CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers
Date November 20, 2003 Time 4:00 p.m.

MEMBERS PRESENT	MEMBERS ABSENT
Marty Whalen, Chair	Mike Cowan, Vice-Chair
Rich Adams	
Barbara Carpenter	
Pat Esparza	
Alex Finter	
Bob Saemisch	

OTHERS PRESENT

Dorothy Chimel	Bill Petrie	Sean Lake
Michelle Dahlke	Richard McAllister	David Kincaid
Ryan Heiland	Veronica Gonzales	Charles Stock
Lois Underdah	Eric Faas	Lew Lenz
Maria Salaiz	Dan Brock	Michael Murphy
John Gendron		

Chair Whalen declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated November 20, 2003. Before adjournment at 5:55 p.m., action was taken on the following items:

It was moved by Boardmember Esparza, seconded by Boardmember Finter that the minutes of the October 16, 2003 meeting be approved as amended and the minutes of the first Public Hearing for General Plan Amendment GPMinor03-04 held on November 18, 2003 be approved as submitted. The vote was 6-0 (Cowan absent).

Consent Agenda Items: All items identified with an asterisk (*) were approved with one Board motion.

It was moved by Boardmember Adams, seconded by Boardmember Esparza that the consent items be approved. Vote: 6-0 (Cowan absent).

Code Amendment: Amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance regarding "Vehicle Signs".

Zoning Cases: Z03-26, *Z03-29, *Z03-49, *Z03-52, *Z03-53, Z03-54, *Z03-55, *Z03-56, *Z03-57, *Z03-58, *Z03-59, *Z03-60, Z03-61, Z03-62

General Plan Amendment and Zoning Case: GPMinor03-02, Z03-63

MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: Amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance regarding "Vehicle Signs". **CONTINUED FROM AUGUST 21, SEPTEMBER 13, AND OCTOBER 16, 2003 MEETINGS**.

Comments: Michael Murphy, General Counsel for Beaudry RV Co., 2260 W. Main Street, stated that Beaudry has 11 auto franchises and three RV dealerships in different municipalities and States and is familiar with the different Sign Codes. He noted that he interprets the Sign Code as causing drastic restrictions to day-to-day travel. If staff wants to make the Sign Code easier to read, something that can be enforced, he'd like to see it applied to everybody. He commended staff on making a remarkable job of coming up with changes to alleviate a lot of his concerns. He mentioned that he still had issues with the current language and that he had suggested in a letter that staff form a committee of local businesses that the Sign Code would affect for input. He noted that as he reviewed the language staff had made general restrictions and then exempted certain things out of the exemption.

Mr. Murphy gave examples of what he interpreted as prohibited signs, such as bumper stickers, license plates, magnetic signs and tire covers and unless these were located on a window they would be considered prohibited vehicle signs. He again suggested that the Board look at appointing or creating a committee and stated that he would be willing to serve on that committee to review the language and make recommendations.

Chairperson Whalen reminded the Boardmembers that they specially asked that this topic go to the Chamber of Commerce for input.

John Gendron, Zoning Administrator, stated that it did go to the Chamber of Commerce and they commented on the language about backing into a space and as a result that language was removed. He stated that the reason this ordinance was before the Board was because of several egregious violations of the existing regulations on vehicle signs. Namely, the large motor home with Beaudry painted on it perched atop a six or seven foot ramp. He stated that City Council had directed staff to look at these regulations.

Mr. Gendron stated that staff did receive a 7-page letter prior to the time the Board was going to hear this ordinance and had asked for a continuance to address these concerns. Staff worked closely with the City Attorney's Office to draft an ordinance that responded to those concerns. It clearly differentiates between the type of sign staff is attempting to regulate versus the type of sign that would not be part of the regulation. Chair Whalen asked Mr. Gendron to address Mr. Murphy's concerns prior to it going to City Council. Mr. Gendron responded staff would work help address those concerns.

