through lane, parking and landscape on a +/-0.86 acre site. The site is located at 1740 East Elliot Road in the PCC-1, Planned Commercial Center Neighborhood District. The request includes the following:

**DPR11232** – Development Plan Review including site plan, building elevations and landscape plan

STAFF REPORT: [DRCr McDONALDS ELLIOTT 021412.pdf](#)

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5. Request for **1407 E. MCKELLIPS (PL110395)** (Mike Anton, property owner; Alan Beaudoin, LVA Urban Design Studio, Applicant) consisting of a Zoning Map Amendment for the construction of a new one- story, +/-4,200 sf. office building with a storage/staging yard, parking and landscape on a +/-0.74 acre site. The site is located at 1407 East McKellips Road. The request includes the following:

**ZON11009 (Ordinance No. 2012.09)** – Zoning Map Amendment from the R-3, Multi-family Residential Limited District to the GID, General Industrial District.

STAFF REPORT: [DRCr 1407EMCKellips 021412.pdf](#)

- ~~1. A building permit shall be obtained on or before March 22, 2014 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.~~
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## REGULAR AGENDA

6. Appeal of the January 03, 2012 Hearing Officer's Decision to approve the request by **RIO SALADO CENTER – P J PROPERTIES (PL110435)** (Arnaldo Matos/P J Properties, applicant/property owner) located at 1290 North Scottsdale Road, Suite Nos. 120 – 122 in the PCC-1, Planned Commercial Center Neighborhood District for the following:

**UPA12005**– Use Permit appeal (ZUP11116) to allow a reception center with live entertainment.

STAFF REPORT: [DRCr PJProp 021412.pdf](#)

This case was presented by Sherri Lesser and represented by Lane Caraway (applicant for the appeal).

Commissioner Attridge questioned Ms. Lesser if there were any calls for service by the Police Department. Ms. Lesser indicated that this application is a new application and the calls for service were for a previous tenant.

Commissioner Granville asked staff if the owner and the tenant are the same entity and the contract is between the owner and the individuals renting the facility, how the individuals are held accountable to the contract. Ms. Lesser indicated she would allow the event coordinator to answer that question.

Mr. Caraway addressed the Commission and gave a presentation of his concerns with the history of this property and owner as it relates to noise, traffic and security. Mr. Caraway asked the Commission and staff to give a definition of an event hall, the hours of operation are going to be and if there will there be a security plan involved.

Chair DiDomenico asked Mr. Caraway to define noise and operation limits that he would like to see imposed on any user. Mr. Caraway indicated he would like to see the owner work with the neighborhood and build trust with the residents.

Chair DiDomenico opened the hearing to public input.

Darlene Justus addressed the Commission and gave a brief presentation of her experience as a resident living near this property. She indicated there have been fights with no supervision and issues with security. She stated that clubs in this location have negatively impacted the neighbors with loud music and other noise, loitering and parking in the neighborhood. Ms. Justus requested that certain stipulations be included to ensure that the intention of the event hall remains and should their business plan not work, that they not be allowed to modify the use without coming back before the Hearing Officer.

Ms. Justus indicated she wished to see the following included in the approval; no fees or tickets are to be sold for events as it was indicated events were by invitation only, that an approved security plan shall address team based events and the neighborhood be allowed to review that plan, that should there be a teen based event that they end the event at 11:00 p.m., base levels must be adjusted, no offsite valet parking, no retail/tobacco/pornographic sales, and a designated hall management person shall be a responsible point of contact and present at all events.

Chair DiDomenico stated for clarification purposes that the Use Permit expires in 12 months, there is no automatic renewal and the owner is not allowed to operate from month to month. The owner is required to come back before the Hearing Officer on a new application and prove they have operated appropriately and have followed the Conditions of Approval.

Chair DiDomenico asked staff to clarify the definition of an event hall and can teen events be held under that use. Ms. Collins indicated there is no specific definition for a reception hall but there is the definition of entertainment in the Zoning and Development Code. A teen dance club requires a Use Permit and it requires the approval of a business license through the City Council.

Chair DiDomenico questioned staff as to the stipulations that Ms. Justus would like included in the Conditions of Approval and would like to know if any of those concerns or situations could occur under the Use Permit as it was approved by the Hearing Officer.

