

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers

Date: March 23, 2006 Time: 4:00 p.m.

MEMBERS PRESENT

Rich Adams, Chair
Alex Finter
Bob Saemisch
Frank Mizner
Jared Langkilde
Ken Salas

MEMBERS ABSENT

Barbara Carpenter, Vice-Chair, excused

OTHERS PRESENT

John Wesley
Dorothy Chimel
Tom Ellsworth
Michael Bell
Jennifer Griffke
Ryan Matthews
Maria Salaiz

Cory Whittaker
Gordon Sheffield
Krissa Hargis
Lesley Davis
Lyle Richardson
Reese Anderson
Jessica Sarkissian

Francis Marotta
Thomas Roszak
Eugene Knipfel
James Barowiak
Roger Jones
Others

Chairperson Adams declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated March 23, 2006. Before adjournment at 6:47 p.m., action was taken on the following items:

It was moved by Boardmember Saemisch seconded by Boardmember Salas that the minutes of the January 19, 2006, February 14, 2006, and the February 16, 2006 meetings be approved as submitted. The vote was 6-0 with Boardmember Carpenter absent.

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

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

A second consent agenda was held for zoning cases Z06-23 and Z06-24 due to a potential conflict of interest by Boardmember Saemisch. It was moved by Boardmember Finter, seconded by Boardmember Salas that the second consent item be approved. Vote 5-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

Boardmember Mizner noted that the Board had a discussion about the minutes and the general consensus was that the minutes were well done and would continue in the same format. He stated they also discussed the need to inform the public that the Planning & Zoning Board meetings are not just televised but are also available in an archive form for the general public to view. He stated it would be helpful that in the future the agendas and minutes reflect that

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wording.

Dorothy Chimel, Principal Planner, mentioned that the wording would be put on the agendas plus be included at the end of each zoning case minutes. She noted that the public could see a more thorough discussion by viewing the website and choice a specific item to view.

Zoning Cases: GPMinor06-01, *GPMinor06-02, Z06-15, Z06-17, *Z06-18, Z06-19, *Z06-20, *Z06-21, Z06-22, *Z06-23, *Z06-24, *Z06-25, *Z06-26

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Item: **GPMInor06-01 (District 6)** The 10800 to 11000 block of East Broadway Road (south side). Located at the southeast corner of Signal Butte Road and Broadway Road (12.55± ac). Minor General Plan Amendment to change the General Plan Land Use Map from Neighborhood Commercial (NC) to Medium Density Residential 6-10 dwelling units per acre (MDR 6-10). Todec Properties, LLC, (Thomas C. Decker) owner; Lyle Richardson, Lazarus & Associates, applicant. **COMPANION CASE Z06-15. Continued from the February 16, 2006 Meeting.**

Comments: Chairperson Adams asked Mr. Wesley if GPMInor06-01 and zoning case Z06-15 would be heard together or separate.

Mr. John Wesley, Planning Director responded that it would be up to the Board but they would need to be voted on separately.

Lyle Richardson, 420 West Roosevelt, Phoenix, applicant, stated that he would like to hear both cases separately. He gave an overview of the General Plan Minor Amendment stating they would like to change the General Plan designation from Commercial to Medium Density Residential 6-10 (MDR 6-10 du/ac). He stated this case was heard last month and reiterated that in 1999, he rezoned this site from residential to commercial and it was a very controversial case. He mentioned they were successful with the approval but there was a concession that it could not be used for a gas station or a C-store. Subsequent to that hearing they brought another request forward for a drug store but had problems with the configuration of the drive thru. He noted that in the end neither project was built.

Mr. Richardson noted that the property was sold in 2002, with restrictions that do not allow for grocery stores or pharmacies. There have been attempts to develop it, but there are too many restrictions to make this a successful commercial site. He showed an exhibit of other commercial uses in the vicinity and mentioned that this site did not have the attraction without an anchor. He mentioned that the neighbors, who were opposed to the case in 1999, were now supporting this case and are opposing staff's position to keep it commercial. He mentioned the agreement made between them and the neighbors regarding the repair of the south wall, which had deteriorated over the years due to drainage problems.