Ms. Dorothy Chimel, Acting Planning Director noted that staff looked at what other communities do and mentioned that Phoenix, Scottsdale, Tempe, Chandler, Gilbert and Peoria all regulate vehicle signs. She stated staff appreciated dialog by those impacted by the Sign Ordinance and will continue to work with them. She urged the Board to recommend approval of this ordinance and forward it to City Council.

Boardmember Adams mentioned that staff has done an outstanding job of doing their homework and admired the depth in which they had worked to bring this before the Board. However, he stated he would not be supporting this ordinance. His concern was that in trying to control the egregious violations, they would probably be hurting some small businessman. He stated he could think of a number of businesses that are buried in back of strip centers that probably park their delivery truck out front. He stated he did not see it as a major problem.

Chairperson Whalen stated that he shares Mr. Adams concern and suggested that staff pay a little more attention to the description of how long a marked vehicle could stay parked on a visible location. The way that Mr. Gendron has modified the ordinance covers that issue.

Boardmember Saemisch stated that the Sign Ordinance has gone through a test of time and has held a long history in a City. He stated that he thinks it actually hurts the other businessman who is in the front of his legal sign and distracts from the ability to look back into a center. He noted that the market place should determine what sign is being seen.

Boardmember Finter stated that one of the main concerns that he heard from businesses was security reason for backing into spaces and he appreciates that staff addressed that issue. He also stated that he agreed with the last comment about the fairness to the individuals who are following the rules but understood that there are people in difficult situations. Mr. Finter stated he would be supporting this ordinance.

Boardmember Carpenter stated the thing she didn't like about the ordinance was that the last section of the ordinance targets a specific industry. A good public policy shouldn't have to target a specific industry it should target a specific outcome or activity. She mentioned that staff has worked really hard and expressed her appreciation. She also noted that City Council is going to do what it wants to do regardless of how she personally votes. Ms. Carpenter stated she thought it would be a good test and if it causes to many problems the ordinance can always be brought back and changed. She stated she would not be voting in favor of this ordinance because of the section that targets the one industry.

Boardmember Esparza stated that she is in favor of the vehicle sign ordinance because of the businesses that are adhering to it as opposed to those businesses that are going beyond what they can to get away with. She stated that as Mesa moves forward she wants it to be aesthetically pleasing to the eye and the examples presented today would just be an eyesore.

It was moved by Boardmember Saemisch, seconded by Boardmember Esparza

The Board approve and recommend to the City Council amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance regarding "Vehicle Signs".

Vote: Passed 4-2 (Adams & Carpenter, nay) (Cowan, absent)

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-26 (District 6)** North and east of the northeast corner of Crismon Road and Southern Avenue (18.9 ac. ±) Site Plan Modification. This case involves the development of an apartment complex. Glenn Walling, Coyote Landing Limited Partnership, owner; Denise Burton, Broadbent and Associates, Inc., applicant. **THIS CASE WAS REFERRED BACK TO THE PLANNING AND ZONING BOARD BY THE CITY COUNCIL ON OCTOBER 13, 2003.**

Comments: David Kincaid (representing the applicant) stated that they had received zoning approval some time ago and through the Design Review Process several enhancements were made to the project. He added that they had met with some of the neighbors who had some objections to the way the project was designed and the Design Review Board (DRB) had some objections. He mentioned that they had significantly enhanced the project to the satisfaction of the neighborhood and DRB and were back for site plan approval. Some of the changes are a rearrangement of the buildings within the property which leaves additional open space and the project isn't so linear. They varied the height (both 2- and 3-story) of the buildings at the request of the neighbors and the DRB.

Charles Stock (10507 E. Diamond, representing the Parkwood Ranch HOA) stated that they were pleased with the changes but had some concerns with landscaping, increased traffic and adequate parking. He added that they had no objection to the rest of the project and that the applicant had done an excellent design job.

