



**CITY OF TEMPE  
REQUEST FOR COUNCIL ACTION**

**Council Meeting Date: 06/23/2016  
Agenda Item: 6A7**

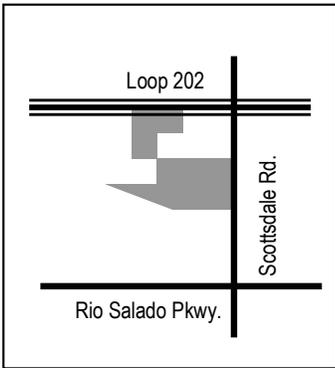
**ACTION:** Hold a public hearing for a request to extend the time for a condition of approval related to the Planned Area Development Overlay for WATERMARK (HAYDEN HARBOR) AT TEMPE TOWN LAKE, located at 430 North Scottsdale Road. The applicant is Gammage and Burnham PLC.

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

**RECOMMENDATION:** Not applicable

**BACKGROUND INFORMATION:** WATERMARK (HAYDEN HARBOR) AT TEMPE TOWN LAKE (PL070506) consists of six (6) mixed-use towers ranging in height from 220 feet to 278 feet proposed for hotel, residential, restaurant and retail uses, one (1) 12-story office building located above an above-grade six (6) level parking garage totaling 213 feet in height, a (1) one-story office building, a below-grade parking garage, and surface parking. The project has a total gross floor building area of 2,059,580 square feet on approximately 13.6 net acres, located at 430 North Scottsdale Road. City Council approved the entitlement request on March 24, 2011 with a condition that a building permit application shall be completed on or before February 24, 2015 or the zoning of the property may revert to that in place at the time of application, subject to a public hearing. On May 21, 2015, City Council approved a one-year time extension till May 21, 2016. The development team has not applied for building permit. However, city staff has been actively reviewing preliminary proposals for changes to the development plan. On June 3, 2016, the applicant, Gammage and Burnham PLC requested an extension of the time allowed in the condition of approval to apply for a building permit, that would, if granted, modify the condition to read:

A building permit application shall be completed on or before ~~May 21, 2016~~ June 23, 2017, with the intent to issue a building permit and commence construction, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing at City Council.



Property Owner	El Fenix LLC & El Fenix II LLC
Applicant	Manjula Vaz, Gammage and Burnham, PLC
Current Zoning District	MU-4 (PAD) Mixed-Use High Density with a Planned Area Development Overlay
Gross/Net site area	13.6 acres
Max. Density	103.75 du/ac (1,411 units)
Total Building Area	2,059,580 s.f.
Lot Coverage	23%
Building Height	15' and 213'-278'
Building Setbacks	Varies (0' front, 0' sides, 0' rear min.)
Landscape Area	36% min.
Vehicle Parking	3,528 spaces provided
Bicycle Parking	1,149 spaces provided

**ATTACHMENTS:** Time Extension Request Letter, Original Development Project File

**STAFF CONTACT(S):** 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: Suparna Dasgupta, Principal Planner

## COMMENTS:

Approval of this time extension has the effect of:

- Retaining the existing entitlements of MU-4 PAD with 1,411 dwelling units within six (6) mixed-use towers and an 18-story 255,300 square-foot office building, all ranging in height from 220 feet to 278 feet.
- 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.
- The previous plans as presented are consistent with the General Plan 2040 land use designation of Mixed Use and High Density – Urban Core.

Denial of the time extension has the effect of:

- Requiring further direction from City Council to further evaluate either the schedule of development or direct staff to proceed with a revocation process of the PAD and zoning entitlements. This process would include a neighborhood meeting, recommendation hearing by the Development Review Commission and public hearings with a final decision by City Council.
- With the revocation of entitlements, any new submittal application (even if similar) would be brought back through the appropriate decision-making body.
- As a result of reversion, the property's zoning would be changed back to GID, General Industrial District. The General Plan land use designation will remain as Mixed Use and High Density – Urban Core. The zoning reversion to GID, General Industrial District, would not be consistent with the General Plan Projected Land Use or Projected Density Map.

Note: The adjoining property owners brought suit against this development and the City of Tempe. On September 17, 2014, the judge ordered a full dismissal of that lawsuit.

## CONDITION(S) OF APPROVAL:

### General

1. A building permit shall be obtained on or before ~~May 21, 2016~~ June 23, 2017, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing.
2. All other conditions of approval for Zoning Map Amendment and Planned Area Development Overlay HAYDEN HARBOR AT TEMPE TOWNLAKE (PL070506) as approved by City Council on May 24, 2011, except condition #1 stated above, will remain in full force and effect.

## HISTORY & FACTS:

May 20, 2008	Formal application for the Hayden Harbor project received by Development Services.
December 15, 2010	Neighborhood meeting held by the applicant for this request.
January 25, 2011	Development Review Commission recommended approval of Hayden Harbor for a General Plan Map Amendment from 'Open Space' to 'Mixed-Use' and 'No Density' to 'High Density', and a Zoning Map Amendment from GID to MU-4. The Commission continued the request for a Planned Area Development Overlay to a February 22, 2011 hearing date, in order to have further discussion on access issues presented by the public and to review the traffic study.
February 22, 2011	Development Review Commission recommended approval of the Planned Area Development Overlay for Hayden Harbor with no additional changes (4-2 vote).
March 10, 2011	City Council introduction and first public hearing for this request.
March 24, 2011	City Council held the second public hearing and approved Hayden Harbor at Tempe Town Lake.

July 17, 2012	Superior Court of Arizona, Maricopa County denied relief to Plaintiffs (U-Haul Co. of Arizona, et al), except that the matter of decision made by Council on March 24, 2011 be remanded back to the City Council and provide for the record the findings required by Section 6-502(B) of the Tempe Zoning and Development Code.
November 15, 2012	City Council approved for the record the findings for the decision provided for HAYDEN HARBOR AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road.
May 21, 2015	City Council approved a one-year time extension request for a Zoning Map Amendment and Planned Area Development Overlay for HAYDEN HARBOR AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road.
February 22, 2016	First Preliminary Site Plan application for WATERMARK (HAYDEN HARBOR) AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road, was submitted to the Community Development Department for review.
May 6, 2016	Second Preliminary Site Plan application for WATERMARK (HAYDEN HARBOR) AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road, was submitted to the Community Development Department for review.
May 21, 2016	City Council's approval of the one-year time extension for the Planned Area Development Overlay for WATERMARK (HAYDEN HARBOR) AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road, expired.
June 3, 2016	The applicant, Gammage and Burnham, PLC requested an extension of time allowed to apply for building permits as set forth in a condition of approval to the PAD for WATERMARK (HAYDEN HARBOR) AT TEMPE TOWNLAKE, located at 430 North Scottsdale Road.
June 7, 2016	The City sent notification of the hearing date for the current request via certified mail return receipt requested to Manjula M. Vaz, Gammage & Burnham P.L.C. and David Norouzi, El Fenix, LLC & El Fenix II, LLC.