Cory Whittaker, Planner I, gave a brief overview of the GPMInor06-01. He stated that staff was still recommending denial of this case to keep the Neighborhood Commercial consistent with the General Plan. The basis for the denial is the lack of other commercial opportunity in the area. He mentioned that office uses could be an alternative.

Boardmembers discussed the need to go ahead and hear the zoning case before action on the General Plan Amendment.

Mr. Richardson presented zoning case Z06-15 stating that they had filed an application to rezone to R-2, with 103 units and after a number of meetings with staff they modified their request and re-filed from R-2 to R1-6, with 96 units. He stated that the site plan in February was for 86 units and with feedback and the continuance from the Board they redesigned their project to 80 single detached units on standard lots and were no longer proposing the Z-lot configuration. He added that they are still proposing four different models and each model would have two different elevations. Mr. Richardson noted they had exceeded Mesa's standard for open space and added that this product was well designed and compatible with the surrounding neighborhood. He stated he understood staff's position in not supporting the land use. He also mentioned they held two separate neighborhood meetings and the residents are in favor of this project.

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Ryan Matthews, Planner I, stated that the applicant had summarized the project well and added that staff was still recommending denial of the zoning case based on the land use change as discussed with the General Plan Amendment. He stated that if the General Plan Amendment passed, staff would be recommending approval of the site plan proposed.

Boardmember Langkilde stated that his initial concern with this project was that there was too much house and too little land, but the applicant has added pathways and that the recreational areas were essential for this project. He thanked the applicant for putting in those pathways, which provide access throughout the neighborhood.

Boardmember Finter stated that the land values in this community had sky rocketed and they need to be looked at differently.

Chairperson Adams stated he normally supports the Mesa 2025 Plan, however, he agreed with the applicant that this parcel was not appropriate for commercial because it was too small and without a big anchor would fail. He added that the zoning case was a nice product and would enhance the value of the surrounding area. He stated he could be inclined to support both the General Plan Amendment and zoning case.

Boardmember Saemisch stated that the applicant had improved the quality of the project and was an improvement to the neighborhoods. He stated he would be supporting the General Plan Amendment and the zoning case. He moved to approve GPMinor06-01. Seconded by Boardmember Finter.

Mr. Matthew mentioned that the stipulations heard by the applicant regarding the south wall and drainage issues were not part of the Conditions of Approval, but a private agreement between the applicant and the residents, as stated on their petition.

Boardmember Mizner stated he would not be supporting this motion and as mentioned by staff the Mesa 2025 Plan is an important document, which provides a blueprint for Mesa's future. He noted that the plan allows for amendments and the Board had considered and approved a number of them over the years, but it should not be taken lightly. Mr. Mizner stated that the burden was on the applicant to prove that their proposal was better for the City as a whole and he was not convinced that case had been made. The major argument had to do with the deed restriction, which was placed by the previous owner and the applicant was aware of those restriction prior to purchasing this property. He stated that he would not be supporting the General Plan Amendment and should the Board approve it, he may vote in favor of the site plan because they are two separate but related cases.

Boardmember Finter stated he would be supporting the General Plan Amendment and it made sense to look at what the market was doing in the area. He also mentioned that changing the Mesa 2020 Plan should not be taken lightly because it is a serious matter.

Boardmember Salas stated he would be supporting both the GPMinor06-01 and Z06-15. The applicant has done an excellent job of working to meet the expectations that were placed on him at the last meeting.

Chairperson Adams agreed with comments made by Mr. Mizner and also agreed that amending the General Plan should not be taken lightly. He stated he would be supporting GPMinor06-01.

