

**CITY OF MESA**

**MINUTES OF THE PLANNING AND ZONING BOARD MEETING**

Held in the City of Mesa Council Chambers  
Date September 18, 2003 Time 4:00 p.m.

MEMBERS PRESENT

Marty Whalen, Chair  
Mike Cowan, Vice-Chair  
Rich Adams  
Barbara Carpenter  
Alex Finter  
Bob Saemisch

MEMBERS ABSENT

Pat Esparza, excused

OTHERS PRESENT

Dorothy Chimel	Councilmember Rex Griswold	Wayne Balmer	Lou Lentz
Michelle Dahlke	Jason Morris	Joe Padilla	Nick Wood
Ryan Heiland	Robert Walker	Bill Petrie	Ralph Pew
Lois Underdah	Dennis Wilson	Kari Kent	JT Ready
Maria Salaiz	Paula Demarbiex	Jim Davidson	Judi Phillips-Prior
Wahid Alam	William Demarbiex	John Bellrose	Tom Vickers
Charlie Scully	Neva Coester	Randy Carter	Others
John Gendron	Doug Fielding	Pat Gilbert	
	John Perkinson	Napoleon Pisano	

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 September 18, 2003. Before adjournment at 6:50 p.m., action was taken on the following items:

It was moved by Boardmember Cowan, seconded by Boardmember Adams that the minutes of the August 21, 2003 meeting and the minutes of the first public hearing for General Plan Amendment GPMajor03-01 held on September 4, 2003 be approved as submitted. The vote was 6-0.

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan that the consent items be approved. Vote 6-0.

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

Minor General Plan Amendments: \*GPMInor03-01, \*GPMInor03-02, \*GPMInor03-03

Zoning Cases: \*Z03-20, \*Z03-44, Z03-12, Z03-45, \*Z03-46, \*Z03-47, Z03-48

Major General Plan Amendment: GPMajor03-01

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Item: Amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance pertaining to "Vehicle Signs". **CONTINUED FROM AUGUST 21, 2003 MEETING.**

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board continue Amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance regarding "Vehicle Signs" to the October 16, 2003 meeting.

Vote: Passed 6-0 (Esparza absent).

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MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **GPMInor 03-01 (District 4)** The 1300-1400 blocks of South Country Club Drive (36.63 ac.±). Proposed change to the General Plan Land Use Map from Community Commercial (CC) and High Density Residential (HDR) 10-15 dwelling unites per acre to Medium Density Residential (MDR) 6-10 dwelling units per acre. American Land Lease, owner; Sean Lake, Pew and Lake, P.L.C., applicant. **CONTINUED FROM THE MAY 15, JUNE 19, AND AUGUST 21, 2003 MEETING.**

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board table GPMInor03-01.

Vote: Passed 6-0 (Esparza absent).

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Item: **Z03-20 (District 4)** The 1300-1400 blocks of South Country Club Drive (36.63 ac.±). Proposed change to the General Plan Land Use Map from Community Commercial (CC) and High Density Residential (HDR) 10-15 dwelling units per acre to Medium Density Residential (MDR) 6-10 dwelling units per acre. American Land Lease, owner; Sean Lake, Pew and Lake, P.L.C., applicant. **CONTINUED FROM THE MAY 15, JUNE 19, AND AUGUST 21, 2003 MEETING.**

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board table zoning case Z03-20.

Vote: Passed 6-0 (Esparza absent).

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MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **GPMInor 03-02 (District 1)** The 1000 – 1100 block of West McLellan Road, north side (14.1 ac ±). Minor General Plan Amendment. This case involves amending the General Plan from Medium Density Residential 4-6 du/ac (MDR 4-6± du/ac) to High Density Residential 15+ du/ac (HDR 15± du/ac). Suggs Homes Inc., owner; Withey, Anderson & Morris PLC, applicant.  
**CONTINUED FROM THE JULY 17, AND AUGUST 21, 2003 MEETING.**

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board table GPMInor03-02.

Vote: Passed 6-0 (Esparza absent).

