

---

## MINUTES OF THE DEVELOPMENT REVIEW COMMISSION March 24, 2015

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

Commission Present:

Dennis Webb, Chair  
Paul Kent, Vice Chair  
Peggy Tinsley  
Linda Spears  
Ron Collett  
Trevor Barger  
Angie Thornton  
Jerry Langston, alt

Commission Absent:

Dan Killoren, alt.  
David Lyon, alt

City Staff Present:

Ryan Levesque, Deputy Director  
Larry Tom, Principal Planner  
Karen Stovall, Senior Planner  
Sherri Lesser, Senior Planner  
Diana Kaminski, Senior Planner  
Steve Nagy, Administrative Assistant II

Chair Webb called the meeting to order at 6:00 p.m., introducing the Commission and City staff. It had been determined in the Study Session that the minutes, from the 03/10/2015 Development Review Commission meeting, would be moved to the following hearing, and Items #2, #3, #4 would be heard.

### REGULAR MEETING AGENDA

2. Requests for a Development Plan Review consisting of two new apartment buildings containing 19 units, one Use Permit to allow tandem parking, and one Use Permit Standard to increase the maximum building height from 30' to 32' for **5TH AND HARDY APARTMENTS (PL140327)**, located at 1000 West 5TH Street. The applicant is Anthony Miachika, Pacific Rim Property Investments Ltd.

Karen Stovall presented the case by reviewing the history of the case and the changes that the applicant had made in response to the Commission's concerns at the item's first hearing.

Commissioner Spears asked about landscape coverage percentage changes, which Ms. Stovall clarified.

With no other questions of staff, Chair Webb called the applicant up.

Anthony Miachka and Tor Barsden presented by addressing what they interpreted to be the Commission's concern regarding parking. They then presented a 3D rendering of the site, addressed the tandem parking enforcement, and presented the increase in surface parking.

Chair Webb thanked the applicant for addressing their concerns from the previous hearing the case was heard at.

Jerry Langston clarified how the applicant planned on enforcing tandem parking. Mr. Miachka explained that the property management company he was using would assist with this by letting residents know that residents parking in visitor surface spots would be warned, and then towed. The management company would be on site on a weekly minimum, with the tow company coming more often.

Vice Chair Kent clarified the changes that had been made to the units, which increased tandem parking.

With no other question of the applicant, Chair Webb opened the Hearing to public comment.

1. Martha Rader, Tempe, expressed concerns over site drainage.

Karen Stovall addressed the concern by explaining that a conceptual drainage plan had been submitted by the applicant and it was up to them to implement it.

With no one else from the public wishing to speak on the case, Chair Webb closed the Hearing to public comment.

The Commission then discussed the case.

Vice Chair Kent expressed that he was initially concerned, but was satisfied with how the applicant had addressed the concerns of the Commission.

Commissioner Spears expressed that she felt that tandem parking is still an issue in Tempe, but is also satisfied with how the applicant addressed the concerns of the Commission.

Commissioner Barger moved to recommend approval of both requests to City Council. The motion was seconded by Commissioner Tinsley, and the motion passed 7-0.

3. Request for a Planned Area Development Overlay Amendment to establish development standards, a Use Permit for tandem parking, and a Development Plan Review for design of a 217-room hotel, office, retail and restaurant uses within approximately 900,000 s.f. of new development, including the preservation of the Hayden House for a future phase restaurant use for **MILL & RIO SALADO (PL140182)**, located at 100 South Mill Avenue. The applicant is Manjula Vaz, Gammage & Burnham PLC.

Diana Kaminski presented the case by reviewing the location and requests. She reviewed the detail changes from the original PAD to the current PAD Overlay request. She explained the phases through which the project would be built. Ms. Kaminski had received no calls in inquiry, and recommended approval.

Vice Chair Kent asked about how the amendment to the PAD would be handled with the new requirements for a hearing process for revert the zoning if the applicant did not build the project. Ms. Kaminski clarified the procedural question, explaining the process required to change the zoning back to the last standards entitled on the site if deadlines aren't met.