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Boardmember Langkilde stated he evaluates each case on how it's going to enhance the community and if it would be a nice place to live, work and play. In this case these are excellent homes, but the playing part becomes difficult. It's a lot of house for not much lot, which makes playing difficult for a family. He hoped in the future they could see larger lots. He stated he would also be voting in favor of the GPMinor06-01 and acknowledged Mr. Mizner's comment that amending the General Plan should not be taken lightly.

It was moved by Boardmember Saemisch, seconded by Boardmember Finter

That: The Board approve and recommend to the City Council approval of General Plan Amendment GPMinor06-01.

Vote: Passed 5-0-1 with Boardmembers Carpenter absent and Mizner nay.

Reason for Recommendation: The Board felt this proposal would be a nice asset to this community.

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Item: **GPMInor06-02 (District 6)** The 9600 block of East Southern Avenue (south side). Located at the southeast corner and southwest corner of South 96th Street and East Southern Avenue (23.12± ac). Minor General Plan Amendment to change the General Plan Land Use Map from Business Park (BP) to High Density Residential 10 - 15 dwelling units per acre (HDR 10 - 15). M.R. Parasher, Yale Casitas Inc., owner; Martin Hazine, HGN, applicant.
COMPANION CASE Z06-25.

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

It was moved by Boardmember Langkilde, seconded by Boardmember Finter

That: The Board continue General Plan Amendment GPMInor06-02 to the April 20, 2006 meeting.

Vote: Passed 6-0 with Boardmember Carpenter absent.

Reason for Recommendation: The applicant requested that this case be continued to allow more time to work with both staff and Engineering to solve some pending issues.

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Item: **Z06-15 (District 6)** The 10800 to 11000 block of East Broadway Road (south side). Located at the southeast corner of Signal Butte Road and Broadway Road (12.55± ac). Rezone from C-2 and R1-7 to R1-6-PAD and Site Plan Review. This request will allow for the development of single residence subdivision. Todec Properties, LLC, (Thomas C. Decker) owner; Lyle Richardson, Lazarus & Associates, applicant. Also consider the preliminary plat for "The Casitas @ Mesa". **COMPANION CASE GPMInor06-01. Continued from the February 16, 2006 Meeting.**

Comments: Chairperson Adams asked Mr. Wesley if GPMInor06-01 and zoning case Z06-15 would be heard together or separate.

Mr. John Wesley, Planning Director responded that it would be up to the Board but they would need to be voted on separately.

Lyle Richardson, 420 West Roosevelt, Phoenix, applicant, stated that he would like to hear both cases separately. He gave an overview of the General Plan Minor Amendment stating they would like to change the General Plan designation from Commercial to Medium Density Residential 6-10 (MDR 6-10 du/ac). He stated this case was heard last month and reiterated that in 1999, he rezoned this site from residential to commercial and it was a very controversial case. He mentioned they were successful with the approval but there was a concession that it could not be used for a gas station or a C-store. Subsequent to that hearing they brought another request forward for a drug store but had problems with the configuration of the drive thru. He noted that in the end neither project was built.

Mr. Richardson noted that the property was sold in 2002, with restrictions that do not allow for grocery stores or pharmacies. There have been attempts to develop it, but there are too many restrictions to make this a successful commercial site. He showed an exhibit of other commercial uses in the vicinity and mentioned that this site did not have the attraction without an anchor. He mentioned that the neighbors, who were opposed to the case in 1999, were now supporting this case and are opposing staff's position to keep it commercial. He mentioned the agreement made between them and the neighbors regarding the repair of the south wall, which had deteriorated over the years due to drainage problems.

Cory Whittaker, Planner I, gave a brief overview of the GPMInor06-01. He stated that staff was still recommending denial of this case to keep the Neighborhood Commercial consistent with the General Plan. The basis for the denial is the lack of other commercial opportunity in the area. He mentioned that office uses could be an alternative.

Boardmembers discussed the need to go ahead and hear the zoning case before acting on the General Plan Amendment.