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MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **GPMInor03-03 (District 6)** The 5800 block of East Southern Avenue (south side). South of the Salt River Project sub-station on the west side of the Roosevelt Water Conservation District Canal (20 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. Harris Bank, N.A., owner; Chris Clonts, KB Homes, applicant.

This is a companion case with Z03-44. There was one discussion with separate votes for the minor amendment and zoning case.

Comments: Dennis Wilson, 1443 E. 58<sup>th</sup> Street stated his property backs up to the proposed subdivision and think it's a great project but raised concern about his privacy due to the two story homes facing his property. He asked that Lot 81 be built to have the windows not face his property.

Sean Lake, applicant, gave an overview of the project and stated they will try to minimize active windows on those sides.

Dorothy Chimel, Acting Planning Director showed the previously approved site plan and gave an overview of the project. She stated there has been a great deal of support expressed for the current design with exception of the comments made tonight regarding Lot 81. Ms. Chimel stated that staff can work with the design as it moves through the product design phase and Subdivision Technical Review in order to alleviate some of the concerns expressed by the citizen and stated that staff is recommending approval of this case.

Boardmember Carpenter asked Mr. Lake if there was a citizen participation report submitted with the packet. Mr. Lake responded Yes, and stated they did a follow up by sending the most recent site plan to the neighbors. He promised to work with Mr. Wilson, between now and Council on getting a revised site plan as well as addressing how the applicant would be mitigating the area behind his lot with either landscaping or design of the building.

Chairperson Whalen asked that the record reflect that City Council be made aware of the fact that there is one citizen whose privacy is being infringed upon and sympathize with him and that representation has been made that when this case gets to them the problems would have been solved.

Boardmember Saemisch asked that the landscaping be reviewed by the Design Review Board.

Boardmember Adams asked Mr. Lake if his client was willing to work with Mr. Wilson. Mr. Lake respond Yes.

Boardmember Carpenter commented she was pleased with the project and moved to approve GPMInor03-03 in conjunction with zoning case Z03-44.

Boardmember Whalen stated his support is contingent upon Mr. Wilson is accommodated with his concerns before this case gets to City Council.

It was moved by Boardmember Carpenter, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of a resolution to change the General Plan Land Use Map as requested through the Minor General Amendment case GPMInor03-03.

Vote: Passed 6-0 (Esparza absent).

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## MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **Z03-44 (District 6)** The 5800 block of East Southern Avenue (south side). South of the Salt River Project sub-station on the west side of the Roosevelt Water Conservation District Canal (20 ac. ±) Rezone from R-3 to R1-6 PAD. This request is for the development of a residential subdivision. Harris Bank, N.A., owner; Chris Clonts, KB Homes, applicant. Also consider the preliminary plat for "Summerlin Village."

This is a companion case with GPMinor 03-03. There was one discussion with separate votes for the minor amendment and zoning case.

Comments: Dennis Wilson, 1443 E. 58<sup>th</sup> Street stated his property backs up to the proposed subdivision and think it's a great project but raised concern about his privacy due to the two story homes facing his property. He asked that Lot 81 be built to have the windows not face his property.

Sean Lake, applicant, gave an overview of the project and stated they will try to minimize active windows on those sides.

Dorothy Chimel, Acting Planning Director showed the previously approved site plan and gave an overview of the project. She stated there has been a great deal of support expressed for the current design with exception of the comments made tonight regarding Lot 81. Ms. Chimel stated that staff can work with the design as it moves through the product design phase and Subdivision Technical Review in order to alleviate some of the concerns expressed by the citizen and stated that staff is recommending approval of this case.

Boardmember Carpenter asked Mr. Lake if there was a citizen participation report submitted with the packet. Mr. Lake responded Yes, and stated they did a follow up by sending the most recent site plan to the neighbors. He promised to work with Mr. Wilson, between now and Council on getting a revised site plan as well as addressing how the applicant would be mitigating the area behind his lot with either landscaping or design of the building.

Chairperson Whalen asked that the record reflect that City Council be made aware of the fact that there is one citizen whose privacy is being infringed upon and sympathize with him and that representation has been made that when this case gets to them the problems would have been solved.

