

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers

Date May 19, 2005 Time 4:00 p.m.

MEMBERS PRESENT

Mike Cowan, Chair
Rich Adams
Pat Esparza
Alex Finter
Frank Mizner
Bob Saemisch

MEMBERS ABSENT

Barbara Carpenter, Vice-Chair (excused)

OTHERS PRESENT

John Wesley
Dorothy Chimel
Tom Ellsworth
Ryan Heiland
Liz Zeller
Krissa Hargis
Gordon Sheffield

Amy Veith
Susan Morrison
Jim Smith
John Gendron
Sean Lake
Michelle Dahlke
Jennifer Urqhart

Jason Morris
Reese Anderson
Paul Gilbert
Julie Brady
Machelle Couch
Michael Gerow
Others

Chairperson Cowan declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated May 19, 2005. Before adjournment at 6:27 p.m., action was taken on the following items:

Boardmember Esparza stated that, due to her absence, she would abstain from all discussion and voting regarding this item. It was moved by Boardmember Mizner, seconded by Boardmember Finter that the minutes of the April 21, 2005 meeting, the minutes for the General Plan Amendment GPMInor05-02 held on April 19, 2005 and April 22, 2005, and the minutes for General Plan Amendment GPMInor05-03 held on April 19, 2005, all be approved as submitted. The vote was 5-0-1 (Esparza abstaining, Carpenter absent).

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

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

Code Amendment: Amending Sections 11-18-2, 11-18-6, 11-18-8, 11-18-9, and 11-18-10 of the Zoning Ordinance pertaining to Fees for planning services; Consider an amendment to the City of Mesa Zoning Ordinance, by adding a new Subsection 11-6-3 (D) permitting "Commercial Recreation/Entertainment Uses", such as pool and dance halls, night clubs, cocktail lounges, bars, and similar uses in the C-2 District, subject to a Council Use Permit.

General Plan Amendment: GPMInor05-03

Zoning Cases: Z04-105, *Z05-47, *Z05-53, Z05-54, Z05-55, *Z05-56, *Z05-57, *Z05-58

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: Amending Sections 11-18-2, 11-18-6, 11-18-8, 11-18-9, and 11-18-10 of the Zoning Ordinance pertaining to Fees for planning services.

Comments: Mr. John Wesley, Planning Director, explained the proposed fee increases for planning services. The City staff reviewed the fees in conjunction with the budget to determine if any adjustments needed to be made by conducting a comparison with other cities and a review of cost recovery. The staff received direction from the City Council to move closer to cost recovery. Approximately 30 percent of the costs are currently being covered with the present fees. There is a proposed 20 percent fee increase to improve the cost recovery to approximately 37 percent. As well, it is proposed to change the major General Plan amendment fee from \$5,000.00 to \$13,000.00 to bring it to full cost recovery. In addition, an annexation fee of \$250.00 for properties less than five acres and a \$500.00 or more fee for properties greater than five acres is being proposed to begin covering these costs. This is due to the increased number of annexation as a result of passage of Ordinance #3880. If these fees are approved by City Council, staff is proposing to fill some additional positions to provide better services to the public.

Boardmember Mizner stated that he believed other forums have reviewed these fees. Mr. Wesley stated that the proposed fee increases have been presented to the Design Review Board and Board of Adjustment. There was no public input received at these hearings. The boards generally supported the proposed increases. The Developers Advisory Forum requested to seek further process improvement and the streamlining of applications. They were not supportive of the proposed increases until some of these improvements have been implemented. Some improvements have begun with the Design Review Board review process and staff is continuing to review their processes further.

Chairman Cowan asked if the additional staff would assist to improve the planning services. Mr. Wesley stated that the new positions of a Planning Assistant and Administrative Assistant would greatly assist because the professional staff is currently doing many clerical functions and the new positions would assist with the more routine clerical functions. This will allow the professional staff to have additional time to review applications and meet with applicants.

Boardmember Adams stated that if a business were only recovering 30 percent of their costs, then it would be going out of business. The 20 percent increase would bring the City to a 37 percent cost recovery. The proposed fees are extremely reasonable from a business standpoint and, as well, the fees appear appropriate due to the current budgetary constraints. He further stated that he had no objection to the proposed fee increases.

It was moved by Boardmember Adams, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of amending sections 11-18-2, 11-18-6, 11-18-8, 11-18-9, and 11-18-10 of the Zoning Ordinance pertaining to fees for planning services.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The boardmembers believed that the proposed fee increases were reasonable and appropriate.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: Consider an amendment to the City of Mesa Zoning Ordinance, by adding a new Subsection 11-6-3 (D) permitting "Commercial Recreation/Entertainment Uses", such as pool and dance halls, night clubs, cocktail lounges, bars, and similar uses in the C-2 District, subject to a Council Use Permit.