Ms. Collins indicated that the Zoning and Development Code already has placed limitations as it relates to pornographic or adult uses and would not be allowed to operate in that location. The use will be regulated as it was presented in the application, as a reception hall for events such as weddings. If the Commission would like the applicant to further define the scope of what types of events will be occurring so additional conditions can be placed in the Conditions of Approval, it may do so.

Commissioner Granville asked staff to clarify if it would be permitted to rent the space out and charge for entry or ask for donations for entry, even though those tickets may have been purchased by teens.

Ms. Collins indicated she did not believe there would be anything to restrict that use.

Commissioner Attridge asked staff about security plans and if they are required.

Ms. Collins indicated that a police security plan is required in Condition No. 8 and it involves hours of operation and noise and use of the property. She also indicated that staff would be happy to have the neighborhood review the plan but it is approved by the Police Department and it is up to them what is included in that plan.

Ms. Lesser indicated that security plans typically ask for a number of security persons based on occupancy, that

management be on site during events and it includes contact information should the Police respond to a call.

Commissioner Attridge questioned staff regarding noise levels and how it is monitored. Ms. Lesser stated that it is identified in decibels and what is acceptable levels and different parts of the day or evening. Ms. Lesser also indicated that if multiple complaints are received, staff will go out after hours and monitor events.

Patti DeSlyvester and Kathryn Martin, representing the property owner, addressed the Commission and described their roles as it relates to the event hall. Ms. Martin indicated that people are not allowed to provide their own security and that either the on-staff security or a security company will provide event security. She indicated that a sound barrier has been placed to assist with the noise issue and the doors will not be allowed to remain open.

Chair DiDomenico questioned Ms. Martin about parking and hours of operation. She indicated that users may bring in their own valet but that there should be sufficient parking in the shopping center for guests. She also stated that events are to be over by 1:30 but the individual's renting the facility will be allowed to remain until 2:00 for cleanup and she and security will remain until everyone has left the premises.

Vice Chair Webb asked how they will enforce unruly behavior and Ms. Martin indicated that the security guards hired will be professionals and the Police will be notified.

Commissioner Oteri asked how many parking spaces were available for the event hall use. Ms. Lesser indicated that they have 271, the parking study indicated 270 spaces were required for an assembly use at this location.

Vice Chair Webb questioned what happens if they have more than 100 people in attendance and why this is noted in the contract.

Ms. Martin indicated that due to the parking and traffic concerns, they want to make sure that the individuals renting the facility are aware of the preferred entrance and exit and where people can park. She also indicated that although the occupancy of the building is 600, they are not expecting parties of more than 300 and are assuming that all 300 people will not arrive alone. They feel they have sufficient parking.

Commissioner Attridge questioned if they would be amenable to a Condition of Approval holding parties to 300. Ms. Martin and Ms. DeSlyvester indicated they have no issue with such a stipulation.

Chair DiDomenico closed the hearing to public input.

Mr. Caroway returned to the dais. In his final comments he indicated his concern over available parking onsite for events, teen parties and alcohol.

Chair DiDomenico stated his concerns regarding the definition of the use and the security plan. He indicated that he felt tighter hours were necessary, completely eliminate the ability for ticket sales where alcohol will be served and professional bartenders should be required. He also stated there should be professionally trained and licensed security and there should be restrictions on offsite parking for events.

Commissioner Granville agreed with Chair DiDomenico and stated that he could not support this case unless every event had an off-duty officer onsite.

Commissioner Attridge also stated her concern over parking availability.

Commissioner Tinsley asked staff how long it would take to finalize a security plan. Ms. Lesser indicated about two weeks.

Commissioner Tinsley also stated that she felt the currently owner is being penalized for past issues of other

owners and tenants but also felt as if they are taking some necessary steps in the right direction and doesn't feel there isn't any reason she could not support this case.

Commissioner Oteri asked if it would be possible to have the Hearing Officer give the Commission information on what factors the approval was based on.

Ms. Collins indicated that the minutes and the Hearing Officer video would be excellent tools to gather than necessary information from.