Boardmember Saemisch asked that the landscaping be reviewed by the Design Review Board.

Boardmember Adams asked Mr. Lake if his client was willing to work with Mr. Wilson. Mr. Lake respond Yes.

Boardmember Carpenter commented she was pleased with the project and moved to approve GPMinor03-03 in conjunction with zoning case Z03-44.

Boardmember Whalen stated his support is contingent upon Mr. Wilson is accommodated with his concerns before this case gets to City Council.

It was moved by Boardmember Carpenter, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of zoning case Z03-44 conditioned upon:

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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 City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. All street improvements and landscaping to be installed in the first phase of construction.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Recordation of cross-access easement prior to recordation of the final plat.

Vote: Passed 6-0 (Esparza absent).

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## MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **Z03-12 (District 5)** The 4400 block of East McLellan Road (south side). (1.70 ac±). Rezone from R-3 to R-3 P.A.D. This case involves the development of an apartment complex. John Bellerose, owner; Randy Carter, Dreamcatchers Planning & Design, applicant. Also consider the preliminary plat of "Falcon Estates Apartments." **CONTINUED FROM THE MARCH 27, 2003, APRIL 17, 2003, MAY 15, JUNE 19, AND AUGUST 21, 2003 MEETINGS.**

Comments: John Bellrose, owner, gave a description of the project and mentioned that this case has been continued since March 2003, and as suggested by the Board he had met with the neighborhood homeowners. He stated that after much discussion, they have met every one of the homeowner's concerns and was surprised by the legal protest filed. Mr. Bellrose addressed each issue identified on the "petition of protest" by the neighbors. He stated: 1) Whether or not two-story buildings blend in is purely a matter of personal opinion and the project is not located in the middle of their neighborhood but off of McLellan Road; 2) He agreed that no one should be subject to any invasion of privacy and felt that this project does not annoy or invade the privacy of others. The owner of the trailer park supports this project and the closest single-family home is over 200 feet away; 3) The 15 foot setbacks are not an issue because the closest single-family home is over 200 feet from our site; 4) Property value tends to increase when they are surrounded by developed projects as opposed to vacant infill lots; 5) There are people who rent clean, good rental units for a purpose and because they typically can't purchase a home; 6) 24 units do not increase crime in any location. The present zoning of this land allows for more than 24 units, we are not trying to maximize the density of the land we are trying to minimize it and put together a clean and concise project that's going to add value to the community; 7) No one can impose how many owners there are of the land; 8) Homeowner Associations have historically added value to any development project; 9) Agreed that the Crime Free Housing Project of the City of Mesa should be followed. He stated for the record that he has taken this program; and 10) Welcomed insight from anyone on how to improve upon his project.

Mr. Bellrose questioned some of the comments made by Paul Hutcheson, CPTED specialist, on his report sent to City staff. He also stated that nobody wants to develop a safer, cleaner complex on that site than he does. He added he finds it truly unfortunate that having met with the neighbors, having come to an agreement as to what their concerns were, having spent the time and additional cost, and having totally re-altered the project 100-fold there is still an issue.

Tom Vickers, 4545 E. McLellan, spoke in opposition of the case and stated he has issue with crime, which has not been addressed by the applicant.

John Perkinson, 4222 E. McLellan, stated he had concerns with the quality of this development and the type of tenants it would bring. I think that's a great concern given all the good commercial uses that are buffering this residential area.

Paula Demarbiex, 4450 E. Hobart, stated that on May 3, 2003 they met with Mr. Bellrose to further discuss concerns with the site plan presented at the April 17, Planning and Zoning Board meeting. She stated that items that were discussed are present on the revised plan; however, many issues were not resolved. She stated that after much feedback from the neighbors that on May 15 she left Mr. Bellrose a voice message about the impact this type of development would have on their neighborhood and to further discuss the issues that had not been adequately resolved. On May 25, she sent Mr. Bellrose a 6-page letter addressing these concerns. Many suggestions and options were also given in that letter.