Commissioner Barger asked if the City of Tempe is responsible for monitoring compliance with the FAA. Ms. Kaminski explained the flight corridor requirement for the applicant to notify and receive clearance from the FAA, with a special form; based on the prior entitlement, this project is lower in height and should not be an aviation issue.

Commissioner Kent asked about the report outline of what was included or not included in the Development Agreement, and why this information was included. What happens if the existing Hayden House falls over during construction. Ms. Kaminski clarified that the report summary was intended to set the groundwork for why conditions of approval were recommended by the Historic Preservation Commission.

With no other questions of staff, Chair Webb called up the applicant.

Manjula Vaz, Phoenix, presented by introducing the team she had been working with on the project. She then reviewed the request, the site, and pointed out that the height of the building is consistent with the surrounding area. She then briefly reviewed the development proposal details and clarified the phases through which development would take place, and come together at the end.

Chris Sheers, Denver, then came up to the podium to review the approach they had taken in developing the concept for the project. He presented the site plan details, the elevations, material details and rendering of the finished development to the Commission.

John Southard, City of Tempe, Historic Preservation Officer, then came up to the podium and went over the Historic Preservation Process with the Commission. He noted how the applicant responded to address the concerns that had come up during the Historic Preservation Process, and reviewed how the remainder of the process would play out over the course of the development.

Vice Chair Kent clarified what areas will be removed and which will be preserved throughout the development phases.

Grady Gammage, Phoenix, then clarified that the phases referred to are entitlement phases, and not construction phases.

Chair Webb acknowledged to the Commission that they were only reviewing the Phase 1 entitlements at the hearing. Vice Chair Kent clarified his concerns.

Commissioner Barger asked for clarification on the materials used along the elevations facing Mill Ave. The project architect reviewed the materials using the materials board and model provided.

Vice Chair Kent asked about blank panel along the North elevations. The architect explained they provided a break from the patterns found along that elevation and provided opportunity for signage or art murals.

Commissioner Spears asked if any hotel signage location had been determined. The applicant replied it had yet to be determined.

Commissioner Barger asked the applicant if they would be willing to stipulate not closing 2<sup>nd</sup> St. and Maple during special events taking place on mill to provide a thru-way. Ms. Vaz agreed to this.

With no other questions of the applicant, Chair Webb opened the Hearing to public comment.

1. Karyn Gitlis, Tempe, expressed that she was pleased with how the project looked, and reiterated the importance for the Historic Preservation Process.

With no one else from the public wishing to speak on the case, Chair Webb closed the Hearing to Public Comment.

The Commission then discussed the project amongst themselves.

Commissioner Collett expressed that he liked the project, and was in favor of approving it.

Commissioner Thornton expressed that she thought it was a beautiful project, but had a concern about the increase in traffic that all of the cumulative new projects bring to downtown. She also shared the concern over the importance of the Historic Preservation Process.

Vice Chair Kent also liked how the project looks, and thinks it is a great project. He also expressed he would like some clarification on the perforated material covering the garage portion of the project.

Chair Webb deferred to staff on the material covering the garage area of the project. Ms. Kaminski provided clarification on the referred to material, and added the specifics to stipulation #47. Chair Webb then echoed Vice Chair Kent in his appreciation of the project, and shared his thoughts on how he believes it will make a great fit for what the community would like to see Tempe to look like in that area. Chair Webb concurred with Commissioner

Thornton's concern about cumulative development impacts on traffic, but feels that the more recent submittals have been more realistic in terms of scale and intensity, and less impactful than earlier entitlements. He thanked staff for keeping the projects coming through the Commission in check.

Commissioner Langston then moved to approve the case with the modification to the garage condition recommended by Commissioner Collette. Ms. Kaminski read into the record condition #47 that the perforated metal screening on the parking structure shall be 50-60% transparency. Commissioner Kent asked if Commissioner Barger had another condition to add, it was determined that the motion could proceed without further conditions. The motion was seconded by Commissioner Barger, and passed with a vote of 7-0.