Dorothy Chimel, Acting Planning Director, gave staff's overview of the project. She reminded Boardmembers that the design had been reviewed in June and it was expressed at the time that it had the appearance of barracks and very little change in the building structures. Since that time they had met with the DRB and made great improvements with changes in the footprint, the building type, and density of the project. Staff is recommending support of the case. Ms. Chimel stated that there were standard conditions of approval, one of which references compliance with the requirements of the Design Review Board Case DR03-58.

Denise Burton, the applicant, addressed concerns regarding the traffic, landscaping.

Chair Whalen asked Ms. Burton to meet with Mr. Stock to go over the landscaping plan if the case were approved. She agreed.

Boardmember Carpenter commented "about the qualification of this property as a low income tax credit property, and how since this is in Mesa and carries the Mesa name I would like to know what the criteria are, what kind of activities will go on to assure that this is affordable to folks who need more affordable housing."

Ms. Burton responded that only recently the developer had decided to not do this as a tax credit project, because of the timing. They are not comfortable that they would be finished in time for the deadline.

Ms. Carpenter commented "I find that terribly disappointing because we have some need for low income housing in our community, certainly of quality and I saw that it does have a time limit on it and I was disappointed that the packet did not inform us of that decision". She asked the applicant if they lost their time because of the process or was it something else.

Ms. Burton responded that a lot of it has to do with the process – it started out as one type of building and ended up with five different building types. She stated that when you schedule something with one type of building, going through construction times and things like that are

going to be different than if you have a project with five different building types. She added that they would not be able to get approved plans until February and that is too short of a time frame.

Ms. Carpenter stated “I therefore assume that means a loss of those tax credits for any project in Mesa and no one else can assume those tax credits, is that correct?” Ms. Burton responded no, the tax credits go back into the pool.

Chair Whalen advised that technically land use did not apply to that issue but it may become a pertinent point for the Board when the housing master plan is passed. Affordable housing becomes part of the housing master plan for the City, but until then the Board is dealing with land use and an apartment is an apartment.

Mr. Stock stated that they were not objecting to affordable housing but within a one-mile area there were five or six apartment units that are affordable to low-income housing people and a couple of them are really nice looking projects.

It was moved by Boardmember Adams, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z03-26 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
2. Compliance with all requirements of the Design Review Board, including landscaping, pedestrian connections and elevations.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.

Vote: Passed 6-0 (Cowan absent)

Reason for Recommendation: The Board agreed was pleased with the revised site plan and the positive feedback from the neighboring HOA.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-29 (District 4)** 651 East Main Street (2.16 ac. ±). East and west of Main and Horne. Rezone from R-2 to C-2. This case involves the development of a hotel. Ramesh Patel, owner; Ralph Pew, applicant. **THIS CASE WAS REFERRED BACK TO THE PLANNING AND ZONING BOARD BY THE CITY COUNCIL ON SEPTEMBER 22, 2003.**

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board continue zoning case Z03-29 to the December 18, 2003 Meeting.

Vote: Passed 6-0 (Cowan absent).

Reason for Recommendation: The Board felt a continuance was warranted.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-49 (District 6)** The 7600 block to the 8100 block of East Paloma Avenue (south side) and the 8000 block to the 8100 block of East Elliot Road (north side) and the 3200 block to the 3600 block of South 80th Street (east side) and the 3200 block to the 3400 block of South 80th Street (west side). North and east of Sossaman Road and Elliot Road. (97± ac.) Rezone from R1-43 to M-1 and C-1. This request is to bring City zoning into conformance with the General Plan. Multiple owners, Wayne Balmer, City of Mesa, applicant. **CONTINUED FROM THE OCTOBER 16, 2003 MEETING.**

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board continue zoning case Z03-49 to the December 18, 2003 Meeting.

Vote: Passed 6-0 (Cowan absent).