Comments: Mr. John Wesley, Planning Director, stated that an overview of the proposed ordinance was presented at the study session Tuesday morning and explained that the City Council has heard some requests for bar licenses in the C-2 zoning district. The City Council has requested that the Planning staff review the possibility of allowing bars in the C-2 zoning district. The Planning Division staff is proposing this process through a Council Use Permit. The Council Use Permit would include a review and recommendation from the Planning and Zoning Board. The applicants would also be required to do neighborhood notification.

Boardmember Adams asked if Mr. Gendron would give a brief summary of the report that was presented at the study session.

Mr. John Gendron, Zoning Administrator, explained that the Mesa Ordinance has regulated bars, dance halls, and other similar recreational uses since 1958. In 1958, these uses were only allowed in the C-3, M-1, and M-2 zoning districts and this regulation has continued to the current Zoning Ordinance. There is currently a provision for a restaurant located in the C-2 zoning district to allow a bar accessory to the primary use. The current Zoning Ordinance requires that 40 percent of the gross revenues be derived from the sale of food. The Council has reviewed various options and directed staff to proceed with the proposed ordinance. Mr. Gendron further explained that some of the stipulations in the proposed ordinance include a plan of operation, good neighbor policy, outdoor activity areas being located at least 300' from residential areas, and the Council Use Permit process. As well, there would be full notification through the public hearing process. If there were reoccurring complaints or violations by the operators, then the Board or staff could initiate a re-hearing with the possibility of revoking the Council Use Permit. With the proposed process, staff believes that the potential impacts would be minimal to surrounding areas. As well, due to the price for liquor licenses and limited number of licenses issued, staff does not believe there will be a proliferation of these types of requests.

Boardmember Saemisch asked if the proposed ordinance included other uses. Mr. Gendron stated that the proposed ordinance includes "commercial/recreation uses", such as pool and dance halls, night clubs, cocktail lounges, etc. These are currently permitted in the C-3, M-1, and M-2 districts. The proposed ordinance would allow these types of uses in the C-2 district subject to a Council Use Permit.

Boardmember Mizner stated that the proposed ordinance would require full notification of neighbors, as well as, a plan of operation and substantial conformance with the Zoning Ordinance. Mr. Gendron explained that this process would require sites to be brought in substantial conformance and would bring improvements to the building and grounds.

Boardmember Adams asked for clarification regarding spirituous liquors in the staff report. Mr. Gendron stated this includes all spirituous liquors, such as beer, wine, and hard liquor.

Chairman Cowan asked about the accessibility of the State to audit licenses. Mr. Gendron stated that if an operator has a "Series 12" restaurant license, they are required to have at least 40 percent of their revenue derived from the sale of food. There are currently over 172 "Series 12" restaurant licenses and only 32 "Series 6" bar licenses in the City of Mesa. There is no limit

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

on the number of restaurant licenses. The State does audit restaurants, but Mr. Gendron stated he was unsure of the frequency of these audits. The State can revoke the "Series 12" license, if the restaurant is not meeting the 40 percent requirement.

Boardmember Finter stated he believed this proposed code amendment was a huge mistake for the community. He described potential examples of Harold's Club, Rooster's, etc. being located in a business complex within grocery stores, such as Albertson's, Fry's, etc. He further explained that in his experience of 20+ years in public safety, these types of businesses generated a high volume of calls. Boardmember Finter stated that there were a few unique situations that were handled by the City Council and does not believe there is a need for changing the ordinance. He did not feel that the "word" had gotten out about this ordinance change and the potential effects in the community. He further explained the ordinance did not prevent the operators of a bar license to re-locate to "high-volume and high-traffic neighborhood places." As well, this process would place the burden on the neighbors to fight against having a bar or commercial/recreation use located near them.

Boardmember Mizner described how he has weighed both arguments in this situation, but holds the same position as Boardmember Finter. He further explained that he does not believe there is a need for change and is concerned that neighbors would have a difficult time organizing against these types of uses.

Boardmember Saemisch stated that staff did not have enough time to obtain the criminal data requested. He further explained that the City Council initiated this ordinance and it would be an additional tool to the Council for review of these types of uses. Boardmember Saemisch asked if there was a comparison done on other valley cities regarding bars being located in C-2 zoning districts.

Mr. Gendron stated that staff reviewed other cities' ordinances and compared them to the Mesa Zoning Ordinance. In the review, staff found that most valley cities allow bars in their comparable C-2 zoning through some form of a use permit process.

Boardmember Saemisch stated that this ordinance change could be located in the same category as Freeway Landmark Monument signs. He further stated that the City should provide a good business environment for these individuals.

