

RISING FROM THE ASHES: PHOENIX FACES ZONING CHALLENGES

Stephen Earl, Paul Gilbert, Michael Lieb, and Jason Morris contribute their expertise on the current climate of zoning and development in Phoenix.



ZONING

The Valley is currently experiencing an increase of development, redevelopment, and housing projects to keep up with Phoenix's evolution as a major urban city.

While the three largest cities in the country - New York, Los Angeles and Chicago - lost population between 2015 and 2016, Phoenix experienced an almost two percent growth according to the U.S. Census Bureau.

The Phoenix area needs new multifamily development to support this population growth, especially in Central Phoenix. Booming retail areas, like the 7th Street corridor between Bethany Home Road and Camelback Road that has seen 11 restaurants come to town in recent years, need housing options to support these new infill businesses.

Despite a growing demand for luxury multifamily housing in the Phoenix Metro, many developers are facing resistance from neighborhood groups who oppose the changing landscape.

ZOften, the loudest voices are those from non-affected areas. These activist groups seek to stop most infill and redevelopment projects such as restaurants, multifamily, retail, and office spaces. While these groups yield little power in stopping projects, the animosity and misinformation they generate takes a toll on attitudes towards new development.

The protest groups attend neighborhood meetings as well as council meetings on new proposals, even though some may not live nearby. They use online tools to sway the opinion of residents in the area with exaggerated claims in order to pressure elected officials to oppose projects

that would increase property values; replace blighted areas with new, vibrant projects; and bring construction jobs. Their claims argue that high-end multifamily developments will lower home values in affected areas, when quite often the reverse is true.

While the average five-year property value appreciation in Maricopa County between August 2012 and June 2017 was \$90,000, sales comps surrounding Biltmore on Camelback, built in 2013, have an average appreciation of over \$106,000, according to data by Michael Lieb, a major player in Phoenix infill development.

Misleading arguments about property values presented by activist groups appeal to older residents who vote in high numbers. These residents tend to be longtime home owners who are resistant to seeing their community undergo change. Often, single family home owners' voices seem to be valued more than the voices of renters, condominium and apartment residents, and neighboring business owners.

Despite nostalgia for a less-developed Phoenix, the need for newer properties and housing persists. A recent study by Arizona Multihousing Association and the National Apartment Association found that the Phoenix area will need to add over 150,000 new apartment units by 2030 in order to keep up with demand.

Until recently, there had been a flight out of the central city with little new development. That has changed with the exciting uptick in redevelopment. The demand is largely being driven by the Millennial generation, which as a whole prefers to buy homes later, or not at all, in favor of renting.



Paul Gilbert
Co-Founder
Beus Gilbert, PLLC

For over four decades, Mr. Gilbert has been the lead lawyer on many of the most high profile zoning and land use matters in Phoenix.



Jason Morris
Founding Partner
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Throughout his career, his practice has been exclusively in land use, planning, zoning, and administrative law.



Michael Lieb
President
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Deemed the 'King of Infill', Lieb has been a key player in the development of thousands of acres located in urban and rural areas throughout Metro Phoenix.



Stephen Earl
Partner
Earl, Curley & Lagarde, P.C.

Earl has concentrated his practice in zoning and land use law for over 30 years.

Multifamily developments and Class A apartments are becoming increasingly popular options due to the unique amenities offered by modern, sophisticated complexes.

"Millennials don't want to move way out to the cotton fields, they want to be where the action is: the city. Zoning this can be difficult, because it's a matter of squeezing something new in, or tearing something down to build something new," said Michael Lieb.

The decrease of outward expansion is leading to more urban developments, and consequently, more people are affected by construction. Zoning attorneys like Jason Morris of Withey Morris, PLC note that decades-old developments are crying out for redevelopment, but neighborhood groups as well as cities are reluctant to agree to high-density areas. "It makes zero economic sense to tear down old office buildings and apartments, only to build a two-story building... allowing density is the way to revitalize these areas," Morris said.

FOSTERING COMPROMISE

Regarding neighborhood groups that are adjacent to and affected by new projects, developers are more than happy to work together to improve the community. "A lot of the time, the job is really answering questions so people understand what you're really proposing. Adjacent owners have legitimate concerns about building height, access, view corridors, the height of trees, landscape buffers, and so on; that collaborative process with surrounding owners is valuable," said Stephen Earl, an attorney at Earl, Curley, & Lagarde P.C.

On some occasions, Earl has even invited concerned people in the surrounding community to recently completed developments

to show them what the finished project will look like and how it will work with their properties. After seeing the high-quality, stylized projects, many of those people become supportive of new developments.

Paul Gilbert of Beus Gilbert PLLC says that opposition towards new development can be reduced by sitting down with the affected neighborhood and exchanging ideas. "Being patient, rather than adversarial, leads to productive meetings." Gilbert notes that many times, neighborhood groups can be placated by developers making projects eco-friendly or LEED-certified.

Developers should keep open dialogues with surrounding owners and residents to resolve potential concerns about things like setbacks, landscaping, vehicle access and parking and make necessary changes to avoid disrupting the fabric of the location that they are building in.

Frequently, the key to understanding development proposals is the contextual environment surrounding a proposed project. If a project takes away the uncertainty of blighted or vacant property and will replace it with a beautiful new development, then that acts as a catalyst for more beneficial improvements.

Those in the business community believe that if citizens are willing to embrace the vision of what Phoenix could be in five years and beyond, they should elect pro-growth representatives to public office.

By keeping affected neighborhood groups in the loop on projects, developers can replace properties that have outlived their useful life with vibrant new apartment communities, restaurants, or retail venues that will respond to emerging trends and benefit residents and the city for decades to come. ■