

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers

Date: June 19, 2008 Time: 4:00 p.m.

MEMBERS PRESENT

Rich Adams, Chair
Pat Esparza, Vice Chair
Frank Mizner
Ken Salas
Randy Carter
Chell Roberts

MEMBERS ABSENT

Jared Langkilde, excused

OTHERS PRESENT

Dorothy Chimel
Tom Ellsworth
Jennifer Gniffke
Joe Welliver
Josh Mike
Maria Salaiz

Joy Spezeski
Rob Dmohowski
Dorothy Shupe
MaryGrace McNear
Stephen Earl

Elizabeth Ohep
Gregory Link
Others

Chairperson Adams declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated June 19, 2008. Before adjournment at 5:00 p.m., action was taken on the following items:

It was moved by Boardmember Esparza, seconded by Boardmember Roberts that the Minutes of the May 1, 2008 Joint P&Z and DDC meeting, the May 13, 2008, and the May 15, 2008 study sessions and regular hearing be approved as submitted. Vote: 6-0 with Boardmember Langkilde absent.

Chairperson Adams stated that after six years this would be his last meeting. He recognized and thanked the Board saying that it has been a pleasure to work with them. He noted that the Board has heard many controversial issues and everyone brought their integrity and good judgment to the Board; adding that it has been an honor and a privilege to serve with each of them. He also recognized Mr. Wesley and his staff.

Boardmember Mizner acknowledged Chairperson Adam's great job as Chair and noted that they shared a lot of controversial cases and he always handled his self with aplomb, a sense of humor, and decorum; adding that the Board appreciated his service and he will be missed.

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

It was moved by Boardmember Salas, seconded by Boardmember Carter that the consent items be approved. Vote: 6-0 with Boardmember Langkilde absent.

Zoning Cases: *Z08-31, *Z08-39, Z08-40, *Z08-41, Z08-42

* Mesa Gateway Strategic Development Plan

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Item: **Z08-31 (District 6)** 5341 South Power Road. Located east of Power Road and south of Ray Road (5± acres). Rezone from R1-43 and C-2 to C-2 PAD and Site Plan Review. This request will allow the development a retail center. Michael Rose, Across America Real Estate Corp., owner; Scott Lang, SKL Architects, applicant; Julie S. Rayburn, RCC Design Group, L.L.C., engineer. Also, consider the preliminary plat for "Aero Gateway".

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

It was moved by Boardmember Salas, seconded by Boardmember Carter

That: The Board approve the preliminary plat of "Aero Gateway" and recommend to the City Council approval of zoning case Z08-31 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, and preliminary elevations as approved by the Design Review Board, (without guarantee of lot yield, building count, lot coverage).
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all City development codes and regulations.
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 street frontage landscaping to be installed in the first phase of construction.
6. Certificates of Occupancy and/or Completion for individual buildings shall not be granted until Zoning Ordinance required parking and landscaping are constructed for those buildings.
7. All limits of construction shall have temporary landscaping, extruded curbs, and screen walls where parking and loading/service areas are visible from Rights of Way and public areas.
8. Compliance with all requirements of the Subdivision Technical Review Committee.
9. Recordation of cross-access agreement with the northern property owner.
10. Recordation of a reciprocal parking easement with individual lot owners of the development.
11. All pad buildings to be architecturally compatible with the center.
12. Owner granting an Avigation Easement and Release to the City, pertaining to Phoenix-Mesa Gateway 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).
13. Noise attenuation measures be incorporated into the design and construction of the buildings to achieve a noise level reduction of 25 db.
14. Provide 100' stacking distance between pick-up window and order-placing speaker, and 40' stacking distance between order-placing speaker and entry to drive-thru lane of Building 1.
15. Relocation of solid waste enclosure from entrance of drive-thru lane for building 1, as determined by Solid Waste.
16. Office use development shall provide one covered parking stall per office or suite.

Vote: Passed 6-0 with Boardmember Langkilde absent.