Boardmember Adams stated that he believed this issue came down to having confidence in the process. He stated that he believed the Council Use Permit process is a sound process and understands Boardmember Finter's argument. Boardmember Adams explained that he would choose to have confidence in the process because there are checks and balances in it. He stated that he would not want his wife or daughter to walk into a store next to a bar, but does not believe that the Planning and Zoning Board would approve a request for a bar to be located next to family-oriented businesses.

Boardmember Esparza stated that she was in support of this ordinance change because of the built-in process for the Council Use Permit.

Chairman Cowan stated that he was in agreement with Boardmembers Finter and Mizner and was not supportive of this request. He further explained that there are checks within the proposed ordinance, but does not believe bars should be located in the neighborhood commercial areas.

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

It was moved by Boardmember Esparza, seconded by Boardmember Saemisch, that: The Board recommend to the City Council approval of adding subsection 11-6-3 (D) to the Zoning Ordinance permitting "Commercial Recreation/Entertainment Uses," such as pool and dance halls, night clubs, cocktail lounges, bars, and similar uses in the C-2 District, subject to a Council Use Permit.

Vote: 3-3 (Finter, Mizner, and Cowan voting nay, Carpenter absent)

P&Z Recommendation: 3 Approval (Adams, Esparza, and Saemisch), 3 Denial (Finter, Mizner, and Cowan), 1 absent (Carpenter)

Reason for Recommendation: The boardmembers that voted in favor of the request believed that there would be an effective process created for review of these types of uses. The boardmembers that voted against the request believed that these types of uses are not appropriate in the C-2 zoning district and that there was not a need for changing the ordinance.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **GPMInor05-03** The 3000-3600 blocks of N. Val Vista Drive (west side) and the 2800 – 3500 blocks of E. Lehi Road (south side). Generally located south of Thomas Road between Lehi Road and Val Vista Drive (299.6 ac). Maricopa County, between Districts 1 and 5. Minor General Plan Amendment to change the General Plan Land Use Map from Medium Density Residential 2-4 dwelling units per acre (MDR 2-4), Medium Density Residential 6-10 dwelling units per acre (MDR 6-10), High Density Residential 10-15 dwelling units per acre (HDR 10-15) and Office to Medium Density Residential 2-4 dwelling units per acre (MDR 2-4), Medium Density Residential 4-6 dwelling units per acre (MDR 4-6) and Community Commercial. Engle Enterprises Limited Partnership (Rodney E. Engle, Jr. & Janelle A. Yancey), Richard K. Winslow & Marjorie Shreeve, Robert M. & Priscilla Clark, owners; Paul Gilbert, Beus, Gilbert, PLLC, applicant. **CONTINUED FROM THE APRIL 21, 2005 MEETING.**

Comments: Mr. Paul Gilbert, applicant, stated that he was in full agreement with the staff's recommendation.

Mr. Reese Anderson, representing Vulcon Materials, explained that Vulcon Materials is the current owner of the mine. He stated that they are not specifically opposed to the request, but have concerns regarding the perimeter buffer yard around the mine. Mr. Anderson stated that he believed there was a discrepancy regarding the buffer. He believed the proposed buffer was 300', but the applicant was showing a 100' buffer. Mr. Anderson stated that he believed what Mr. Gilbert has said regarding the buffer, but has concerns about what would be an appropriate buffer. He further explained that he believes one-acre horse properties would be an appropriate buffer because the mine does create noise and dust. Mr. Anderson stated that it has been suggested for these concerns be resolved at the zoning level, but he believed that it could be resolved in the current process to allow for clarity at the zoning level.

Ms. Julie Brady, 3044 North 38th Circle, stated that the residents in the area were promised a rural atmosphere since the 1980's. She further explained that there is a high demand for rural lots in the real estate market. Ms. Brady stated that there are promises that can be kept, economic returns for people, and a beneficial side to the City of Mesa, if there was a low-density residential area. She added that it was important to preserve the rural atmosphere.

Mr. Gilbert stated that they did promise a buffer and intend to provide a 100' buffer from the mine. He further explained that he appreciated Mrs. Brady's vigilance and tenacity.

Ms. Susan Morrison, Planner II, stated that this site is in the jurisdiction of Maricopa County. She further explained that this request would accommodate any future annexation or re-zoning request. Staff is supportive of the proposed densities and comfortable with addressing the buffer concern at the zoning level. She explained the General Plan goals and objectives relating to this request and believed this amendment would support these goals. Staff recommended approval of the request because the proposed densities are compatible with the surrounding uses, improved access to the site through the freeway, consistent with the General Plan, and the proposed uses will well-serve the residents of Mesa.

Boardmember Saemisch inquired about what was previously approved and currently proposed for this request. Ms. Morrison explained the previously approved Major Plan Amendment (GPMajor04-01) and the proposed changes to the amendment.