Chair DiDomenico asked the applicant if he understood the reasoning behind continuing the case and if he was in agreement.

Mr. Caraway does not have an issue with the continuance but is concerned that they will continue to have the same issues.

Vice Chair Webb wants to clarify that this case needs to stand on its own and shouldn't bear the baggage from past tenants and issues.

On a motion by Commissioner Tinsley and seconded by Commissioner Oteri, with a vote of 7-0 continued this case to the Wednesday, March 14, 2012 meeting.

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4. Request for **ARCHSTONE TEMPE (PL110386)** (Bruce Shapiro, WIDBPP-Loan Fund II LLC, property owner; Charles Huellmantel, Huellmantel & Associates, applicant) consisting of a new 234 unit multi-family residential development with two, three and four-story buildings, on approximately 7.8 acres, located at 1126 North Scottsdale Road in the GID, General Industrial District. The request includes the following:

**GEP11006 (Resolution No. 2012.19)** – General Plan Projected Land Use Map Amendment from “Commercial” to “Residential” and a Projected Residential Density Map Amendment from “Medium-High Density” (up to 25 du/ac) to “High Density” (greater than 25 du/ac) on 7.8 acres.

**ZON11008 (Ordinance No. 2012.08)** – Zoning Map Amendment from GID, General Industrial District to R-5, Multi-Family Residential High Density District on 7.8 acres.

**PAD11017 (Ordinance No. 2012.08)** – Planned Area Development Overlay to increase the maximum allowed building height from 50'-0" to 61'-0"; reduce the required front yard building setback from 20'-0" to 12'-0"; reduce the street side parking setback from 20'-0" to 18'-0" on Scottsdale Road and 17'-0" on Curry Road; and reduce the required vehicle parking from 479 to 432 spaces.

**DPR11216** - Development Plan Review including site plan, building elevations and landscape plan.

STAFF REPORT: [DRCr ArchstoneTempe 021412.pdf](#)

This case was presented by Ryan Levesque and represented by Charles Huellmantel, Huellmantel & Associates (applicant).

Mr. Huellmantel gave a brief overview of the project and wished to give the public the opportunity to speak so he could address their questions and concerns specifically.

Chair DiDomenico opened the hearing for public input.

Shannon Dutton, resident, spoke in support of the project and indicated that the only concern expressed at the North Tempe Neighborhood Association meeting was the issue of ingress/egress. It is their hope that traffic will be directed onto Rural (Scottsdale Road) and/or Curry Roads and not Weber Drive or College Avenue/68<sup>th</sup> Street.

Mr. Huellmantel indicated there is a cross access drive that is in existence today and it is not something that they have the authority to change. The main entrance is located on Curry Road and there is a gated exit for residents only at the north end of the site. Mr. Huellmantel stated that he doesn't feel Weber will be utilized as it's not a convenient way to travel.

Darlene Justus spoke in support of this case and stated she felt this development would be a great addition to the area and would also bring a positive change to the surrounding retail as well.

Jimmy Dubuu, Kim Loza spoke in support of the case.

Arnoldo Matos stated he was concerned regarding the safety of their customers as it relates to traffic through his property (1290 N. Scottsdale Road).

Lane Caraway also spoke in regards to traffic concerns in the adjacent neighborhood.

Chair DiDomenico closed the hearing to public input.

Mr. Huellmantel returned to the podium to address public comments. He stated that it was their intent to draft wording to be included in the Conditions of Approval which state this development shall remain zoned as Crime Free Multi-Housing per discussion with Darlene Justus and the North Tempe Neighborhood Association.

Commissioner Oteri asked if the Fire Department was in agreement with the ingress/egress.

Mr. Huellmantel indicated that the two points of access provide the best circulation for what is needed.

Commissioner Granville questioned the parking and the reasoning behind the parking reduction.

Mr. Huellmantel indicated several factors are looked at when determining parking at a development and one of the trade-offs for over parking is less landscape. He stated they have hired a traffic consultant who has analyzed the parking and they are extremely confident that enough parking has been provided.

Commissioner Granville asked why it would appear that multi-family housing developments come in under parked.