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Ms. Demarbiex stated the issues are and continue to be that two-story buildings do not belong or blend with surrounding single story structures. She noted that the owner of the mobile home park supports this development but is upset that tenants aren't heard because they are not owners and they are the ones going to be subjected to the congestion. Ms. Demarbiex reiterated issues brought up at the previous Planning & Zoning Board meeting and asked the Board to keep the neighborhood's best interest at heart.

William Demarbiex, 4450 E. Hobart, commented on the recently approved office projects and stated he would like to see office instead of apartments in this area.

Neva Coester, 4439 E. Hobart, spoke in opposition of the project stating that two-story apartment buildings are inappropriate in the neighborhood for all the reasons that have been presented.

Doug Fielding, 4222 E. McLellan, an apartment broker stated his concern is the viability of apartments in the valley. He noted that the vacancy rate is horrendous and Mesa has the worst vacancy rate in Maricopa County.

John Bellrose stated that with office buildings going up in the area there is a strong demand for good quality rental units in that location. He noted that his intention is to own and manage at least three units.

Dorothy Chimel, Acting Planning Director, gave a brief history of the property stating that this case was previously approved in 2002; however, it did not successfully proceed through the Design Review Board. After some comments from the neighbors, there was a redesign of the project to delete the southernmost lot and put in a sport court. Ms. Chimel noted that there is a legal protest on the case and that a number of people have expressed opposition to this request. She thanked the neighbors for their participation in this case and stated that staff has recommended approval and given suggestions for recommended conditions that would accompany this site should this case go forward. Staff has also gathered comments from the Police Department, which includes: access control as a major obstacle, lighting and natural surveillance. She noted that this is a classic infill parcel, very small and very difficult to develop. It could be gathered and assembled with some other surrounding uses such as the proposal for an office should the residential use not be supported.

Chairperson Whalen asked if the applicant has indicated that he would comply with CPTED. Ms. Chimel replied that the applicant has concerns with some of the principles that have been outlined in the CPTED memo.

Boardmember Finter asked Mr. Bellrose how long he has owned the property. Mr. Bellrose responded that he has owned the property for four years and added that he has tried to come up with a viable solution to develop the site. He also noted that the lot, which back-ups to the Demarbiex's has been cut out of the apartment project all together and the use is for single residential. Mr. Bellrose also pointed out that at the southeast corner of his lot is another four-plex,

Boardmember Saemisch asked the applicant if there were 16 units on the previous approved submittal. Mr. Bellrose responded that there were four four-plex buildings. Mr. Saemisch asked if the sports courtyard would be lighted and stated he had concerns about the light shining in the neighborhood. Mr. Randy Carter responded that a timer could be set to a convenient time for

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the homeowners. Mr. Saemisch stated that a stipulation to that effect would be appropriate. Boardmember Saemisch asked what the normal setback requirements would be without the PAD designation. Ms. Chimel responded that this is an R-3 property and the required setback would be 15' per story. Mr. Saemisch also asked what the amenities were. Ms. Chimel responded the sports courtyard, the tot lot and that the PAD also allows for variation in order to have on site circulation.

Boardmember Adams asked Mr. Bellrose why he was putting in the sport court and why not put a commercial development instead. Mr. Bellrose responded he was putting in the sport court at the request of the homeowners and that presently the land is zoned for residential and being a landlord in Mesa he wants to own apartments. Mr. Adams also asked if he plans on pursuing low-income housing. Mr. Bellrose responded that it will be mixed and stated he has been involved with the City of Mesa's Section 8 Program but stated he would be renting to people who have a local interest in the area and with all the development going up people need housing within close proximity.

Boardmember Saemisch stated that the 200-foot line disregards the fact that we still have residential living in other types of units and noted that the City didn't get enough amenities to bargain away the setbacks.

Boardmember Carpenter asked Mr. Bellrose if he has attempted to purchase the trailer park and make it a part of the whole project. Mr. Bellrose stated he had no interest in doing that. Ms. Carpenter commented on the concerns the citizens and the neighbors have regarding the crime in the area.