Boardmember Adams stated that the Planning and Zoning Board minutes of October 21, 2004 and the City Council minutes from November 15, 2004 all refer to a 300' buffer. He inquired about what occurred to change the buffer from 300' to 100'.

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Mr. Gilbert explained that at the initial City Council hearing, the request was continued to allow time for the applicant and the mining company to work together to create a compromise. When the City Council adopted the amendment on January 18th, 2005, there was an agreement presented with New West Companies. The agreement included re-location of the batch plant, additional walls and setbacks, and a noise study regarding the necessary buffer. At the Council hearing, the 100' buffer was determined to be what would be provided through the noise study. In addition, the attorney for New West summarized the agreement at the Council hearing.

Boardmember Adams asked if neighbors were notified about the 100' buffer. Mr. Gilbert stated that they had many well-attended neighborhood meetings discussing the buffer and setbacks. The Pleasant Groves subdivision, bordering the site, fully supported the agreement at the City Council hearing. He further explained that the noise study recommended a 100' buffer due to the mining company's operation.

Boardmember Finter asked Mr. Anderson about the change in owner and the operations of Vulcon. Mr. Anderson stated that there would not be any major changes to the operations of the mine and explained that Vulcon is one of the better operators. The settlement agreement was completed with New West, but it is a binding agreement with Vulcon. He further explained that the agreement stated a minimum 100' buffer. Mr. Gilbert stated that the agreement runs with the land, not the property owner.

Boardmember Saemisch asked Mr. Wesley to explain the intent of what was being proposed as part of this request. Mr. John Wesley, Planning Director, explained that this request was for a minor General Plan amendment to adjust some of the land uses and believed that some of the buffering and lighting concerns could be addressed at the zoning stage when a site plan is presented.

Boardmember Mizner stated that he was not able to vote on the Major General Plan amendment due to previous engagements and would have likely voted against the amendment on the basis of putting more homes next to an operating mine. He further explained that this request is a fulfillment of the promise that Mr. Gilbert gave to the City Council to lower the approved densities. In addition, Mr. Mizner stated he was in support of the request and explained this site was not currently within the City of Mesa limits. He further explained that there are many other processes that the applicant must complete that could work out the details regarding the buffer, driveway, landscaping, and setbacks.

Boardmember Esparza stated that she was in support of the request and was glad that Mr. Gilbert was following through on his commitment.

It was moved by Boardmember Adams, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of General Plan Amendment GPMInor05-03.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonable and should be compatible with the adjacent neighborhoods.

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z04-105 (District 6)** The 1600 block of South Signal Butte Road (west side). Located south of US 60 and west of Signal Butte Road (66.7 ac.). Requesting a Council Use Permit to allow the development of a Freeway Landmark Monument sign in conjunction with the construction of group commercial center. Bojer Land/Signal Butte, owner; Diversified Partners – Elizabeth Gaston, applicant. **CONTINUED FROM THE DECEMBER 16, 2004, JANUARY 20, 2005, FEBRUARY 17, 2005, MARCH 24, 2005 AND APRIL 21, 2005 MEETINGS.**

Comments: Mr. Jason Morris, applicant, explained the history of the site and the request to allow a Freeway Landmark Monument sign. Staff recommended approval of the request with conditions. There were some neighborhood meetings regarding the entire site and one specifically for the freeway sign. Mr. Morris stated there were three points brought out in the staff report and explained how this site met those points. The first was the appropriate location and Mr. Morris discussed how the request met the criteria for being an appropriate location due to the General Plan designation and requirements for size. This sign would draw from the east and west traffic. Given the types of housing and shoppers for the center, it would be critical for identification from the freeway, in addition to specific store identification. The second point was the design provides an appropriate sign height and area. Mr. Morris explained that there was a balloon test completed and the proposed height was appropriate to have identification for the retailers. The third point was the design of the sign. Mr. Morris explained he believes the Planning and Zoning Board needs to look at the land use component and determine if this was an appropriate location for a freeway landmark sign. The third component was design-oriented and determines if this sign is in keeping with the entire center, as well as, overall size and height, and identification of the retailers. Mr. Morris stated that they were not in agreement with stipulation #2 regarding the percentage of sign copy and requested that the Design Review Board look at the implications of this stipulation, rather than the Planning and Zoning Board. One of the reasons for this request was due to the ratio of 3 to 1 for height to width. This was a concern because if the proposed "Superstition Gateway" sign was increased to 25 percent, the sign would not fit on one line. This would take away from the identification and the overall signage. Mr. Morris further stated that there were alternatives; such as the sign did not have to be in a linear manner or it could be moved vertically on either side of the monument. In addition, he explained that this may not be the direction that the Planning and Zoning Board would want to go in and this would be better addressed at the Design Review Board prior to City Council. Mr. Morris recommended that the Board recommend approval of the request without stipulation #2.