4. Request for an Appeal of the Hearing Officer decision of February 17, 2015 for a Use Permit for operation of a brewery in the General Industrial Zoning District, a Use Permit for outdoor patio use, a Use Permit for outdoor vending (food truck service), a Use Permit for live entertainment, a Use Permit Standard for a reduction of the front yard setback, for DOG AND PONY BREW CO. (PL140471), located at 922 WEST FIRST STREET. The appellant is Larry Minchuk.

Diana Kaminski presented the case by reviewing the location of the site and the case history.

After clarifying the lots that the site consists of, and location of residences across the street, Chair Webb called up the appellant.

Larry and Susan Minchuck approached the podium and explained that they own 3 units directly across from the brewery, and have a vested interest in what happens in the neighborhood. Mr. Minchuck continued that he wanted to preserve a quiet neighborhood environment, and the brewery would not be compatible with this by bringing noise and light pollution to the area as well as unpleasant odors as beer ferments. He added that the sales of alcohol in the area pose a risk to the school children attending school in the area.

Chair Webb had the appellant point out which units he owned, which he did.

Commissioner Spears asked if the appellant was aware of any breweries in the area, which he confirmed he was not. Commissioner Spears indicated there were several within the area and clarified that unpleasant odors typically do not emanate from breweries and distilleries.

Commissioner Barger confirmed with staff that storm water retention requirements had been met.

Commissioner Spears confirmed with staff that not television or speakers would be on the patio facing the street.

Commissioner Langston confirmed alcohol sales were permitted on the site.

Commissioner Barger clarified permitting for food trucks, which Ms. Kaminski explained could be brought through via a Use Permit, or on a per event basis with a Special Events Permit.

The Commission also clarified that the Hearing Officer had stipulated that the Use Permit will be reviewed after 9 months.

Commissioner Barger asked if the appellant was aware that the area as a whole would become more lit at night as development continues. Mr. Minchuck acknowledged that he was aware of this, however, that light increase wouldn't be in the form of cars pulling in and out of the brewery at night, shining their lights on his units.

Chair Webb asked the appellant which rooms in his units would be facing the brewery. Mr. Minchuck replied it was the living rooms.

Commissioner Barger asked why there was no landscape in front of his units. Mr. Minchuck replied that the city encourages xeriscapes, and his trees were killed by disease, but a few trees were replanted.

Commissioner Barger asked how the sound coming from food truck on the site would be different than trucks coming and going in an industrial area. Mr. Minchuck replied that the Light Industrial Zoning designation limits such uses. Ms. Kaminski clarified that the area is zoned General Industrial. Commissioner Barger asked if there are any noise ordinances in the area, which Ms. Kaminski confirmed there were.

Vice Chair Kent, asked if Mr. Minchuck was aware that there were other establishments in the area that sold alcohol. Mr. Minchuck acknowledged this, but none that would be as close to his units as Dog & Pony Brew Co.

With no other questions of the appellant, Chair Webb opened the Hearing to Public Comment.

1. Ray Burke, Tempe, expressed concern over noise and drinking and driving that the brewery would bring to the area.

Chair Webb asked if Mr. Burke resided in one of the units. Mr. Burke replied that he did not.

Commissioner Spears confirmed that there will be security on the premises, and that it is in the best interest of the establishment to comply with the liquor license.

Chair Webb then called the applicant up.

Lindsay Schube, Phoenix, explained that the owner of the Brew Company has a history of integrating businesses into neighborhoods. This particular venture is a very small scale operation compared to some of the other businesses the appellant made references to. She continued to explain the difference between a bar and tasting room. She also added that parking was within compliance, and if any issues do arise, they can be addressed in February, 2016, when the Hearing Officer stipulated that a review of the Use Permits take place. Ms. Schube continued that the landscaping the applicant planned to put in would provide a sight and noise buffer. She also explained that the brewing process would take place indoors, and that there would be no TVs on the south patio. She also addressed the drainage concern, confirmed they were in agreement with, and fully intended to comply with the conditions.

Commissioner Collett expressed that he felt as though the purpose and proposal of the case are different, and asked for an explanation. Ms. Schube replied that she believed their purpose and proposal expresses a desire to create a pleasant atmosphere.

Vice Chair Kent expressed that he was not comfortable with the tasting room title and that it seemed more like a beer only bar. He then asked Ms. Schube if the applicant would be willing to work with neighbors to address concerns. Ms. Schube replied that they would be more than willing to do so.