David Coester, 4439 E. Hobart, stated he has been a resident of Falcon Estates for about 30 years and the problems they have are drug problems that emanate from the trailer park. As a community we've have driven out 5-7 drug houses with the help of the City of Mesa's Police Department. We are united and do take care of our neighborhood. He also noted his objections to the density based on the parking and amenities.

Boardmember Adams stated that most of the objections are based on presumptions. We are assuming that the project is going to have problem tenants, we're assuming there will be crime, and I'm having trouble denying this case based on assumption rather than facts. He stated he sympathizes with the concerns the neighbors have expressed.

Boardmember Whalen asked Ms. Chimel if this case would be going to the Design Review Board. Ms. Chimel replied that this case would be going to the Design Review Board. Mr. Whalen noted that Mr. Saemisch brought up a good point regarding the setbacks. He also mentioned that Mr. Bellrose has gone pretty far in trying to accommodate the neighbors.

Boardmember Saemisch stated that people have the right to be protected even though they're renting and in a multi-family situation. Things are already tight. We are not going to be mitigating an issue we are going to propagating a future congestion that has already started and the City shouldn't be making the same mistake again. The City has rules in place to create space between places for quality of life.

Boarmember Finter stated that there is a lot of crime and lots of problems in that area. I think we would be doing a disservice to try and put a project in there that is eventually going to take it back down again and stated he would be not be supporting this case.

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Boardmember Carpenter stated her concerns regarding no accommodations for barbeque cooking for the residences. Mr. Bellrose pointed out that there is a ramada with barbeques. Ms. Carpenter asked if there would there be CC&R's that would be enforced so that barbequing can only be done at the ramadas. Mr. Bellrose replied Yes, and that a Homeowners Association would enforce those types of issues.

Boardmember Cowan stated he appreciated Mr. Bellrose's efforts in trying to address the concerns of the neighborhood and expressed his concerns with the setback and elevations.

It was moved by Boardmember Saemisch seconded by Boardmember Finter

That: The Board recommend to the City Council denial of zoning case Z03-12.

Vote: Passed 4-2 (Whalen and Adams, nay, Esparza absent).

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## MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **Z03-45 (District 2)** Northeast corner of Brown Road and Val Vista Road (9.2 ac ±) Rezone from AG to R1-35 PAD. This request is for the development of a residential subdivision. Ralph Horlacher, owner; Robert Walker, applicant. Also consider the preliminary plat for "Graystone Estates."

Comments: Although this case was on the consent agenda, during the Study Session the Board recommended to City Council approving zoning case Z03-45 as discussed and presented at the meeting, with information added to the conditions regarding the Citrus Sub Area Plan.

It was moved by Boardmember Carpenter, seconded by Boardmember Cowan

That: The Board recommend to the City Council approval of zoning case Z03-45 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, (without guarantee of lot yield, building count, lot coverage) except as noted below.
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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
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. Written notice be provided to future residents, and acknowledgment received that the project is within two miles of Falcon Field Airport.
11. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
12. Provide or retain two rows of citrus trees along the arterial street frontage, between the subdivision wall and the street.
13. Redesign the subdivision in accordance with the suggestions forwarded by the Citrus Area Homeowners:
  - a. This project lies within the Citrus Sub-Area Plan of Mesa. Adopted by the Mesa City Council on April 21, 2003 as a resolution, this plan was created by the Citrus Area Homeowners (CAH) as a vision for future development policies within the area. Chapter 4 Plan Recommendations are in addition to the standard development requirements by the City of Mesa.
  - b. The lot lines should be moved to fall in between rows of existing citrus trees rather than fall on a row of citrus trees as presently shown.
  - c. Irrigation should be provided to all lots in the subdivision. The two rows of citrus trees being retained along the arterial streets should be flood irrigated.

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Vote: Passed 6-0 (Esparza absent).

Reason for Recommendation: The Citrus Area Homeowners suggested that the flood irrigation and the redesign of the lot be in accordance with existing location of trees as described in the Citrus Sub Area Plan. The developer agreed to comply with the Sub Area Plan. Therefore, this case was placed on the consent agenda.