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Item: **Z08-39 (District 6)** 11464 East Germann Road. Located on the west side of the Meridian Road alignment between Pecos Road and Germann Road (229± acres). Site Plan Modification (229.25± acres) and rezone from R1-43 to M-2-BIZ with a Council Use Permit overlay (2.25± acres). This request will allow the construction of a main entry drive to a steel mill on Germann Road. Steven J. Henderson, Commercial Metals Company, owner; Stephen C. Earl, Earl, Curley & Lagarde, P.C., applicant.

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

It was moved by Boardmember Salas, seconded by Boardmember Carter

That: The Board approve and recommend to the City Council **approval** of zoning case Z08-39 conditioned upon:

1. Compliance with the basic development as described in the project narrative, and as shown on the site plan (without guarantee of lot yield, building count, lot coverage
2. Compliance with all City development codes and regulations.
3. 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.
4. All street improvements and street frontage landscaping to be installed in the first phase of construction.
5. Owner granting an Avigation Easement and Release to the City, pertaining to Phoenix-Mesa Gateway Airport.
6. Compliance with all conditions of approval for Z07-67, Ord. # 4740.

Vote: Passed 6-0 with Boardmember Langkilde absent.

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Item: **Z08-40 (District 6)** 7415, 7447, and 7509 East Southern Avenue. Located west of Sossaman Road on the south side of Southern Avenue (6± acres). Council Use Permit. This request will allow retail uses in an M-1 zoning district to exceed 10,000 square feet for an individual store and 50,000 square feet in total aggregate area. Grant A. Tayrien - CSS, LLC, owner; Randolph L. Carter – Dream Catchers Planning and Design, LLC, applicant.

Comments: Boardmember Carter declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item.

Dorothy Shupe, Dreamcatchers Planning and Design, applicant, stated that they've reviewed the staff report and prefer to leave in recommended Condition 1a. and delete Condition 1c, adding that they still had concerns with Condition 1b. because they want the ability to have another user exceed 12,000 sq. ft., and they would like to have that done at this meeting without coming back. She briefly explained the reasoning for their request and noted that they are still confused with the definition and use of the Business Park (BP) category and their goal is to fill the property, which will generate more jobs and revenue for the City. Ms. Shupe suggested language for Condition 1b.

Discussion ensued regarding leasing industrial space vs. retail space, market conditions, and rezoning to retail and the use of the Council Use Permit (CUP).

Sean Wood, 6263 North Scottsdale Road, #330, Scottsdale, AZ, representing Fresh and Easy Neighborhood Markets in Arizona, stated that the proximity of the three buildings raises concern because of the cross access and the overflow parking, which would hinder their property. He briefly explained the parking ratios for their property vs. the proposed project and added that it is under parked for a retail use and they would propose that there be no retail use in Area "C" (the eastern most building). Discussion ensued regarding the overflow of parking and cross access.

Ms. Shupe explained that when they originally came through they were not required to have cross access. She further explained that landscaping and a wall already exist in the future location of the cross access. She stated that the property owner has offered to put up a fence so that there will be no cross access, if the Fresh & Easy people request.

Josh Mike, Planner I, explained the definition of cross access and stated that there are three parking spaces that will be removed to install the drive aisle for cross access between the Fresh & Easy and this property. Mr. Mike gave an overview the project and stated that this request is to exceed 10,000 sq.ft. for an individual user and that the 50,000 sq.ft. total aggregate will not be exceeded. He stated that staff has concerns with giving approval to have multiple users that will exceed the 10,000 sq.ft. limit and staff feels that having one user, up to 25,080 sq.ft., would be sufficient to meet the needs of the owner. He added that staff recommends approval with conditions as outlined in the supplemental report.

Discussion ensued regarding parking requirements for retail uses and if there is sufficient parking on the site for this proposal. Boardmember Mizner commented that there is a difference between what the Zoning Code requires for parking and what the industry may require, adding that parking may still be a problem.

Mr. Mike stated that staff supports removing Condition 1c and if agreeable by all, staff would support the middle or western buildings being used as the larger retail user.

Chairperson Adams asked Mr. Woods to explain what he was asking the Board to consider. Mr. Woods responded that they are in support of the cross access, which would benefit both properties and they would be agreeable to restricting the larger retail user from being in the building adjacent to them. Discussion ensued regarding sufficient parking.