Reason for Recommendation: The Board felt a continuance was warranted.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-52 (District 6)** The 6400 block of Superstition Springs Boulevard. South and west of Superstition Springs Boulevard and the U.S.-60 (Superstition Freeway). (3.79± ac.) Modification of Council approved conditions for Lot F and Lot G of Auto Center at Superstition Springs. Superstition Springs Investors Limited Partnership, owner; Karrin Kunasek-Taylor, Biskind, Hunt and Taylor, applicant. **CONTINUED FROM THE OCTOBER 16, 2003 MEETING.**

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board accept the applicant's request to withdraw zoning case Z03-52.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-53 (District 5)** 1231 North Greenfield Rd (Lot 1 of Mountain View Plaza). Located north and east of Brown Road and Greenfield Road. (1.22 ac. ±) Site Plan Modification. This request is for the development of a drive-thru restaurant. MVP Equities Limited Partnership, owner; Stephanie Rowe; Reece, Angell, Rowe Architecture, applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-53 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. Recess light fixtures in the canopies so that the lens is flush with the ceiling of the canopy, or other acceptable alternative approved through the Design Review Board.
6. Written notice be provided to future owner, and acknowledgment received that the project is within two miles of the Falcon Field Airport.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-54 (District 6)** The northeast corner of Southern Avenue and Crismon Road. (1.79 ac. ±) Site Plan Review. This request is for the development of a Quik Trip convenience store. QuikTrip Corp. owner/applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board table zoning case Z03-54 per the applicant's request.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-55 (District 5)** The 100 – 200 blocks of north Power Road (west side). North and west of Main Street and Power Road. (2.58± ac.) Rezone from Maricopa County R1-8 and C-O to City of Mesa R1-9 and O-S. This case involves the establishment of City zoning on recently annexed property. Various owners; City of Mesa, applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-55 conditioned upon:

1. Review and approval by the City Boards and City Council of future development plans.
2. Compliance with all City development codes and regulations.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-56 (District 6)** The northwest corner of Florian Avenue and Ellsworth Road. North and west of Southern Avenue and Ellsworth Road. (2.86± ac.) Rezone from Maricopa County C-1 P.D. (Conceptual Plan of Development) to City of Mesa C-1. This case involves the establishment of City zoning on recently annexed property. Ellsworth Plaza Partnership, owner; City of Mesa, applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-56 conditioned upon:

1. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
2. Compliance with all City development codes and regulations.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-57 (District 5)** The north and south sides of University Drive between North 90th Street and North 93rd Street. Generally located around the intersection of Ellsworth Road and University Drive. (55.82± ac.) Rezone from Maricopa County, R-5, C-2 CUPD, C-2 P.D. (Conceptual Plan of Development), C-S, and Rural-43 to R-4, C-2, and R1-43. This case involves the establishment of City zoning on recently annexed property. Various owners; City of Mesa, applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-57 conditioned upon:

1. Review and approval by the City Boards and City Council of future development plans.
2. Compliance with all City development codes and regulations.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-58 (District 5)** Southwest corner of Recker Road and McDowell Road. (1.56 ac. ±) Site Plan Modification. This request is for the development of a Quik Trip convenience store. Quik Trip Corporation; owner/applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board continue zoning case Z03-58 to the December 18, 2003 Meeting.

Vote: Passed 6-0 (Cowan absent).

Reason for Recommendation: The Board felt a continuance was warranted.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-59 (District 1)** The 400 block of North Dobson Road, west side. North and west of University Drive and Dobson Road. (2.18 ac. ±) Site Plan Modification This cases involves the development of medical offices. Bryan Faith, owner; John Eden, Eden Architects, applicant.

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board table zoning case Z03-59.

Vote: Passed 6-0 (Cowan absent).

Reason for recommendation: The Board agreed with staff's recommendation to table this case until the applicant could resolve a land ownership issue associated with a portion of the property.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-60 (District 5)** 4722 East Ivy Street. South and east of Greenfield Road and McKellips Road. (1.24 ac. ±) Rezone from M-1 to M-1 PAD. This case involves rezoning an existing building to allow individual ownership. Commerce Capital Investments, LLC (Rick Dobkin), owner; Greg Hitchens, applicant. Also consider the preliminary plat of "Omni Office/Warehouse".

