CITY OF TEMPE
REQUEST FOR COUNCIL ACTION

Council Meeting Date: 04/02/2015
Agenda Item: 6A4

ACTION: Hold a public hearing for the review of a Zoning Map Amendment and Planned Area Development Overlay for direction to permit a time extension or initiate the reversion of prior entitlements for LEMON MIXED USE DEVELOPMENT, located at 919, 1011, and 1019 East Lemon Street.

FISCAL IMPACT: There is no fiscal impact to City funds.

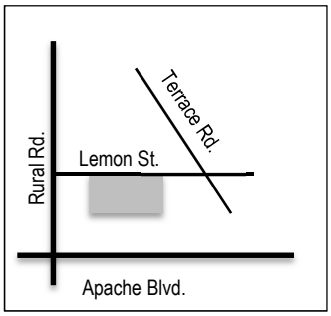
RECOMMENDATION: Not applicable

BACKGROUND INFORMATION: LEMON MIXED USE DEVELOPMENT (PL080449) is an approved project that includes three (3) mixed-use buildings with commercial and residential totaling approximately 694,000 s.f. of building area. The development includes 478 dwelling units and approximately 16,000 s. f. of commercial area on 5.73 acres. City Council approved this entitlement request on April 23, 2009 with a condition that a building permit application shall be made on or before April 23, 2012 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing. At this time the development team has not obtained or applied for building permits.

ZON09001 – (Ordinance No. 2009.14) Zoning Map Amendment from R-4 Multi-family Residential General District and CSS Commercial Shopping and Services District in the TOD Transportation Overlay District (Corridor) to MU-4 Mixed-Use High Density District in the TOD (Corridor)

PAD09001 – (Ordinance No. 2009.14) A Planned Area Development Overlay to modify the development standards to allow for a modification in the minimum TOD parking requirements from 1,425 spaces to 1,034 spaces; a proposed density of 83.4 dwelling units per acre; a maximum building height of 180'-0"; maximum lot coverage 70%; minimum landscape area 30%; and minimum building setbacks 0' front, 15' sides, 30' rear, and maximum 20' setback.

The current and former property owners and applicant were notified by certified mail with return receipt on March 2, 2015 regarding the expired conditional approval.



Current Property Owner	Lemon Street 232 LLC
Former Property Owner	Colgate Tempe 268, LLC
Original Applicant	Manjula Vaz, Gammage and Burnham PLC
Current Zoning District	MU-4 PAD TOD
Former Zoning District	R-4 TOD & CSS TOD
Gross/Net site area	5.73 acres
Max. Density	84 du/ac (478 units proposed)
Total Building Area	694,115 s.f. (15,340 s.f. commercial)
Max. Lot Coverage	70% of net site area
Max. Building Height	180'
Min. Building Setbacks	0' front w/20' max, 15' sides, 30' rear
Min. Landscape Area	30% of net site area
Min. Vehicle Parking	1,034 spaces provided (1,425 min. required per TOD)
Min. Bicycle Parking	597 spaces provided (597 spaces required)

ATTACHMENTS: Development Project File

STAFF CONTACT: Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director
Legal Review by: Teresa Voss, Assistant City Attorney
Prepared by: Karen Stovall, Senior Planner

COMMENTS:
Below is a comparison of the Zoning and Development Code Standards for the former zoning of R-4 TOD and CSS TOD districts and the existing entitled MU-4 PAD TOD district:

LEMON MIXED USE DEVELOPMENT – Comparison Table			
Standard	**R-4 TOD**	**CSS TOD**	**EXISTING MU-4 PAD TOD**
Residential Density (du/ac)	25 du/ac	25 du/ac (with Use Permit)	84 du/ac
Building Height (feet) [Exceptions, see Section 4-205(A)]			
Building Height Maximum	40'	35'	180'
Building Height Step-Back Required Adjacent to SF or MF District [Section 4-404, Building Height Step-Back]	Yes	Yes	Yes
Maximum Lot Coverage (% of net site area)	60%	75%	70%
Minimum Landscape Area (% of net site area)	25%	25%	30%
Setbacks (feet) (a) [Exceptions, see Section 4-205(B)]			
Front	20'	0'	0' (20' max)
Parking	20'	20'	20'
Side	10'	0'	15'
Rear	10'	10'	30'
Street Side	10'	0'	0'
Parking	20'	20'	20'

An approval of a two year time extension has the effect of:

- Retaining the existing MU-4 PAD entitlements with 478 dwelling units within three 16-story buildings.
- Any significant changes, including the reduction of more than 10% of the height or density would require a major amendment to the PAD and require a new decision by the Council.

Direction to initiate reversion of the existing entitlements back to the former zoning has the effect of:

- Determination of a hearing schedule to include a staff initiated neighborhood meeting, recommendation hearing by the Development Review Commission and two public hearings with a final decision by the City Council.
- Former zoning development standards would replace the PAD, allowing multi-family development on the R-4 zoned property and the possibility of additional dwelling units on the CSS property, subject to Use Permit approval.
- Any development of the site would require a Development Plan Review process for the design of residential and/or commercial development, with all standards of lighting, landscaping, materials and color review applicable.
- With the revocation of entitlements, any new submittal application (even if similar) would be brought back through the appropriate decision-making bodies.

The original report and supporting attachments are included for reference.

NOTICE:
The original applicant and the current and former owners of record were notified of the purpose, the date and the time of the administrative hearing via certified mail, with return receipt requested. The current owner accepted and received the notice. After receipt, Manjula Vaz, who is the legal representative of the current property owner, advised staff that the current property owner takes no position.

Should the City Council wish to authorize a time extension for this project, the following conditions would remain in effect unless modified.

ORIGINAL ORDINANCE 2009.14 CONDITION(S) OF APPROVAL:

1. A building permit submitted on or before April 23, 2012 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.

2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owners voluntarily waive any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Development Services Department no later than May 22, 2009 or the General Plan Amendment, Zoning Map Amendment and Planned Area Development Overlay approval shall be null and void.

3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.

4. A Preliminary and Final Subdivision Plat is required to combine all existing parcels, including any right-of-way, into one (1) lot for this development which shall be recorded prior to issuance of Phase I building permits. Otherwise an Amended Planned Area Development Overlay for this project is required by the original decision-making body.

5. The maximum allowed height for the building shall not exceed one hundred eighty (180) feet, including any mechanical equipment or screening.

6. The maximum allowed density for the site shall not exceed four hundred seventy-eight (478) units and no more than one thousand six hundred thirty-two (1,632) bedrooms, for all phases of the site.

7. The minimum overall parking for the site shall provide at least 1,034 parking spaces based on a modified residential bedroom parking ratio, including guest parking, of (0.61) parking spaces per bedroom.

8. All three buildings shall be located within the maximum building setback of twenty (20) feet, as defined by the Zoning and Development Code. The location of the buildings shall be based on any future dedication of right-of-way, as determined prior the building permit application.