Mr. Richardson presented zoning case Z06-15 stating that they had filed an application to rezone to R-2, with 103 units and after a number of meetings with staff they modified their request and re-filed from R-2 to R1-6, with 96 units. He stated that the site plan in February was for 86 units and with feedback and the continuance from the Board they redesigned their project to 80 single detached units on standard lots and were no longer proposing the Z-lot configuration. He added that they are still proposing four different models and each model would have two different elevations. Mr. Richardson noted they had exceeded Mesa's standard for open space and added that this product was well designed and compatible with the surrounding neighborhood. He stated he understood staff's position in not supporting the land use. He also mentioned they held two separate neighborhood meetings and the residents are in

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favor of this project.

Ryan Matthews, Planner I, stated that the applicant had summarized the project well and added that staff was still recommending denial of the zoning case based on the land use change as discussed with the General Plan Amendment. He stated that if the General Plan Amendment passed, staff would be recommending approval of the site plan proposed.

Boardmember Langkilde stated that his initial concern with this project was that there was too much house and too little land, but the applicant has added pathways and that the recreational areas were essential for this project. He thanked the applicant for putting in those pathways, which provide access throughout the neighborhood.

Boardmember Finter stated that the land values in this community had sky rocketed and they need to be looked at differently.

Boardmember Saemisch moved to approve zoning case Z06-15, as outlined. Seconded by Boardmember Salas.

It was moved by Boardmember Saemisch, seconded by Boardmember Salas

That: The Board approve and recommend to the City Council approval of zoning case Z06-15 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count, or lot coverage).
2. Compliance with the Residential Development Guidelines.
3. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
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. Retention basins must have maximum slopes of 6:1 when adjacent to public rights-of-way or pedestrian walkways.
9. Provide traffic calming measures within the private street system to be approved through the Subdivision Technical Review process.

Vote: Passed 6-0 with Boardmember Carpenter absent.

Reason for Recommendation: The Board felt this proposal would be a nice asset to this community.

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Item: **Z06-17 (District 6)** The 8400 and 8500 blocks of East Southern Avenue (north side). Located at the northeast corner of South Hawes Road and East Southern Avenue (2.8± ac). Rezone from AG and R-4 to C-1 and Site Plan Review. This request will allow for the development of a retail building. Crescent Run Limited Partnership (Patricia L. Koslow), owner; Jessica Sarkissian, applicant.

Comments: Jessica Sarkissian, 80 E. Rio Salado Parkway, applicant gave an overview of the project.

Boardmember Mizner noted that the property to the north appeared like it was planned for more lots in the Mobile Home Park. He asked if that part of the proposal would be walled and landscaped with this parcel. Mr. Mizner also asked if they had thought about a pedestrian connection. Ms. Sarkissian responded that it was originally purchased by the City as a well site, which didn't pan out and was sold to the current owner. She stated that the existing wall would remain and meet all City Codes, with no pedestrian connection as requested by the neighbors.

Eugene Knipfel, 8500 E. Southern, representing the residents of Crescent Run Mobile Home Park, stated that many residents do not have a problem with this rezoning. He stated they were concerned with the reduction of property values due to noise and odors. He stated that they have three items, which they would like as part of the final document: 1) when the zoning is changed, the site would remain unaltered until all properties adjoining were no longer used for residential purposes; 2) no businesses shall operate after 9:00 p.m.; and 3) no signage or outdoor lighting of any kind shall be installed. He stated they also had concerns with traffic in the area and would like a stoplight installed on Hawes and Southern.

James Borowiak, 8500 E. Southern, Crescent Run property manager and representing the owners, stated they object to any visible/noise distractions to the residents bordering the proposed project. He asked that they look at odor nuisances such as garbage dumpster locations, security issues and types of permits granted, ie: bars, nightclubs, liquor stores, etc. He also asked that landscaping be installed that would absorb noise and shield views from the property. Mr. Borowiak also requested that a traffic signal be installed at Southern and Hawes due to the additional traffic in the area.