Comments: This case was on the consent agenda, therefore, it was not discussed individually.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-60 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Subdivision Technical Review Committee.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-61 (District 5)** 11530, 11540 and 11550 East University Drive. Located north of University Drive and west of Meridian Drive. (4.96 ac. ±) Site Plan Review. This request is for the development of a commercial shopping center. Henry Keith, owner; Gloria Walker, Andrews Design Group, applicant. Also consider the preliminary plat of NWC University and Meridian.

Comments: The Board agreed and was pleased with the revised site plan and the positive feedback from the neighboring HOA.

It was moved by Boardmember Carpenter, seconded by Boardmember Adams

That: The Board approve and recommend to the City Council approval of zoning case Z03-61 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count or lot coverage) except as noted below.
2. Review and approval by the Planning and Zoning Board, City Council and Design Review Board of development plans for Pads A and B.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication whichever comes first.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Compliance with all requirements of the Design Review Board.
8. Compliance with all requirements of the Subdivision Technical Review Committee.
9. Recordation of cross-access and reciprocal parking easements (reference the type, location and parcel number/s).
10. All pad buildings to be architecturally compatible with the center.
11. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.
12. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps should Pad B develop as a service station.
13. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
14. Compliance with the Desert Uplands Development Standards as they apply to building design and landscape palette.
15. Approval of a Native Plant Preservation Plan prior to any grading or removing of existing plant life on site.

Vote: Passed 5-1-0 (Cowan absent and Finter abstain).

Reason for recommendation: Boardmembers agreed that this project would be compatible with the surrounding neighborhood.

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-62 (District 2)** 3607 East McKellips Road. Located south and east of McKellips Road and Val Vista Road. (1.15 ac. ±) Rezone from R1-35 to OS PAD. This request is for the development of an office building. Michael Shane Beus, Lindsey Beus Worthen, Patrick Beus, and Ryan David Beus (SLPR, LLC), owner; Eric A. Faas, applicant. Also consider the preliminary plat.

Comments: Eric Faas, the applicant, gave an overview of the project. He explained that the project had been presented in another case over a year ago and it had been approved at Planning and Zoning but denied at City Council. He added that he had been working on re-formatting the project and had worked extensively with the neighbors on a design which is acceptable to the Citrus Homeowner's group and the surrounding neighbors.

Lew Lenz, co-chair of the Citrus Area homeowner's, stated that the developer had outstanding cooperation with the homeowner's and had complied with their recommendations for office development in the citrus area. He commended the developer for his efforts.

Dorothy Chimel, Acting Planning Director, commended the architect and the applicant for their efforts in complying with the Citrus Sub-Area. She stated that staff had heard a great deal of concern about what the impact would be, adding that it is on an intersection corner that was not identified for office. Ms. Chimel mentioned that this shows that there is a willingness among the neighbors to support a design that is in keeping with the Sub-Area Plan that was adopted by resolution. Staff is recommending approval.

Boardmember Adams stated concern with the stipulations being "CC&R type" conditions. Those documents (in the case of CC&R's) are generally recorded and 15 years later someone who may purchase the property would become aware of them easily because they are recorded. He added that his concern was that these conditions may or may not be a matter of public record anywhere that someone purchasing a property down the road would necessarily be aware of. He explained that his concern was that they were acting as though there were a set of CC&R's and attaching limitations, restrictions and other conditions to the property in a different manner and he was not sure he was comfortable with doing that. He further explained that he did not have a problem with what they are doing, just the mechanism for doing it.