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Item: **Z03-46 (District 1)** West of the southwest corner of McKellips and Arboleda (2.5 ac. ±) Rezone from R1-43 (Conceptual C-2) to O-S. This request is for the development of an office building. Delos Development, L.L.C., owner; Dorothy Shupe, Dreamcatchers Planning & Design, applicant.

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board approve and recommend to the City Council approval of zoning case Z03-46 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. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
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 Design Review Board.
8. 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).
9. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
10. Completion of the Citizen Participation efforts and submittal of the report prior to City Council.

Vote: Passed 6-0 (Esparza absent).

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MINUTES OF THE SEPTEMBER 18, 2003 PLANNING AND ZONING MEETING

Item: **Z03-47 (District 6)** Southwest corner of Greenfield and US-60 (23.26 ±) Council Use Permit and Site Plan Review. This request is for the development of a Wal-Mart Supercenter. Brent Berge Revocable Trust & Lumberjack Capital LLC, owner; Sean Lake, Pew & Lake, applicant. Also consider the preliminary plat.

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

It was moved by Boardmember Carpenter seconded by Boardmember Cowan

That: The Board approve and recommend to the City Council approval of zoning case Z03-47 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 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 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. Compliance with all requirements of the Design Review Board.
7. Any non-conforming and/or prohibited signs existing on any of the subject property shall be removed or brought into conformance prior to the issuance of a building permit.
8. Review and approval of a Special Use Permit by the Board of Adjustment for comprehensive sign plan.
9. Provide a comprehensive pedestrian circulation layout to ensure directness, safety, and continuity of routes throughout the site and from the street to all building entrances. Provide attractive shade-producing landscaping for major pedestrian routes through the site.
10. Review and approval of a Special Use Permit by the Board of Adjustment for the fuel sales use is required prior to Design Review application for that facility.
11. There shall be no outdoor storage or seasonal product display except for those areas as indicated within the building enclosure and in walled areas as shown on the site plan with the exception of those sales allowed under a Special Event License.
12. Outdoor Garden Center storage and display to be restricted to the area within the enclosed Garden Center area only with material storage and display not exceeding the height of the fence or wall.
13. Application material submitted for Design Review Board approval shall include the following revisions:
  - A. Show typical dimensions on the site plan in conformance with Chapter 15, Site Development Standards to include building foundation base areas, landscape and hardscape areas, pedestrian facilities, parking areas and other areas as necessary to evaluate the proposal.
  - B. As per the foundation base requirements, provide at least one (1) tree per fifty (50) linear feet of wall for the Wal-Mart Supercenter to be located within thirty (30) feet of the building. A total of forty (40) trees needs to be shown on the landscape plan where only twenty-seven (27) are indicated for the subject applications. Provide at least thirteen (13) additional trees in the Wal-Mart foundation base area.

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- C. Show limits of areas proposed for phased development. Phased plans should show the temporary edge treatment for the limits of development and all required fire access, on-site circulation, drainage retention and other necessary items to ensure compliance with requirements.
- D. Revise site plan to show outlot pad developments in compliance with Chapter 15 requirements for foundation base, landscaping, screening, loading areas, trash enclosures and all site development standards. As shown, the conceptual layout of the outlot pad sites does not guarantee approval of the size, orientation or general configuration of buildings.
- E. Show trash enclosures in conformance with both Solid Waste Division standards and Planning Division concerns regarding location, size and orientation. Show double enclosures located away from streets, driveways and building entrances with adequate screening, landscaping and separation from vehicular areas.

Vote: Passed 6-0 (Esparza absent).

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Item: **Z03-48 (District 4)** 438 South Drew Street (1.15 ac. ±) Council Use Permit. This request is for the development of a community day labor facility. Mesa Community Action Network (MesaCAN), owner and applicant.

Comments: Chairperson Whalen mentioned that he and Boardmember Esparza are members of the Board of Directors for MesaCAN and had been advised by the City Attorney that as long as they do not have a financial interest or are compensated by the organization they do not have a conflict and can participate in the case.