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Boardmember Roberts asked what the ramification would be of not having cross access and commented that part of the concern is the economic impact for the way the area has been zoned and planned; adding that the number of jobs doesn't change with this request but could lead to lower paying jobs in retail.

Mr. Mike explained that without cross access cars would have to get onto Southern Avenue to reach this site, disrupting the flow of traffic. If there were cross access, it would show openness and the ability to go from one site to another. He also stated that going over the 50,000 sq.ft. in aggregate area may decrease the quality of jobs and average salary, if more retail is allowed into this area; adding that having up to 50,000 sq.ft. in retail is not something that staff can restrict because that is allowed per the Zoning Ordinance, staff is simply restricting the applicant to stay within those boundaries.

Discussion ensued regarding the applicant's request to exceed the 10,000 sq.ft. for one user, and the Conditions of Approval.

Boardmember Mizner stated he appreciated Ms. Shupe's arguments but was concerned that the applicant's request would turn this proposal into too much of a retail building, he added that there is a reason that this area was zoned M-1 and designated BP, which the applicant knew of when they came forward. He also mentioned he was concerned with the overflow parking to the adjacent property and noted he was in favor of cross access.

Boardmember Roberts stated he understood that there are zoning rules in place and there are procedures to modify them as being requested, but if the economy is the way it is and only certain type of jobs can be attracted, then it may be in Mesa's best interest to attract those jobs; adding that the Zoning Ordinance is being revised to look at more mixed use. He stated that he's concerned with the parking for Fresh and Easy but noted he would like to have two or more users allowed to exceed the square footage.

Boardmember Esparza agreed with Boardmember Roberts that there should be more than one user allowed and would not be supporting the motion as stated.

It was moved by Boardmember Mizner, seconded by Boardmember Salas

That: The Board approve and recommend to the City Council **approval** of zoning case Z08-40 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below:
 - a. Maximum aggregate area of 50,000 sq. ft. for the group commercial development.
 - b. Maximum of one retail-user is allowed to exceed 10,000 sq. ft. for the group commercial development.
 - c. Largest retail user shall not be located in the eastern most building.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of case Z06-80 (Ord. #4627).

Vote: Passed 3-2 with Boardmembers Esparza and Roberts nay, Boardmember Carter abstaining and Boardmember Langkilde absent

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Item: **Z08-41 (District 3)** The 540 to 560 blocks of West Baseline Road (north side). Located west of Country Club Drive on the north side of Baseline Road (9.9± acres). Site Plan Modification. This request will allow the development of a fueling station. Dillon Real Estate Co Inc. – Jeff Guyette, owner; Elizabeth Ohep, Tait & Associates, Inc., applicant; Jeff Wimmer, CMX, engineer.

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

It was moved by Boardmember Salas, seconded by Boardmember Carter

That: The Board **approve** zoning case Z08-41 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, and preliminary elevations as approved by the Design Review Board, (without guarantee of lot yield, building count, lot coverage).
2. Replace all dead/dying landscaping prior to permit application.
3. Site Plan Review through the public hearing process of future development plans.
4. Compliance with all requirements of the Design Review Board, including screening device for outdoor vending machines and canopy design.
5. Provide foundation base as required by §11-15-3-C.
6. Compliance with all City development codes and regulations.
7. All attached and detached signs for the site shall comply with the Comprehensive Sign Plan approved for the northeast corner of Baseline Road and Vineyard Streets, Case ZA98-99 unless modifications to the plan are approved by the Board of Adjustment.
8. Review and approval of a Special Use Permit for gas pumps by the Board of Adjustment.
9. Review and approval of a Substantial Conformance Improvement Permit.

Vote: Passed 6-0 with Boardmember Langkilde absent.

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Item: **Z08-42 (District 1)** 1614 North Mesa Drive. Located south of McKellips Road and west of Mesa Drive (1.09± acres). Rezone from R1-6 to O-S and Site Plan Review. This request will allow for the development of an assisted living facility. Gregory D. Link, CSOM – Link, LLC., owner/applicant.