Chair Whalen quoted from the Sub-Area Plan "It is important therefore that it be understood that the plan and its provisions are purely advisory in nature, they are not CC&R's, they are not deed restrictions, rules, regulations, ordinances, or laws of any nature whatever, nor are they binding on any property owner or any city department, employee, advisory board, or on the city council". He added that he thought it shameful that this case is before the Board with an attempt to put those things into the effect of law, by making them zoning conditions. He stated that it casts an ill light on the association and all other neighborhood groups. Mr. Whalen explained that he could not agree to do this by conditions of the zoning ordinance, adding that Mr. Lenz and his group, and the applicant, are all adults and if they want to do a private contractual arrangement of any sort it is up to them, but it should not bring the weight of city government into a private transaction.

Boardmember Finter asked if there were a way to strike those conditions. Chair Whalen stated he could support the case without conditions 9 and 10.

Boardmember Esparza stated that she was pleased to know of the dialogue between the applicant and the homeowner's association and that they could come to an agreement.

Boardmember Adams stated that his objection was not to let conditions 9 and10 stay but to the fact that they are there, and they don't belong there. He added that he does not disagree with what has been agreed to but he cannot support the case because they don't belong there.

Boardmember Carpenter stated "Item 10 is out of place as a condition. I would have been agreeable to No. 9 staying until I understood that it was incorporating the entire citrus area plan into the conditions rather than just referencing it as a desired standard. I find myself as a public policy analyst by education and training and profession to have to repeat that this language, although it reads like an edict, it does not carry the weight of law and in number 10 where it lists the kind of uses that should not be allowed - banks and financial institutions, small animal hospitals and clinics, wedding and receptions centers, this is a list of types of businesses, this is a terrible flaw in this language. What should be in here is the kind of activities that they do not desire to see in their neighborhood. Any of these or any of some future use could produce that kind of activity, a bank or financial institution may not produce the undesirable kinds of activity so we shouldn't be denying certain types of businesses, we should be denying certain types of activities and consequences upon a neighborhood. That is why I disagree. Number 10 is redundant to number 9 and any regard, it seems to me that we have no place, at this point, the way it is presented to us, in approving these two conditions and making it a city responsibility. We've been working this afternoon and for several days since we've had this case, we saw these conditions, we've been talking to a lot of people. We've been trying to find out what is the best alternative to this. It seems to me the best alternative would be for the developer or the owner and the neighbors to come up with a legal letter of agreement of some type where they have a legal contract that does not involve the city that says "yes, we will do this". What we have before us is a proposed site plan that will meet all the desired conditions that the neighbors wanted in a building, in a design, in a traffic flow. In fact, they've had a heavy hand in designing this. I don't understand what the objection there is, I have none except for incorporating this language."

Boardmember Saemisch asked if he could get an opinion from staff, as the City Attorney was not available, regarding the prudence of the Board's position. He added that he did not feel his qualifications to be a Boardmember went into the legal area. Mr. Saemisch explained that there should be something that would not allow this to happen again, an opinion or guidance from other people who are looking out for those interests in the City.

Chair Whalen stated that there were two factors that could be used as guideposts. One was that the last time the City tried to put CC&R's into a land use case was the Commons. It costs the City a lot of money. Number two was the fact that it is a private transaction and the involvement of the City is involving government where government need not be. That is just common sense.

Mr. Lenz stated that they have a "catch 22", residential development in a special area of Mesa that is supposed to be all residential. He added they had talked with Councilmembers and staff, and had meetings for six or eight months and said how about an office that looks like a residence, doesn't have monumental signs, doesn't make noise, doesn't have wedding receptions at two in the morning.
They do not want O-S zoning unrestricted. He referred to a case at Greenfield and McKellips that was approved for a daycare and now they are talking about office buildings, but he doesn't see any hearings coming up – so once it gets approved it can change.

Chair Whalen stated that the neighbors agreed that they would not be ordinances or laws of any nature and now they are trying to insist that they become part of the zoning ordinance. Mr. Lenz responded that the disclaimer was added by the Board not the homeowner's. It was added a

couple of days before the first meeting,

Boardmember Saemisch stated he would vote with the Chair.