Mr. Pat Gilbert, Executive Director of MesaCAN, 635 E. Broadway Road gave some history about MesaCAN and what the organization has accomplished in Mesa. He stated that this is a request for a Council Use Permit for a community day labor center and that the facility is for everyone in the community to use. It is there to serve people who are seeking a day's work from people who are seeking to hire a day's worth of work. He quoted from the contexts of the task force report, which was completed in November of 2000. "The City of Mesa should create a day labor center available to all workers regardless of their immigration status." and stated one significant element, in that report, that has changed is that the organization has not asked, nor intends to ask for any financial support from City, State or Federal governments. They are seeking the support of the community, the private sector and any donations they can find.

Mr. Gilbert stated the organization is aware of the negative impact on Drew and Broadway Road and they intend to do everything possible to make this a plus. There will be bumps and operational issues along the way, but we're here to solve them. I have listened to the concerns of the neighbors and share their concerns about generating unneeded and unnecessary foot traffic and will work with Traffic Engineering and the Police Department to encourage traffic to go on Broadway. Mr. Gilbert stated the organization is committed to making it work. We are sensitive to the concerns of the neighbors and we intend to do it successfully. The transaction that takes place on the day labor site is a private one. We want to have a safe, orderly, and respectful environment for the transaction to take place. It's going to take some work, but we are confident that we have the skills and the ability to make it happen. He also mentioned that they would meet the request of the neighbors regarding the screening and improving the landscaping of the site.

JT Ready, 418 S. Mesa Drive, stated he is against this project and said he lives in a war zone. We have some major national problems and you don't answer the problems that we have with another bad idea. This idea is bad and has been proven in Phoenix that it doesn't work. He stated the center would further victimize the people, who don't have worker's rights and get paid low wages. Mr. Ready stated that crime happens when they are not picked up to work. Again he stated he and the people he represents are opposed to this center.

Chairperson Whalen stated that the Board had consulted with the City Attorney and have been advised that there is nothing illegal about this operation.

Napoleon Pisano, 8534 E. Grandview, spoke in support of the request. He stated that there is a labor demand in our Country and it's not an easy definable problem that has simple solutions. This is an opportunity to move forward with some solutions.

Jim Davidson, 2542 E. Lynwood, also spoke in support of this case. He stated the construction and operation, funded by private donations, is right for several reasons: 1) it will provide a centralized and safe location for employees to conduct their hiring practices, which are legal; 2) it will remove the clutter and appearance of loitering that is developing along the Broadway corridor; and 3) it will help to effectively and compassionately provide services to those wanting to

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integrate into our community. He noted that the day labor center is an effective short-term solution to this growing national problem. Mr. Davidson mentioned some long-term solutions, which would include a guest worker program and a change in the economy south of the border. He urged the Board to recommend to City Council approval of this case.

Ms. Dorothy Chimel, Acting Planning Director, gave a brief overview of the case. She mentioned that in January of 2000 the Mesa City Council appointed a 22-member citizen task force to study and make recommendations regarding the day labor situation. She also gave an overview of the process for a Council Use Permit noting that a Council Use Permit is a discretionary use permit and that the Planning & Zoning Board brings forward the recommendations to City Council where the final decision is made. She stated that staff is recommending approval of the Council Use Permit based on the measures in the Zoning Ordinance.

Boardmember Saemisch complimented Mr. Gilbert's efforts and stated he would be supporting the case because of his reputation and his concern for all the citizens. We are very fortunate to have such leadership in our community and I am very pleased that I can be a part of approving this project.

Boardmember Cowan echoed Mr. Saemisch's comments and stated he believes this is something that is needed in our community, it provides a tri-fold benefit to our community: it helps and benefits the employer, our day labor work force as well as the community as a whole. He stated he is pleased and excited to participate in this event and would encourage City Council to support this project.

Boardmember Carpenter stated that Mesa has come a long way and this project has a real possibility for success and will be very much in favor of this project.