Mr. Huellmantel stated it is a very necessary exercise to take each individual development and verify parking and find the necessary number of required parking spaces. There are many factors that affect parking, so it's necessary to take each case, compare it to other similar developments to come up with the correct numbers.

Chair DiDomenico commended the applicant and indicated that this was a very comprehensive traffic study.

Commissioner Miner asked staff and the applicant how the rezoning will affect adjacent properties and their uses. There will be residential next to GID and next to PCC-1, there will be no uniformity in that corner. He stated that he is interested in being very careful to the fate of this intersection as it is a gateway property.

Ms. Collins stated that staff feels this will better provide for a mixture of uses and residential will encourage different types of retail or office uses and will have a positive impact. She also indicated that all rezonings have an impact on the surrounding properties and land use and if the property to the west that is currently zoned GID wanted to come in and do something different, we would have to look at that request and see if it will be an appropriate use in that area. As it stands now, staff does not feel that this rezoning will have a negative impact on the area or the future uses of the surrounding properties.

Mr. Huellmantel also stated that when those parcels were zoned GID, there was no Town Lake. Having the lake means that there will be, or should be, a shift in the possibilities and that had the lake been there, those areas most likely wouldn't have been zoned GID.

Vice Chair Webb supports the case.

Commissioner Miner stated he could not support the case and voiced his concern in regards to an apartment complex being placed on this corner and stated he believed this location has the opportunity to be much more and would like to have seen more of a mixed use component.

Chair DiDomenico applauded Commissioner Miner for looking at the bigger picture as this development relates to the surrounding properties but indicated that he views this as a mixed use corner, it's just not one developer or owner and the mixed use component can be achieved by incorporating this use with the surrounding existing or future uses.

On a motion by Vice Chair Webb and seconded by Commissioner Oteri, the Commission with a vote of 6-1 (Commissioner Miner opposed) recommended approval of the General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay and approved the Development Plan Review with a modification to Condition Nos. 2 and 12 as recommended by staff to read as follows:

2. A security plan is required along with participation in the Crime Free Multi-Housing Program.
12. Lunar Landing shall be replaced with a shade of gray subject to Planning staff review and approval.

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3. Request for **8<sup>TH</sup> & RURAL (PL110371)** (529 Tempe LLC, property owner; Charles Huellmantel, Huellmantel & Affiliates, applicant) consisting of a new 506 unit mixed-use residential development consisting of two phases, which will include two 20-story buildings with urban retail uses on the ground floor, totaling up to 465,695 sf. in building area on approximately 2.09 acres, located at 855 South Rural Road. The request includes the following:

**GEP11005 (Resolution No. 2012.18)** – General Plan Projected Land Use Map Amendment from “Commercial” to “Mixed Use” on 2.64 acres.

**ZON11007 (Ordinance No. 2012.07)** – Zoning Map Amendment from CSS, Commercial Shopping and Services District, R-4, Multi-Family Residential General District, and R/O, Residential/Office District to MU-4, Mixed-Use High Density District on 2.64 acres.

**PAD11015 (Ordinance No. 2012.07)** – Planned Area Development Overlay to establish development standards for 483 dwelling units; a maximum building height of 250'-0"; and reduce the minimum required vehicle parking from 970 to 571 spaces on 2.64 acres.

STAFF REPORT: [DRCr 8th&Rural 021412.pdf](#)

This case was presented by Ryan Levesque and represented by Charles Huellmantel, Huellmantel & Affiliates (applicant).

Commissioner Miner questioned staff as to the development of this property as it relates to an SRP canal easement and license agreement.

Mr. Huellmantel addressed the Commission and indicated there is a canal and property owners worked to realign the canal several years ago. He also indicated that SRP has seen the building plans and the property owners and SRP have come to an agreement in regards to a land-swap.

Commissioner Granville asked for clarification as to what the Commission is able to vote on due to the Development Agreement that exists on this property.

Mr. Levesque stated that after reviewing this agreement with the City Attorney's Office, the DDA describes a range of height that will ultimately be at the discretion of City Council to the final height allowed.

Commissioner Attridge questioned the overflow parking that will be allowed on 8<sup>th</sup> Street and stated she drove by there and there were already many cars parked along 8<sup>th</sup> Street. Mr. Levesque indicated that on street parking is allowed at this time and many students park there and walk to campus but that may change in the future.

