

## PLANNING COMMISSION STAFF REPORT

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<b>DATE:</b>	May 31, 2024
<b>NATURE OF APPLICATION:</b>	Appeal the Temporary Structure Decision
<b>APPLICANT/OWNER:</b>	Dubarko Development Corporation/Gerry Engler
<b>APPLICABLE CRITERIA:</b>	Section 17.74.60 - Temporary Structures and Section 17.28.20 - Requirements for Appeal Application
<b>PROPERTY LOCATION:</b>	37101 Dubarko Road
<b>MAP/TAX LOT</b>	2S4E1403100
<b>STAFF CONTACT:</b>	Patrick Depa, Senior Planner
<b>FILE NUMBER:</b>	24-028 AP

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### PURPOSE

To determine if the Planning Division decision to allow just one temporary structure on a twenty-five (25) building condominium development is sufficient and should be upheld or should the decision be reversed or modified to allow a second temporary structure as the applicant requests.

### BACKGROUND

In March 2024, Dubarko Development Corporation, owned by Gerry Engler, submitted a temporary structure application requesting the placement of two temporary trailers for the development of his condominium project. The condominium project called Timber Creek Village (File No. 19-038 DR/FSH/VAR/TREE) is approved for construction of twenty-five (25) multi-family/condominium buildings to contain a total of sixty-seven (67) dwelling units. The proposed development is on the southern portion of the property located north of Dubarko Road and east of Ruben Lane.

After the City reviewed the application (24-021 TEMP), a decision was issued on April 22, 2024, allowing just one temporary structure. The temporary structure application was reviewed according to the requirements for a Type II procedure because it was a renewal of their original Type I temporary structure request.

The applicant's Type I approval, File No. 21-055 TEMP, was approved on August 23, 2021, for one structure/trailer, and expired on May 30, 2022. The applicant eventually placed a second temporary structure/trailer on site without approval. During the time frame from the expiration of the first temporary structure approval, May 30, 2022, and the applicant's renewal approval on April 22, 2024, two temporary structures/trailers remained on site.

### Summary of Important Dates:

<b>ACTION</b>	<b>DATE</b>
Application for Temporary Structure Received	March 13, 2024
Application Deemed Complete	March 20, 2024
Final Order Issued for File No. 24-021 TEMP	April 22, 2024
Appeal Submitted	May 3, 2024
Neighborhood Notice Sent	May 16, 2024
Legal Notice Published by Pamplin Media	May 22, 2024
Planning Commission Appeal Hearing	June 10, 2024

## **COMMENTS**

- The city received two citizen comments (See EXHIBITS D & F)
- No comments were received from any other city departments.

## **APPEAL ANALYSIS**

On May 3, 2024, the applicant/owner appealed conditions 1 and 2 of the staff decision approval issued on April 22, 2024. Condition 1 allows the applicant to “locate one temporary job site trailer per the submitted site plan” and Condition 2 details that “the second trailer presented in the application shall be removed within 30 days of this decision.” The property owner appealed the staff decision based on arguments made in their narrative, Exhibit B.

The applicant’s reason for appeal is that this decision creates a physical and financial hardship. As noted in the applicant’s request, one of the temporary structures (trailers) will be used as a temporary office and the second structure will be used for dry storage purposes only. The applicant is concerned that requiring removal of either of these trailers creates an unnecessary hardship, inconvenience, and expense as he works to construct the approved, multi-million-dollar housing project.

The Planning Division’s decision to allow only one temporary structure/trailer is based on past experiences with development of similar size or larger where only one temporary structure/trailer was requested and approved. Another reason for the hesitation to allow a second trailer was for the applicant’s past actions being in direct conflict with past conditions of approval. Temporary trailers were not removed after the approval period ended, a second trailer was moved on site without approval, and overnight stays were observed.

## **CONCLUSION**

The Planning Division understands that construction had been paused and that is what triggered the interval between the first temporary structure approval on August 23, 2021, and the second approval on April 22, 2024. The Planning Division has seen recent investment in the project including the issuance of building permits that signals the project is back on track. The Planning Division also believes a compromise could allow the applicant to keep the second trailer until one of the units in Building A or B could be converted into a sales office and contractors space.

## **RECOMMENDATION**

Staff recommends the Planning Commission do one of the following:

1. Uphold the staff decision per the final order for File No. 24-021 TEMP.
2. Modify the staff decision or conditions of approval.

## **EXHIBITS**

- A. Notice of Intent to Appeal Form
- B. Grounds for Appeal Narrative
- C. Site Plan – Trailer Location
- D. Khris Alexander - Public Comment (May 20, 2024)
- E. Final Order for File No. 24-021 TEMP (staff issued decision)
- F. Tracy Brown email