Boardmember Finter stated that no City tax dollars will be used and that the City will be saving \$450,000. He thanked MesaCAN for their efforts. He stated that this is an important step in addressing a problem in the community and it's going to help the individuals that are involved and help the residences and businesses in the area. It's a win for everybody and he would be supporting this project.

Boardmember Adams stated he strongly support this project and added that people should enter this County legally but that's not what we are here to debate. This is not an immigration debate this is a question over how to deal with a real problem in Mesa. We have a good solution in front of us, it doesn't cost the City anything and encouraged City Council to pass this Use Permit.

It was moved by Boardmember Cowan and seconded

That: The Board approve and recommend to the City Council approval of zoning case Z03-48 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 requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

Vote: Passed 6-0 (Esparza absent).

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Item: **GPMajor03-01 (District 6)** Proposed General Plan Land Use Amendment: Medium Density Residential 2-4 (2-4 du/ac), Mixed Use/Residential (30% at 15+ du/ac) and Neighborhood Commercial for the area between Ellsworth and Signal Butte Roads, from Elliot Road north to the Power Transmission Lines (583± ac). Anna Lou Kelso, Trustee, et al; Augusto Meoli, Desert Properties Land Trust, William D. Ring, LKY Development Company, Inc., owners.

Comments: Ralph Pew, 10 West Main Street, applicant, stated he is requesting a continuance of this case to the October meeting. This case deals with complex issues of airplane overflight patterns, noise level contours, and economic development and we need time to work with Williams Gateway staff. He also acknowledged that the brochure that was sent out did contain inaccuracies and stated he just found out about its distribution. He stated they would follow up on its origin. Our goal is to deal with the factual issues at hand, which we will address next month.

Chairperson Whalen stated that the Board frowns upon anybody trying to put pressure on neighbors by threatening adverse kinds of development.

Scott P. Enyart, Sr. 11336 E. Pronghorn Avenue, stated he is a concern homeowner in the area. He also stated he met with somebody in the meeting that showed him what they are proposing and is in supports of their proposal especially with the residential aspect of this project. He noted that it would enhance the area.

Judi Phillips-Prior, 10345 E. Posada Avenue, thanked the Board for their time and for answering her e-mail questions. She stated she originally came to express her support for the new proposal; however, felt she was fooled by the flyer and once she was able to read the City's proposal is now in support of the City's recommendation.

Chairperson Whalen read a blue slip by Dierdre Shelton, 9436 E. Plata Ave, stating "I feel I've been misled by LKY and after brief review of the 2025 General Plan Use, I feel the City has our best interest in mind."

Michael Jobe, 3046 S. Canfield Circle, stated his concerns about the light industrial usage for the area. He pointed out that the reason the City of Mesa is looking to put light industrial in that tract of land is to act as a buffer for the overflight of departures from Williams Gateway. He stated he understands the impact that a community can have on an airport. Mr. Jobe noted that the noise that the neighborhood experiences is due to military traffic on the weekends. Mr. Jobe stated his is currently in support of the amendment to offer mix used, residential, and commercial.

Nick Wood, 400 E. Van Buren, representing Williams Gateway Airport, stated they are unhappy about the dissemination of erroneous and inaccurate information that was sent to all the neighbors. He also noted they were not thrilled about the continuance but will support it. Mr. Wood added they would meet with Mr. Pew and will respond accordingly and professionally.

Boardmember Adams asked Ms. Chimel if she knew where the brochure originated. Ms. Chimel stated as indicated by the applicant they will try to find out where the brochure originated.

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Chairperson Whalen asked Ms. Chimel if it would be possible to consult with the Police Department to see who instigated this mailing. Ms. Chimel stated she would contact the Mesa Police Department.

Chairperson Whalen read into record the blue cards in favor of the case.

It was moved by Boardmember Adams, seconded by Boardmember Carpenter

That: The Board recommend continuance of major general plan amendment GPMajor03-01 to the October 16, 2003 meeting.

Vote: Passed 6-0 (Esparza absent).

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Respectfully submitted,

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Dorothy Chimel, Secretary  
Acting Planning Director

LU/MS:  
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