Comments: Gregory Link, 1649 East Hackamore, Mesa, AZ., applicant stated they are requesting to build two assisted living centers.

The following individuals spoke regarding this proposal:

Brenda Sabin, 362 East Hunter Circle, Mesa, AZ, resident
Rose Marin, 346 East Hunter Circle, Mesa, resident
John Aguirre, 303 East Hillside Street, Mesa, resident
Frank Martos, 1636 North Mesa Drive, Mesa, property owner

Their comments and concerns included:

- Want detailed information about the facility
- What type of assisted living facility would it be
- Would the structure be guaranteed to be one level
- Concern with lighting to abutting homes
- Did not have an opportunity to review plans before the meeting
- Can it be changed from an assisted living to a rehab facility
- Not notified of the project

Boardmember Roberts asked Ms. Sabin if they received notification from the applicant and if there was a neighborhood meeting. Ms. Sabin responded that she received notification, but they did not have a neighborhood meeting.

Chairperson Adams asked Mr. Aguirre if the HOA Board was notified of the public meeting. Mr. Aguirre responded, No.

Mr. Link briefly explained the project stating they are proposing to build a facility for elderly or incapacitated people and not trying to put a group home in. He also explained that he gave out countless letters, went door-to-door to about 50% of the residents and left letters at homes informing them of a neighborhood meeting for May 5th, which no one attended; he added that he would be happy to sit down and meet with those interested. Discussion ensued regarding notification.

Jennifer Gniffke, Planner II, stated this request is for the development of two, single-story, assisted living facilities. She briefly explained the definition of the O-S category, adding that a Special Use Permit (SUP) is required, in addition to a Development Incentive Permit (DIP) to allow for modifications to the standard code requirements. She noted that staff was under the impression that the applicant completed the neighborhood notification process and stated that staff was concerned with this rezoning request but with the design of the buildings, as well as the applicant's actions by going door-to-door, staff's concern were largely reduced. She stated staff is recommending approval with conditions.

Ms. Dorothy Chimel, Principal Planner, read the O-S definition into the record and added that a SUP is required for an assisted living facility, which will be heard by the Board of Adjustment and the use itself is very well defined by the State and the language is mimicked in the Mesa City Code.

Chairperson Adams asked if the Citizen Participation Guidelines specify how notification is to be

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carried out. Ms. Gniffke responded that the Guidelines suggest notification of neighbors within 1000' as well as HOA's and Register Neighborhoods within half mile to one mile. Discussion ensued regarding the Guidelines.

Boardmember Mizner commented that there are legal requirements for rezoning and the notification process, adding that he was concerned with the lack of notification for this case. He stated that although the applicant is well intentioned and this is a good compatible use for the neighborhood, it's apparent that these neighbors do not know what's going on. He moved to continue zoning case Z08-42 to the July 17, 2008 hearing and strongly encouraged the applicant to set a neighborhood meeting, adding that the worst thing that could happen on a zoning case is the lack of knowledge and rumors.

Boardmember Esparza seconded the motion, adding that she sees inconsistency with the applicant's action plan.

Boardmember Roberts agreed with Boardmember Mizner's comments stating that it's very important that citizens participate in a process that should never be violated. He added that this is a good thing for the neighborhood and thinks the citizens would like it.

Chairperson Adams stated that this is a nice project and a good use but as mentioned by Mr. Mizner the citizen meeting needs to be addressed.

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board **continue** zoning case Z08-42 to the July 17, 2008 hearing.

Vote: Passed 6-0 with Boardmember Langkilde absent.

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MINUTES OF THE JUNE 19, 2008 PLANNING AND ZONING MEETING

Item: Hear a presentation, discuss and provide direction on the following Mesa Gateway Strategic Development Plan.

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

It was moved by Boardmember Salas, seconded by Boardmember Carter

That: The Board **continue** the Mesa Gateway Strategic Development Plan to the July 17, 2008 hearing.

Vote: Passed 6-0 with Boardmember Langkilde absent.

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Respectfully submitted,

John Wesley, Secretary
Planning Director

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