Chair Webb clarified how long after operations would begin that the Hearing Officer Review would take place. Ms. Schube replied about 6 months.

Commissioner Barger asked how many occupants would be allowed on site at one time and how many parking spaces would be provided. Ms. Schube replied 46 occupants for the inside areas, and that 29 parking stalls would be provided.

With no other questions of the applicant, Chair Webb called the appellant back up.

Mr. Minchuck replied that he appreciated the applicant's efforts to address his concerns, but his concerns still existed. After some discussion with staff, and the applicant, Mr. Minchuck clarified that the 46 occupant figure was for

the interior, while another 26 occupants would be allowed in the patio areas for a total of 82 people, with only 29 parking spots provided.

Chair Webb asked for Mr. Minchuck's thoughts on the idea of a review after 6 months of operations. Mr. Minchuck thought this to be fine, but was concerned and unsure of what would happen following the review. Chair Webb replied that reviews can take place over and over to ensure Use Permits are being complied with.

Chair Webb then opened the Hearing to discussion amongst the Commission.

Commissioner Collett reviewed the Use Permit Criteria and expressed that he did not believe the criteria were being met: the brewery would increase both pedestrian and vehicular traffic with what is proposed (bar, patios with tvs, live entertainment and food trucks), nuisance from noise during non-standard commercial hours with live entertainment, the facility does not fit in a residential area, despite the industrial zoning it is not an entertainment area, the test of the criteria have not been met. He also expressed that he did not see consistency between what he viewed a tasting room to be, and what was being presented by applicant with all the additional requests.

Commissioner Spears stated that traffic on First Street has already increased by the approval of additional residences in the area. There is an existing distillery in the area and also has a small tasting room, but it has not increases traffic. She noted that the area was in transition with new establishments attracting a new type of resident. The project is conditioned to come back for another review. She also expressed that improvements to the site should be welcome.

Vice Chair Kent expressed that he saw both points of view made by Commissioners Collett and Spears, and also had concerns with the intensity of the project. He believed there was a lot on the site for simply a tasting room, but was overall ok with brewery and outdoor seating, but not sure that the other requested use permits are germane to the project. Not allowing the patio and the front yard setback would help limit the number of people on site, and the food trucks could be requested for special events intermittently.

Commissioner Barger expressed that he believes there to be no negative impact on the value of the properties across the street, but the applicant should still work with neighbors to address concerns. He also expressed that he would like to see straightforward conditions limiting occupancy, and noted that the front patio could serve as an asset to the neighborhood. Overall Commissioner Barger saw the project to be compatible with the area.

Commissioner Langston expressed that he thought the Hearing Officer did a good job of looking at the property rights of both sides, especially with the addition of the condition requiring a review after 9 months.

Commissioner Thornton also expressed that she thought the Hearing Officer did a nice job, and that the Commission was out of line by saying that the applicant is presenting something different than what was being requested. She noted that the applicant has a good track record, and she certainly takes that into account.

Commissioner Collet reiterated his previous points in regard to the characteristics of the request.

Commissioner Barger confirmed the procedure of voting on a request for an appeal, and asked how best to add limitation on occupancy. Larry Tom suggested limiting the number of seats in each particular area. The Commission decided they would defer to the numbers presented in the original letter of intent.

Commissioner Barger moved to deny all appeals brought forward, not including the appeal for the Use Permit allowing Food Trucks. The motion was seconded by Commissioner Spears, and the motion passed with a vote of 6-1 with Commissioner Collett in the dissent.

Vice Chair Kent moved to approve the Appeal of the Use Permit allowing Food Trucks, and the motion was seconded by Commissioner Collet. The motion passed with a vote of 6-1, with Commissioner Thornton in the dissent.

With no other announcements, the meeting was adjourned 9:30 p.m.

Prepared by: Steve Nagy, Administrative Assistant II  
Reviewed by: Larry Tom, Principal Planner

A handwritten signature in black ink, appearing to be 'LT', written over a horizontal line.

---

Larry Tom, Principal Planner