Chairperson Adams noted that the traffic light issue was not within the purview of this Board, but staff has heard and could pass that information on to the Transportation Division.

Ms. Sarkissian responded to the comments from the neighbors stating that a lot of the issues are City Code requirements and would be addressed; she added that under the C-1 zoning district, drive-thru facilities, bars, nightclub and liquor stores are not allowed and any type of use that requires a Special Use Permit would require another hearing.

Michael Bell, Planner I, stated that any uses after 9:00 p.m. would be a private agreement between the property owners and the businesses. He added that signage and lighting are regulated through the Zoning Ordinance and staff is recommending approval.

Discussion ensued regarding the landscape setbacks, buffer and lighting areas.

Boardmember Langkilde asked if the residents have had an opportunity to view the plans and see the placement of the dumpster. Ms. Sarkissian responded that they had sent copies of the plans to everyone listed on the Citizen Participation Plan and had them at the meetings. She added that the placement of the dumpsters were per the City's request.

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Boardmember Finter thanked the neighbors for coming and added that it looked like more communications could be done between the applicant and residents. Ms. Sarkissian stated that every meeting they held there was a high turn out and feels they have been very open with the neighbors; she added that further discussion would not change anything.

Chairperson Adams noted that the residents were more worried about a bar, liquor store or check cashing store coming into this retail building. Ms. Sarkissian agreed that the residents were concerned with gas stations, bars, etc. going into this retail building. She mentioned that many of these businesses are not permitted in this district. She reiterated that any uses that required a Special Use Permit would have another hearing.

Boardmember Mizner moved to approve zoning case Z06-17 and noted that this project was consistent with the plans for this area and would be compatible with the neighborhood. He added that this project would also have to go through the Design Review Board, which deals with design, landscaping, colors, etc. and encouraged the neighbors to stay involved.

Boardmember Saemisch noted that most businesses conform to Mesa's ordinances and close by 9:00 p.m. but some might stay open until 10:00 p.m., which might turn out to be a benefit. He mentioned that Mesa does not pick up dumpster before 6:00 a.m. and residents could contact the City to have the dumpster cleaned if there was an odor.

It was moved by Boardmember Mizner, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of zoning case Z06-17 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. 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. 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).
7. Implement public disclosure utilizing the following:
 - a. An aircraft noise disclosure statement similar to that provided in Exhibit A, specifically stating, this land lies within Williams Gateway Airport Noise Overflight Area 2 or 3 (as depicted on Figure 11-3, of the Williams Regional Planning Study) and is subject to noise that may be objectionable;
 - b. An avigation easement similar to that provided in Exhibit C;
 - c. Notification on the Plat and Title – The plat and title should note that the site is within an Airport Overflight Area subject to aircraft noise. Specifically, the plat should indicate. "these properties, due to their proximity to Williams Gateway Airport will experience aircraft overflights that generate noise levels which may be of concern to some individuals".
8. Retention basins to be 6:1 slopes maximum where adjacent to public right-of-ways or

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pedestrian walkways.

Vote: Passed 6-0 with Boardmember Carpenter absent.

Reason for Recommendation: The Board felt this proposal appeared to be compatible with the neighboring development and all required codes and regulations had been met.

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Item: **Z06-18 (District 4)** 410 South Nevada Way (west side). Located west and south of the southwest corner of South Stapley Drive and East Broadway Road (0.15± ac). Rezone from C-1 to R1-6. This request will allow for the development of a single residence. Bradley MacLay, owner/applicant.

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

It was moved by Boardmember Langkilde, seconded by Boardmember Finter

That: The Board approve and recommend to the City Council approval of zoning case Z06-18 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the plot plan.
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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modification(s) outlined in the staff report.