Mr. Gordon Sheffield, Senior Planner, gave a description of the previously approved Freeway Landmark Monument signs and stated the definition of the "Freeway Landmark Monument". He further explained that the definition includes "development" rather than "tenant". The principle copy of the proposed sign was not "Superstition Gateway", but rather "Anchor East", "Anchor West", and other tenant signs. The sign was trying to identify the activities along both sides of Signal Butte Road between the freeway and Baseline Road. It would not be feasible for the sign to identify all of the tenants at this site. Staff believed that the intent of Freeway Landmark Monuments was to create an "iconic" type of image. The sign would become reinforced through other advertising mechanisms. Staff was recommending the percentage stipulation to reinforce the idea for the sign to identify the entire development rather than individual tenants. Mr. Sheffield stated that Mr. Morris was correct that the Planning and Zoning Board was considering the height and area and that the Design Review Board could work out the specifics regarding the sign. It would be likely that the design of the sign would change based on the recommendation of the Design Review Board. The difficulty arises when one tries to define "principle" because it is a vague term. Staff believed that the stipulation for 25 percent shows the intent to the Design Review Board of the principle for a Freeway Landmark Monument.

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Staff is in agreement with the applicant that this would be an appropriate location, height, and sign area for the proposed sign.

Boardmember Mizner asked Mr. Sheffield how the sign area would be calculated. The sign area would not include the base of the sign, legs, or archways. The current percentage of the sign copy for the name of the development was 15 to 17 percent. Boardmember Mizner stated the applicant has the option to have "Superstition Gateway" become larger or reduce the number of tenant panels. Boardmember Mizner inquired about how the 25 percent figure was determined. Mr. Sheffield stated that percentage was suggested as a compromise from staff and further explained the history and intent of Freeway Landmark Monuments and the Guidelines. Staff suggested this percentage of sign copy to bring the proposed sign back to the intent of Freeway Landmark Monuments. Boardmember Mizner inquired about the percentages of the two previously approved Freeway Landmark Monuments. Mr. Sheffield stated he did not have the specifics with him, but he believed about 15 to 20 percent for the Superstition Springs Auto Loop and approximately 15 percent for each of the Riverview signs. Boardmember Mizner stated that previously approved signs had about the same amount of percentage devoted to the development as the proposed sign and asked if the previous signs had as many tenant identification signs located on it. Mr. Sheffield stated that they did not have as many tenant signs and explained that the sign area was slightly larger on this sign as compared to the other signs. This sign would go to the Design Review Board next and then the recommendation to the City Council would incorporate both the Planning and Zoning Board and Design Review Board's recommendations.

Boardmember Finter stated concerns after viewing the digital photos presented by Mr. Sheffield at the study session. He further explained that he believed that the previous cases had unique situations due to the on and off ramp situation on Sossaman for the Sossaman location, as well as, the stack for the Riverview site. He stated that he did not believe there were real reasons for the need of the sign.

Boardmember Saemisch stated that the sign meets the criteria in the Zoning Ordinance. He further stated that he believed the ordinance was "ill-written" and now the City was facing the consequences. In addition, he explained that he believed that this issue needed to be re-visited and that the City needed to look for a compromise.

Boardmember Esparza stated that the stipulation for the 25 percent seemed logical, but does not believe that it was realistic.

Boardmember Mizner stated that he was in support of the request. He further explained that the Board has had tremendous discussion regarding this issue and would desire the Design Review Board to look carefully at the sign proportions due to some of the concerns.

Boardmember Adams stated that he was in agreement with Boardmember Saemisch and believed the guidelines are flawed and should be re-visited. He further explained that he did not see anything unique or "iconic" about this sign. In addition, he stated that for the purpose of the re-visitation of the guidelines, the majority of individuals look for a specific tenant compared to a development and that the sign should reflect what exists at the center.

It was moved by Boardmember Esparza, seconded by Boardmember Saemisch, that: The Board approve and recommend to the City Council approval of zoning case Z04-105 conditioned upon:

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

1. Compliance with the basic design (dated received April 27, 2005) except as modified by the conditions as noted below.
2. Compliance with all requirements of the Federal Aviation Administration regarding the use of visibility warning lights.
3. Compliance with all requirements of the Building Safety Division with regards to the issuance of a sign permit.