Boardmember Carpenter stated “Mr. Lenz made a reference to continuing this case to get some kind of satisfaction and I just wanted to address that comment, because I don’t think there is a reason to hold this developer’s case up just because there’s a disagreement. I think that you’ve already gotten what the neighbors want, and that’s what we’re voting on. We’re voting to keep some of the operating restrictions out of it and then that can be worked later, but I really want to question whether or not Mr. Lenz really wants to hold up this case. I didn’t know if that was intended.”

Chair Whalen stated that he was not up to continuing this case, adding that there is a clock running the cost is building up.

Boardmember Esparza stated she wished to thank everyone on the Board

Boardmember Adams stated that he has no issues with the things the parties have agreed to, the only issue he has is that they should not be attached to the zoning or to the land. Citrus area homeowner’s can work out some other way to agree to these things with the owner and that is fine or agree not to agree on anything but he strongly feels it is the mechanism and not the issue.

Chair Whalen stated that to leave this as an R1-35 property would be to guarantee that it would never be developed because no one is going to put a single family residence on that corner.

It was moved by Boardmember Saemisch, seconded by Boardmember Finter

That: The Board recommend approval of Case Z03-62 with the deletion of the recommended Conditions 9 and 10 and reformatted as follows:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. Compliance with all requirements of the Design Review Board.
8. Provide or retain two rows of citrus trees along the arterial street frontage, between the subdivision wall and the street.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **GPMinor03-04 – (District 6)** Southeast corner of Crismon Road and US-60 Freeway (32.26 ac. ±). Proposed change to the General Plan Land Use Map from High Density Residential (HDR) 15+ dwelling units per acre to Medium Density Residential (MDR) 6-10 dwelling units per acre. Mike Hare, owner; Pew and Lake, P.L.C., Sean Lake, applicant.

Comments: Chairperson Whalen recessed the Planning and Zoning hearing to conduct a second public hearing on zoning case GPMinor03-04. Mr. Whalen noted that if the Board agreed with this Minor General Plan Amendment they would proceed to hear the zoning case. If the Board did not agree with the Minor General Plan Amendment then it would make zoning case Z03-63 moot.

Sean Lake, 10 W. Main St, applicant, gave an overview of the case and stated that the application is to amend the General Plan Amendment from high density (15± du/ac) to medium density (6-10± du/ac) residential. He stated that the property was originally zoned and entitled as part of the Crismon Creek Master Plan. The original intent was to have access from this property off of Crismon as well as from the south. The applicant has worked with the City on accessibility into this site. As adjacent neighbors, we have decided to amend the General Plan to reduce the density by about 100 units. The modification will not have a detrimental impact to the General Plan and as presented in the staff report it accomplishes the goals and objectives to the General Plan by providing compatible land uses and taking into account the restrictions of the site as far as accessibility. He stated that this is a better plan and design, which would achieve the goal of the General Plan to have a compatible land use than what was originally approved.

Chairperson Whalen expressed his concern about changing from high to medium residential and mentioned that the General Plan process very carefully addressed number of units and density.

Dorothy Chimel, Acting Planning Director, gave an overview of the Minor General Plan Amendment stating that the application is to change the land use designation from high density (15± du/ac) to medium density residential. As mentioned, this site is challenged as far as getting in and out. The density that would be proposed would create a situation where we would have a number of tenants of an apartment complex or high-density residential going through the neighborhood. This doesn't make for a good neighbor. This creates an ownership situation, which is proposed with the zoning case. Staff is in agreement and recommends approval of the change to the land use. Ms. Chimel stated that there are other areas that are designated for high density residential especially along the light rail corridor, the freeway and again some of the bypass parcels along Main Street. She added that this was not a significant departure from the 15+. It's still getting a product type that can meet all of our development standards and yet have a higher density.

Boardmember Saemisch stated that at the study session he had asked if there were any other product like this. With Ms. Chimel's comment that there is no other product of this density with ownership, makes this a very unique case and one that should be followed and watched closely.