Commissioner Miner asked if staff had been in communication with ASU during this process. Mr. Levesque indicated that they are actively involved in this project.

Chair DiDomenico opened the hearing to public input.

Charles Buss, resident, addressed the Commission with concerns regarding height and parking. He stated that his main concern is the parking and that when this project is built and the parking on 8<sup>th</sup> Street is taken by the residents at this location, the students that were parking previously on 8<sup>th</sup> Street will move further east into their neighborhood. He also indicated there is a 40% drop in the parking requirement for this project and that is of great concern as well.

Chair DiDomenico indicated that this project is within the Transportation Overlay District and the City will incentivize developers to not build parking at the same ratio it would be in another location away from public transportation or in a less urban setting.

Chair DiDomenico closed the hearing to public input.

Mr. Huellmantel returned to the podium to address concerns raised. Mr. Huellmantel stated that as the light rail becomes more popular, the ratios will drop and continue to drop. He indicated that this is a two-phase project and should the parking be an issue after the first phase is built, more parking will be added in the second phase. He also stated that at this time, this is a zoning request and they will be required to return to the Commission when the time comes for the Development Plan Review.

Chair DiDomenico asked Mr. Huellmantel if the two garages would operate separately or do they somehow come together once inside. Mr. Huellmantel stated that he was unsure at this time but would guess they would be separate.

Commissioner Miner asked if there would be a traffic signal installed at Terrace east of Rural and how that would impact light rail flow and traffic down Terrace. Mr. Huellmantel indicated that yes a signal would be put in and it was part of the Development and Disposition Agreement (DDA) and Metro Rail has agreed to that signal.

Commissioner Granville stated his concern in regards to stacking issues at that signal due to one lane each direction. Mr. Huellmantel indicated that there would be land taken to provide for bypass.

Commissioner Attridge questioned the lack of setback. Mr. Huellmantel stated that since the site is located in the TOD, it is a requirement to have less of a setback than they had initially planned. He also indicated that there would be significant pedestrian pathways, wider sidewalks and pedestrian plazas.

Commissioner Attridge stated her question centered on building setback. Mr. Huellmantel indicated that the City's main concern is the Elias-Rodriguez House and have the buildings as far away as possible from that structure. She also asked about indoor bicycle parking. Mr. Huellmantel stated that when you enter the unit there is a closet specifically designed for a bicycle. This will curtail bikes being stored on the balconies.

Mr. Levesque indicated that looking at the TOD standard, there is not a significant reduction in the parking requirement. Three-bedroom parking only has a .25 reduction and a two-bedroom unit has no reduction in spaces.

Commissioner Oteri stated he understood that Mr. Buss had an issue with the height, but unfortunately the City can only go up as we have very little land available.

Commissioner Attridge indicated that the chief complaint she hears from residents is about height and she felt that it's a great project but too high.

Commissioner Tinsley stated that she sees an advantage to the height. The height allows for more residents that are not living or parking in the neighborhoods.

Chair DiDomenico stated that he isn't as concerned as others regarding the height and he believed the economy will dictate the height and supports the case.

Vice Chair Webb agreed with Chair DiDomenico and supports the case.

Commissioner Granville commended Mr. Huellmantel on his presentation but cannot support the case simply because of the height and doesn't feel that 250 feet is appropriate for this area. He stated that the growing ASU numbers are not here in Tempe but at the other campuses.

On a motion by Commissioner Oteri and seconded by Commissioner Miner, the Commission with a vote of 5-2 (Commissioners Attridge and Granville opposed) recommended approval of this General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay as recommended in the staff report.

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## 7. ANNOUNCEMENTS

Chair DiDomenico announced there is a model available in the Planning Division for an upcoming case, the Ash Avenue Property Resurrection, and the Commissioners are welcome to view that at any time. He also requested that in future cases where there is a Development & Disposition Agreement already in place, that the Commission be given a copy of the agreement as part of the informational packet.

The hearing adjourned at 9:31 p.m.

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



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Lisa Collins, Deputy Director Community Development Department