Vote: Passed 5-1 (Finter nay, Carpenter absent)

Reason for Recommendation: The majority of the Board felt this proposal was reasonably well-designed and met the intent of the Freeway Landmark Monument Guidelines.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-47 (District 6)** The 8800 – 9100 block of East Baseline Road (south side) and the 2100 – 2400 block of South Ellsworth Road (west side). Located south and west of Baseline Road and Ellsworth Road (145± ac). Modification of the Monte Vista Village Resort Development Master Plan, modification of an approved PAD, and site plan modification. This request is to allow for Monte Vistas' second phase of development of a manufactured home and RV resort. Monte Vista Two (Scott Brown), owner; David Evans and Associates (Eric Toll), applicant. **CONTINUED FROM THE APRIL 21, 2005 MEETING.**

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

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z05-47 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.
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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Williams 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).
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.
11. Lots 1-238 of the Recreational Vehicles section of the development, located at the southern portion of the subject site (the "Temporary Residence Area"), shall only be used by Class A Motor homes, Fifth Wheels, or similar recreational vehicles designed to be driven or pulled on a highway (collectively, "Recreational Vehicles").
 - a. The Temporary Residence Area shall have no above ground lot improvements or structures other than those improvements shown on the approved construction plans; and
 - b. There shall be no permanent additions or build-ons to the Recreational Vehicles including, but not limited to, Arizona rooms, or other similar structures; and
 - c. Recreational Vehicles in the Temporary Residence Area shall be of a maximum width (with pop outs) no greater than 26-feet wide; and
 - d. The Temporary Residence Area shall not be used for manufactured or modular housing, factory built buildings, or park models.
12. No two-story homes along Ellsworth Road or adjacent to the commercial development along

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

the northeast corner of the subject site.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent neighborhoods.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-53 (District 6)** The 10800 – 11200 block of East Ray Road (north and south side). Located between the Signal Butte Road alignment and Mountain Road north and south of the Ray Road alignment (138± ac). Rezone from R1-43 and R1-6 (conceptual R-2) to R1-6 PAD and R-2 PAD and modification of the Mountain Horizons Development Master Plan. This request is to allow for the further development of a residential master planned community. Pulte Homes, Tim Loughrin, owner; Sean Lake, Pew & Lake, PLC, applicant. Also consider the preliminary plat.

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

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z05-53 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat, (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Residential Development Guidelines.
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. Compliance with all requirements of the Subdivision Technical Review Committee.
7. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
8. Written notice to be given to future residents that this subdivision is within one (2) miles of Williams Gateway Airport.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Williams 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).
10. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent neighborhoods.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-54 (District 5)** The 9800 – 10000 block of East Brown Road (north side). Located at the northwest corner of Brown Road and Crismon Road (23± ac). Rezone from R1-43 to R1-15 PAD and site plan review. This request is to allow for the development of a single residence subdivision. Warren Peterson, VIP Construction, Inc., owner; Kimberly Acton, Hoskin-Ryan Consultants, Inc. Also consider the preliminary plat for the “Whisper View”.

Comments: Mr. Sean Lake, applicant, requested to defer his comments until the end.

Mr. Michael Gerow, 1527 North Crismon Road, requested that the Board continue this case and stated his concerns. He discussed that the traffic along Crismon Road needed to be reviewed before additional traffic was added to the road. The second stated concern was regarding the water situation. He further explained that the homes to the east that are currently on wells had petitioned to the City for water services. He stated that the City told the owners that there was not enough volume or pressure to obtain water through the water tank. Mr. Gerow explained that they are not allowed to use the water, yet this development would be able to use it.

Mr. Lake stated that he wished to address each of Mr. Gerow's concerns. He explained that they have been working with the Transportation Division and would be completing half-street and intersection improvements as part of the development of the subdivision. These improvements would assist the traffic situation. He further explained that this development was within the City of Mesa limits and would connect to City water. He discussed how the properties to the east are in Maricopa County and the policy of the City of Mesa regarding connecting to City utilities. He further stated that if the properties to the east were to annex into the City of Mesa, they would be able to connect to the utilities.

Boardmember Saemisch inquired about the water tanks that were mentioned. Mr. Lake stated that he was not familiar with the tank, but explained that they would be connecting to City water lines.

Mr. Tom Ellsworth, Senior Planner, gave an overview of the zoning request. He stated that the case was in general compliance with the Desert Uplands Guidelines. He further explained that the Transportation and Engineering Divisions have reviewed the request and do not share of any of the concerns stated prior. Staff recommended that this case be approved with conditions.

Boardmember Mizner explained that he previously had concerns regarding the proposed setbacks, but the applicant had revised their request to meet the side-yard setbacks. He stated that the lots would be deviating from the minimum lot-width, but would be exceed the lot depth. He stated that he believed this would be a high-quality development and an asset to the community. He further discussed the Crismon Road improvements and how the properties to the east could become connected to City utilities through annexation into the City of Mesa.