Vote: Passed 6-0 with Boardmember 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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Item: **Z06-19 (District 6)** 3635 East Inverness Avenue (south side). Located north and east of the northeast corner of South Val Vista Drive and East Baseline Road (1.13± ac). Rezone from C-2 to C-2 PAD and Site Plan Modification. This request will allow for the development of medical/office buildings. DFFM Yukon, LLC, (Francis J. Marotta) owner; Francis J. Marotta, MarCor Commercial Real Estate Services. Also consider the Preliminary Plat.

Comments: Francis Marotta, 9260 E. Range Drive, applicant, gave an overview of the project stating that they are requesting a PAD to sell one or both buildings as office condominiums. He added that they are in agreement with the conditions as outlined.

Roger Jones, 3719 E. Inverness, resident, stated he was opposed to this proposal because the building was going to be 25 feet tall and four inches away from his property. He asked that the north building be eliminated.

Boardmember Finter asked if there was anything the applicant could do to help vegetate that area with larger trees. Mr. Jones responded that there are already 60-foot eucalyptus trees and they would be wasting their time because the building was going to be 25 feet tall.

Discussion ensued regarding the measurement of the wall and the layout of the building.

Mr. Marotta stated that following Mr. Jones' complaints with the layout, they considered relocating the buildings but given the size of the lot it was better with the current layout. He stated it was better to have the parking lot in the front due to safety issues; he added that Mr. Jones' property was 25 feet away from the building and they planned to heavily landscape that area. Mr. Marotta stated they would agree to a stipulation, which would require larger trees.

Jennifer Gniffke, Planner I, gave an overview of the project stating that commercial type developments would be allowed regardless of the PAD overlay. The PAD request was to provide ownership of the buildings and the suites. She stated that the building and landscape setbacks have been met and exceeded along the eastern property line and the C-2 zoning district allows a building height of up to 30 feet.

Boardmember Langkilde moved to approve zoning case Z06-19 as submitted.

Mr. Marotta agreed to put in 36-inch box trees and would address it at the Design Review Board meeting.

Boardmember Saemisch seconded the motion and stated he would like to take the applicant's voluntary choice to put in four (4) 36-inch box trees along the eastern property line and would like to amend the motion to add this stipulation. He mentioned to Mr. Jones that this was a good site plan and was going to be beneficial.

Boardmember Langkilde stated that if adding more landscaping didn't make the homeowner happier he saw no reason to further obligate the applicant. He stated he understood Mr. Saemisch's concern but the homeowner had already mentioned that there were 60-foot eucalyptus trees and he saw no further reason to add larger trees. Boardmember Saemisch withdrew his motion for the second.

Boardmember Mizner seconded the motion. He noted that this property had been zoned for commercial development for 20 years and although State Farm had been using it as a parking lot, they have moved and resold the property. He noted that the City does not guarantee views.

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The neighbor had a misunderstanding of the site plan; this building was not four inches from the property line it's separated by 20 foot of landscaping and a retention basin. Mr. Mizner stated these are professional offices with a good landscaping plan in effect. He agreed that if the neighbor didn't want larger tree, let's just meet City Code and go with the development.

Chairperson Adams explained to Mr. Jones that this case would be going to the Design Review Board and City Council and he was welcomed to attend those meetings and express his views.

Mr. Wesley, Planning Director, stated that the Design Review Board meeting was scheduled for April 5, 2006 and before the City Council on April 17, 2006.

It was moved by Boardmember Langkilde, seconded by Boardmember Mizner

That: The Board approve the preliminary plat and recommend to the City Council approval of zoning case Z06-19 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the Site Plan/Preliminary Plat, Landscape Plan and Elevations submitted.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Compliance with all requirements of the Subdivision Technical Review Committee.
4. Compliance with all requirements of the Design Review Board.
5. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modification(s) outlined in the Staff Report.