It was moved by Boardmember Saemisch, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of minor general plan amendment case GPMinor03-04.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Item: **Z03-63 (District 6)** Southeast corner of Crismon Road and US-60 Freeway (32.26 ac. ±) Rezone from R-3 to R-2 PAD. This request is for the development of a single-family residential subdivision. Mike Hare, owner; Pew and Lake, P.L.C., Sean Lake, applicant. Also consider the preliminary plat for "Crismon Creek"

Comments: Sean Lake, 10 W. Main St, applicant, gave an overview stating that this is an outstanding higher density owner-occupied development that has the benefits and amenities associated with the higher density of patio home or townhomes. Having open space, common areas and amenities that will be maintained by a Homeowner Association while at the same time having the benefits afforded of single family home without having people live above them. Mr. Lake stated that Great Western has gone to great efforts in working with the City of Mesa in designing this site plan, and with the neighbors to maintain the wash area. Where it is disturbed, it will be re-vegetated, so that it will be an area where people can walk and recreate. In addition to the open space provided, we have also provided a substantial amount of recreational tot-lot areas evenly disbursed throughout the project. As far as the design of the home, this incorporates two product types - a courtyard type design and an alley loaded type product, which is a unique product that hasn't been developed in Mesa. The garages will be pushed into the alley or pushed into the interior of those courtyards. The design creates an excellent streetscape. Mr. Lake added that the sizes of the homes would range from the low 1,200 to 2,100 sq. ft. These homes are not intended to be large single-family traditional homes, but intended to be more of a patio/townhome size.

Chairperson Whalen asked if the development would be maintaining the existing wash. Mr. Lake responded that they will be maintaining the existing wash wherever possible. But because of the way the wash is, they will need to have some channelization so that water isn't going to be affecting the adjacent properties. There will be some disturbing of the wash but all of that wash area will be re-vegetated and the trees preserved as much as possible.

Chairperson Whalen also asked if the block wall, lining the wash, was going to be a view fence. Mr. Lake responded that they didn't intend to put a wall between the front of the home and the wash. That is a substantial amenity to those homes fronting onto the wash. Mr. Lake stated they will correct that with staff.

Ms. Dorothy Chimel, Acting Planning Director stated that staff recommends support of this case. We've looked at a long history of suburban design in the City of Mesa. We are currently a city that is maturing rapidly in many areas of town. It's time to look at a model other than a suburban model. She noted that not only was the Planning Division involved in the review of this design, but also the Solid Waste Division, Engineering Division and Fire Department, all of which have suburban standards. We will be moving towards a standard of development that can accommodate a higher density throughout the City especially on bypass parcels or those parcels that make sense for higher density such as this. Ms. Chimel asked Mr. Lake if he would commit to working with the adjoining neighbor, who has a landscape architecture degree and whose home backs onto this wash. She mentioned that the neighbor was very much concerned with retaining as many as those mature trees as well. The Planning Division would also like to see that commitment followed through. Mr. Lake agreed.

Boardmember Saemisch asked if the conditions needed to reflect that commitment. Mr. Chimel responded that staff was comfortable in working with Mr. Lake as this case proceeds through the Subdivision Technical Review process and as the engineering is finalized, staff will involve the neighbor.

Boardmember Carpenter stated she liked this project and will be watching it to see it finished and have it be a great example.

Boardmember Finter stated that there are a lot of positives to this project and would be supporting it.

Chairperson Whalen stated he was a little skeptical and ready to vote against it, simply because there is a lot of density. However, in listening to Mr. Saemisch he agreed with him. It is designed properly and could be a nifty project and will be supporting this project.

It was moved by Boardmember Saemisch, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z03-63 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with the Residential Development Guidelines including building elevations..
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Compliance with all requirements of the Subdivision Technical Review Committee.
8. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.
9. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Vote: Passed 6-0 (Cowan absent).

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MINUTES OF THE NOVEMBER 20, 2003 PLANNING AND ZONING MEETING

Respectfully submitted,

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Dorothy Chimel, Secretary
Acting Planning Director

LU/MS:
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