Boardmember Saemisch asked Mr. Ellsworth about the zoning density for the properties to the west. Mr. Ellsworth stated that he was unsure of the exact density count, but the properties were zoned R1-9. Boardmember Saemisch stated that the corner intersection would have generous landscaping and would be preserving a 50-arm saguaro cactus. He further explained that the safety issue should be mitigated through the street improvements and this development would be an improvement to the surrounding areas.

It was moved by Boardmember Saemisch, seconded by Boardmember Mizner

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

That: The Board approve and recommend to the City Council approval of zoning case Z05-54 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).
2. Compliance with the Residential Development Guidelines.
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. Compliance with Native Plant Preservation Ordinance #3693 requiring submittal of a Native Plant Preservation Plan.
9. Compliance with Ordinance #3694 requiring a grading permit.
10. Lots along the western property line are to be single story only.
11. Front yards to maintain a natural desert theme with landscaping palette from the Preferred Desert Plant List of the Desert Uplands Ordinance.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent neighborhoods.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-55 (District 4)** 805 North Country Club (east side). Located at the northeast corner of Country Club Drive and 8th Street (4± ac). Rezone from R1-6 and C-2 to O-S, and site plan review. This request is to allow for the development of the Family Enrichment Center, which will be an extension of the Child Crisis Center's shelter program. First Christian Church of Mesa, owner; Ralph Pew – Pew & Lake PLC, applicant.

Comments: Boardmember Saemisch stated that, due to a potential conflict, he would abstain from all discussion and voting regarding this item.

Ms. Michelle Dahlke, applicant, requested to defer her comments until after the residents have spoken regarding this case.

Mr. Tom Brew, 315 West 9th Street, stated that he was in support of the Child Crisis Center and the Family Enrichment Center, but he believed that the neighbors needed to have more input regarding the case. He explained that there was a neighborhood meeting, but he did not know about it because his mail goes to a post office box rather than his residence. He explained that he purchased his home for the purpose of having access to the back of his property through the church. He believed that there was an easement in the back, but later it was determined that an agreement must be created with the church. He requested that this case be continued to look at other options to resolve this situation and have the ability to continue having access to the rear of the properties. He stated that he spoke with Mr. Pew and Mr. Pew stated it would not work out to continue having access to their rear yards due to the way that the site was going to be developed.

Ms. Machel Couch, 333 West 9th Street, stated that this case has moved through the process extremely quickly and requested that the case be continued to allow additional time for the neighbors to be notified of the requests. She further explained that the loss of access to the rear yards would negatively impact their way of life. In addition, she stated concerns regarding the second story portion of the building being able to look into the rear yards. Ms. Couch explained that she would be more supportive of the request if the applicants were willing to work with the surrounding neighbors.

Mr. Mark Couch, 333 West 9th Street, requested this case be continued to allow for additional time to work with the neighbors. He further explained that they have attended neighborhood meetings for the "old hospital" and city staff was present at those meetings. He explained that the neighborhood meeting regarding this case was only attended by the Child Crisis Center and the applicant. He requested that the case be continued to allow for the neighbors to attend a neighborhood meeting in the evening with city staff present to discuss the mentioned concerns. He stated that he was not aware of any of the neighbors that did not wish to continue having access to their rear yards. He further explained that he had concerns regarding how the development would affect the property values of his home and quality of life due to having a two-story building located behind his property and no longer having access to the rear yard. In addition, he stated that if the Board did vote on the request, then it would gut the neighborhood's ability to have a negotiating power. He further discussed concerns regarding the construction schedule for the property because he works late at night and as well, the effects to the old, mature neighborhood surrounding the site. Also, he stated he believed that \$300,000.00 of City of Mesa money would be used for this development and thought that this should give the neighbors the opportunity to have additional input in where and how the money would be spent. He discussed that in his experience at neighborhood meetings, the city staff are advocates for the requests and not concerned with the effects to the surrounding neighborhoods. He further emphasized that if the Board voted on this request, then it would

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

remove the ability for the neighbors to have negotiations with the applicant.

Chairman Cowan explained that this Board was a recommending body and City Council would make the final decision regarding this case. Mr. Couch stated that this was the reason for the continuance request because he did not wish to waste the City Council's time regarding these minor concerns.

Ms. Dahlke addressed each of the neighbors' mentioned concerns. She explained that there was extensive neighborhood outreach done regarding this project. There were over 900 people notified within 1,000' radius and all registered home-owner's associations within a half-mile regarding the neighborhood meeting. At the neighborhood meeting, the applicants explained the review processes for the site and method in which the neighbors had to express their concerns. She stated that they believed they were clear with the neighbors about the function of the processes. Ms. Dahlke further explained that only two property owners had agreements to access their rear yards with the church. The church would honor these agreements until they either expire or are terminated according to the terms of the agreements. She stated that only a small portion of the building would be two-story and there would not be any windows looking on to the neighbors' properties to protect their privacy. Also, she explained that she did speak with other neighbors that were not able to attend the neighborhood meeting and explained to them the same as the attendees of the meeting. She discussed how they believed this project would enhance property values because it would be an improvement to the site and create a safer area. The current property is vacant and there has been some criminal activity that has occurred on the site. This site has been designed with CPTED issues in-mind, such as lighting and appropriate buffers. In addition, she stated that the project would adhere to all City requirements regarding noise, dust, hours of operation, etc.

