REVISED

ORDINANCE NO. O2016.55

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING MAP, PURSUANT TO THE PROVISIONS OF ZONING AND DEVELOPMENT CODE PART 2, CHAPTER 1, SECTION 2-106 AND 2-107, RELATING TO THE LOCATION AND BOUNDARIES OF DISTRICTS.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That the City of Tempe Zoning Map is hereby amended, pursuant to the provisions of Zoning and Development Code, Part 2, Chapter 1, Sections 2-106 and 2-107, amending the Planned Area Development Overlay (PAD) for Pier 202, as described for Lot 5 property on 2.64 acres.

LEGAL DESCRIPTION

NEW LOT 5

A PORTION OF LOT 5 AND VISTA DEL LAGO DRIVE, PIER 202, SECOND AMENDED, AS RECORDED IN BOOK 1052, PAGE 16, RECORDS OF MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 5, SAID POINT BEING ON A CIRCLE, THE CENTER OF WHICH BEARS NORTH 24º 04' 19" WEST, A DISTANCE OF 1086.50 FEET, AND IS THE NORTH LINE OF THE AFOREMENTIONED VISTA DEL LAGO DRIVE;

THENCE, ALONG THE AFOREMENTIONED NORTH LINE OF VISTA DEL LAGO DRIVE THROUGH A CENTRAL ANGLE OF 21º 12' 41", A DISTANCE OF 402.23 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5;

THENCE, NORTH 21º 57' 26" WEST ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 257.12 FEET TO THE NORTHWEST CORNER OF SAID LOT 5;

THENCE, NORTH 67º 53' 31" EAST ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 308.44 FEET;

THENCE, CONTINUING ALONG THE NORTH LINE OF SAID LOT 5 NORTH 64º 16' 23" EAST, A DISTANCE OF 66.23 FEET TO THE NORTHEAST CORNER OF SAID LOT 5;

THENCE, SOUTH 25º 42' 05" EAST ALONG THE EAST LINE OF SAID LOT 5, A DISTANCE OF 322.03 FEET TO THE POINT OF BEGINNING.

DESCRIBED PROPERTY BEING IN AND FORMING A PART OF THE CITY OF TEMPE AND COMPRISING AN AREA OF 115,395 SQUARE FEET, OR 2.649 ACRES, MORE OR LESS.

TOTAL AREA IS 2.64 GROSS ACRES.

Section 2. Further, those conditions of approval imposed by the City Council as part of **Case # PL160248** are hereby expressly incorporated into and adopted as part of this ordinance as follows:

PLANNED AREA DEVELOPMENT CONDITIONS OF APPROVAL:

General

1. Except as modified by conditions, The Pier development shall be in substantial conformance with the site plan and building elevations and landscape plans dated August 30, 2016. Minor modifications may be reviewed through the plan check process of construction documents; major modifications will require submittal of an amended Planned Area Development.

2. A building permit application shall be made within two years of the date of City Council approval or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.

3. The property owner shall sign a waiver of rights and remedies form. By signing the form, the Owner voluntarily waives 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 Community Development Department no later than 30 days from the date of City Council approval, or the PAD approval shall be null and void.

4. The Planned Area Development Overlay for The Pier shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department within sixty (60) days of the date of City Council approval.

5. New construction shall be sound mitigated resulting with indoor noise levels not to exceed a day night-level (DNL) of 45 decibels.

6. The applicant shall apply for the abandonment of the existing Vista Del Lago right-of-way currently used for public parking. City will complete the abandonment in accordance with its usual procedures, and thereafter will sell the abandoned ROW to developer to be incorporated into Lot 5 via an amendment to the existing plat, concurrent with the issuance of building permits.

7. Parking spaces on the south side street-front are to be maintained as public parking spaces, not restricted. A permanent recorded public access easement and maintenance agreement for these parking spaces shall be recorded concurrently with the deed conveying title to the right of way.

8. The developer shall provide the City with a performance bond guaranteeing the completion of the parking spaces referenced in condition #7 concurrently with recording of the deed to the ROW.

9. Should the applicant be unable to secure written approval from all utility providers for the proposed Public Utility Easement to be located within the airspace of the garage, or reach an alternative solution acceptable to Engineering Staff, prior to submittal of plans for construction document review, the existing Public Utility Easement will be separated physically from the garage within soil within the first 9' from the property line north with a soil depth to be determined by Engineering staff but no greater than the depth of one basement parking floor level. This solution, or any other design solution approved by Engineering Staff, may remove up to 40

parking spaces on the south side of Level B1 as needed to meet the PUE requirements, thereby reducing the overall required parking from 1,061 to 1,021. Further changes beyond this reduction ~~parking~~ must ~~either~~ comply with the PAD standards proposed, receive approval of an amended parking study, or ~~a~~ reduce~~tion~~ ~~in~~ the units and bedrooms ~~will be necessary~~ to ~~reduce~~ meet parking requirements and allow more parking for the commercial uses. **(Modified by Development Review Commission)**

10. The proposed service elevator and a below grade refuse area ~~storage room portion of~~ in the phase two tower parking garage shall be constructed as part of phase one. If phase two does not occur, the service core will need to be designed aesthetically and functionally without the second tower. **(Modified by Development Review Commission)**

11. Phase one structure shall be designed with infrastructure and space to accommodate a solid waste compactor, in the event that after operations commence waste collection warrants a different solution.

12. An amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.

13. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with the Maricopa County Recorder's Office through the City of Tempe's Community Development Department no later than one year from the date of City Council approval. Failure to record the plat within one year of City Council approval shall make the plat null and void.

14. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.

15. A parking affidavit shall be filed with the Community Development Department for the use of shared parking supported by the parking analysis. If any proposed change or intensification of uses requires additional parking greater than proposed, a revised parking model shall be submitted.

16. The property owner, at the completion of the development construction, shall bear the cost of any necessary street pavement improvements resulting from construction traffic in the area.

Section 3. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2016.

_____
Mark W. Mitchell, Mayor

ATTEST:

_____
Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

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Judith R. Baumann, City Attorney