



CITY OF TEMPE
REQUEST FOR COUNCIL ACTION

Council Meeting Date: 08/04/2016
Agenda Item: 6C1

ACTION: Hold the second and final public hearing to adopt an ordinance consisting of changes within the Zoning and Development Code, Section 3-401, adding a new subsection E for NEIGHBORHOOD LIBRARIES. The applicant is the City of Tempe. (Ordinance No. O2016.40)

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

RECOMMENDATION: Adopt Ordinance No. O2016.40
Development Review Commission – Denial (7-0 vote)
Neighborhood Advisory Commission – recommended additional consultation from existing residents with little libraries

BACKGROUND INFORMATION: NEIGHBORHOOD LIBRARIES (PL160180) consists of regulations that would assist and foster the use of neighborhood libraries, which is a small physical structure that serves as a free “take a book, leave a book” gathering place where neighbors share their favorite literature and stories. The regulations would allow a resident or community to build a neighborhood library by right. There is a proposed reimbursement program, which would involve the Community Services Department, allowing a rebate construction of for the libraries, up to \$300. The request includes the following:

1. Code Text Amendment within the Zoning and Development Code under Section 3-401 and adding a new subsection E.

ATTACHMENTS: Ordinance, Project File

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

Department Director: Dave Nakagawara, Community Development Director

Legal review by: Chuck Cahoy, Deputy City Attorney

Prepared by: Ryan Levesque, Deputy Community Development Director

PUBLIC INPUT

The neighborhood libraries draft ordinance was shared with the Neighborhood Advisory Commission on June 1, 2016. There was discussion and feedback regarding the proposal with questions and comments including the following:

- § Plenty of residents have already created little libraries on their own, why are you now imposing all these criteria?
- § What problem is being solved and what are we trying to fix?
- § This is already happening organically.
- § Literacy is the issue. Low income neighborhoods do not have \$300 available for upfront costs and those are the neighborhoods where books and literacy are lacking. Try a different approach like a scholarship incentive?
- § By signing form, must you comply with all elements of ordinance?
- § Do existing little libraries have to be retrofit?
- § Does Tempe Library still provide satellite locations in community centers?
- § Maybe encourage a non-profit to make some little libraries and donate them to neighborhoods in need?
- § If you make it more complicated and require monitoring by staff, you may unintentionally create lots of barriers.
- § Design is pretty loose. Does not require that you have to spend \$300.
- § If a little library is on private property, it's their land and the ordinance seems way too limiting regarding location and accessibility.
- § Do we have to have an ordinance because money is attached?
- § I'm not a fan of this pilot.
- § Commissioners inquired why those who are already creating little libraries had not been consulted first.

MOTION: The Neighborhood Advisory Commission approved a motion, that involved Councilmembers and staff consult with existing little libraries practitioners and any other interested parties regarding the proposed ordinance to determine if the proposed ordinance is an impediment to little libraries or an assist.

Development Review Commission hearing:

On June 14, 2016, the Development Review Commission conducted a hearing to review and make a recommendation on the Code Text Amendment. The following is a summary list of questions and comments about the ordinance proposal:

Commissioner Spears asked about why a rebate program is being created and what precedence does it set. Chair Kent is concerned about the liability of someone dropping illegal items in these libraries such as a gun or drugs and expressed concerns about whether a person can be arrested by virtue of being at the location of that illegal activity, given that anyone from the general public can access the library. He is also concerned about the potential liability and safety issue with an unknown person on a private property to access the library. Chair Kent agrees that it is a great initiative but there are other priorities in the City that need attention. He also believes that the cost of administering the rebate program by City staff far outweighs \$300.

Commissioners Spears questioned what concerns necessitated the City to draft an ordinance to regulate these neighborhood libraries and some of the unintended consequences as a result of the City's involvement. Commissioner Spears is also concerned about the potential liability of the City as a result of these libraries is being used for illegal activities such as distribution of pornography.

Commissioner Thornton asked to clarify that if permits are not required, how is the City going to regulated and ensure that they are meeting the criteria set forth in the proposed ordinance. She is also concerned about DRC taking action on an ordinance that has not undergone a thorough public input process.

Vice Chair Barger questioned the limitation on the number allowed on a lot in the proposed ordinance and also why these are only restricted to front yard setback and cannot be placed on the side yard, as well as, other possible and feasible locations on a site. He is concerned that the ordinance is too restrictive and questioned how this would work in a scenario where a rather large multi-family property since there is only one per property allowed. Vice Chair Barger also asked about the process by which a resident in an older neighborhood would be allowed to install a neighborhood library since often times in

older neighborhoods a portion of the right-of-way is within private property. He also suggested clarifying language for a lot versus tract where the structure can be placed, and whether an encroachment permit in the right-of-way could be obtained.

Chair Kent is concerned about ADA accessibility to the neighborhood library as the proposed ordinance does not address design (height, placement etc.) issue and how a person with disability can access the library. He is also concerned about the potential liabilities of a private property owner if a person with disability is injured while trying to access the library.

Commissioner Spears is concerned that the City is setting up criteria, but there are no permits being issued and no variances required so why is an ordinance being created for it. She does not see a correlation between the grant program and this ordinance.

There was one public comment received at the hearing and the question was again asked how the City would regulate whether it is being utilized for the intended use.

The Commission's authority is to recommend approval, approve with conditions, continue, or deny the request. The Commission recommended denial of the ordinance (7-0 vote). They also made a second motion (7-0 vote), noting support for the efforts of a Neighborhood Library Program.