Ms. Amy Veith, Planner I, explained the zoning request for the Family Enrichment Center and showed an aerial highlighting the location of the neighbors that had stated concerns regarding the request. She further stated that she spoke with another property owner to the east on the telephone that was in favor of the proposal. The second-story portion of the building is approximately 120' from the north property line and 90' from the east property line. This would allow for adequate buffering to the adjacent property owners and would not detrimentally affect the neighbors. She further explained that the second-story would be used for administrative functions, which would primarily occur weekdays from 8:00a.m. to 5:00p.m.

Boardmember Mizner stated that he was appreciative that the Child Crisis Center and Family Enrichment Center had been well received by the surrounding neighbors. He further explained that typical subdivisions have a row of homes that back up to other homes. In addition, he stated that the neighbors did not own the vacant lot and the Child Crisis Center had the right to develop the property in a way that was compatible with the neighborhood and consistent to the Mesa Zoning Ordinance. This property would meet all current Code requirements and be reviewed by the Design Review Board. He explained that he did not believe the site plan would lend itself to having permanent access to the adjacent rear yards. He further stated that he would be in support of the request because it would be a compatible use with the surrounding areas and was sensitively designed.

Boardmember Adams inquired about the nature of the agreement with the two property owners and church. Ms. Dahlke stated that they were letter of agreements and were each catered to the individual situation. The letters are to allow access through the church into their rear yards. The terms of the agreement have and would be met, even if they have to be extinguished. They are private agreements between the church and the two property owners. Boardmember

MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Adams stated that this Board has to consider the land use and zoning issues regarding the properties. The agreements may be a private legal issue, but it is not in the purview of this Board. He further stated that he was sympathetic to the neighbors' situation.

It was moved by Boardmember Mizner, seconded by Boardmember Finter

That: The Board approve and recommend to the City Council approval of zoning case Z05-55 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, elevations and landscape plan submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. 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.
4. Compliance with all requirements of the Subdivision Regulations.
5. Compliance with all requirements of the Design Review Board.
6. Full compliance with all current Code requirements, except for the modifications outlined in this staff report, which will be permitted through the approval of a Substantial Conformance Improvement Permit.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Vote: Passed 5-0 (Saemisch abstaining, Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent neighborhoods.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-56 (District 6)** The 8400 Block of East Broadway Road (south side). Located at the southeast corner of Broadway Road and Hawes Road (9.4 ac). Rezone from C-2 to R-2 PAD BIZ and site plan review. This request is to allow the development of two and three story single-family detached residences. Michael Cawley, Mt. Baldy Ltd. Partnership, owner; Sean Lake, Pew & Lake, PLC, applicant.

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

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board continue zoning case Z05-56 to the June 16, 2005 meeting as requested by staff.

Vote: Passed 6-0 (Carpenter absent)

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-57 (District 5)** The 1650 to 1750 block of North Power Road (east side) through to the 1650 to 1750 block of North 72nd Street (west side). Located south and east of McKellips Road and Power Road (38± ac). Rezone from R1-35 to R1-15 PAD and site plan review. This request is to allow for the development of a residential subdivision. Cornerstone Homes (Scott Hironaka), owner/applicant. Also consider the preliminary plat "Annecy".

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

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board approve and recommend to the City Council approval of zoning case Z05-57 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.
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. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report or on the site plan.
7. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
9. Housing elevations on lot 19 (lot located at far northeast corner of subject site) of the subject site not to exceed one-story in elevation.

Vote: Passed 6-0 (Carpenter absent)

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent neighborhoods.

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Item: **Z05-58 (District 1)** 2245 North Center Street (east side). Located north of the northeast corner of McKellips Road and Center Street (6.5 ± ac). District 1. Rezone from R1-43 to R1-9 PAD and site plan review. This request is to allow for the development of a residential subdivision. Nancy Mahr, owner; Kenneth Caldwell, applicant. Also consider the preliminary plat "Pasadena Estates".

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

It was moved by Boardmember Mizner, seconded by Boardmember Esparza

That: The Board continue zoning case Z05-58 to the June 16, 2005 meeting as requested by the applicant.

Vote: Passed 6-0 (Carpenter absent)

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MINUTES OF THE MAY 19, 2005 PLANNING AND ZONING MEETING

Respectfully submitted,

John Wesley, Secretary
Planning Director

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