Vote: Passed 6-0 with Boardmember 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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Item: **Z06-20 (District 6)** The 7600 and 7700 blocks of East Elliot Road (north side). Located at the northeast corner of Sossaman and Elliot Roads. (17.7± ac). Rezone from AG to C-2. This request is to rezone property for future development. SLPR, LLC, an Arizona Limited Liability Corporation (Patrick E. Sovereign), owner; Lindsay Schube, Beus Gilbert, PLLC, applicant.

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

It was moved by Boardmember Langkile, seconded by Boardmember Finter

That: The Board approve and recommend to the City Council approval of zoning case Z06-20 conditioned upon:

1. Site Plan Review through the public hearing process of future development plans.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
5. Owner granting an Avigation Easement and Release to the City, pertaining to the 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).
6. Written notice be provided to future property owners, and acknowledgment received that the project is within two (2) miles of the Williams Gateway Airport.

Vote: Passed 6-0 with Boardmember Carpenter absent.

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

There was no site plan proposed with this rezone and staff is recommending future Site Plan Review. The applicant has no objection to this condition.

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Item: **Z06-21 (District 6)** The 2700 to 3000 blocks of South Sossaman Road (west side). Located at the northwest corner of Sossaman and Guadalupe (5.2± ac). Rezone from R1-7 to C-2 and Site Plan Review. This request will allow for the development of a daycare building and retail shops. Chris Huss, owner; Kevin D Kerpan, applicant.

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

It was moved by Boardmember Langkile, seconded by Boardmember Finter

That: The Board approve and recommend to the City Council approval of zoning case Z06-21 conditioned upon:

1. Compliance with the basic development as described in the project narrative, as shown on the elevations submitted, and as shown on Site Plan A if cross access for bridge is allowed, or on Site Plan B if cross access for bridge is disallowed as evidenced by written denial by adjacent property owners (without guarantee of lot yield, building count, or lot coverage).
2. In order to comply with parking requirements, total restaurant uses shall not exceed 3,225 square feet of the total gross floor area for the project. All requests for occupancy and/or tenant improvement permits shall be documented by updated parking calculations to document that restaurant uses do not exceed 3,225 square feet gross floor area for the entire project, and that enough parking spaces are provided within the project to accommodate the use(s) per code requirements.
3. Compliance with all requirements of the Design Review Board.
4. Compliance with all City development codes and regulations.
5. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
6. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
7. All street improvements and perimeter landscaping to be installed in the first phase of construction.
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. An aircraft noise disclosure statement shall be provided to future tenants.
10. Notification to be included on the title that "these properties, due to their proximity to Williams Gateway Airport, will experience aircraft overflights that generate noise levels which will be of concern to some individuals."

Vote: Passed 6-0 with Boardmember Carpenter absent.

Reason for Recommendation: The Board felt this proposed development was relatively well designed, and that the proposed land use fits well into the existing area. All of the minimum standards from the City's Zoning Ordinance are being met or exceeded by the proposal.

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MINUTES OF THE MARCH 23, 2006 PLANNING AND ZONING MEETING

Item: **Z06-22 (District 3)** The 1000 to 1200 blocks of West Grove Avenue (north side). Located south of Southern Avenue and east of Alma School Road (4.9± ac). Rezone from C-2-DMP to C-2-BIZ-CUP and Modification of the Fiesta Quadrant Development Master Plan and Site Plan Review. This request will allow the development of a mixed-use high-rise condominium project with first floor retail. TR Alma Partners, LLC; Thomas Roszak, owner/applicant. Also consider the Preliminary Plat for "Fiesta Towers".

Comments: Boardmember Saemisch declared a potential conflict of interest by his firm.

Reese Anderson, 1930 E. Brown Road, applicant, stated that this project was one of its' kind in this City and was proud to be associated with it. He thanked staff for their involvement in this project. He stated that this request was to allow four (4) condominium towers with mixed-used development. He stated they had an overwhelming support from the neighbors and the business owners in the area. He stated they are in agreement with the stipulations.

Thomas Roszak, 1415 Sherman Ave. Evanston, IL, applicant, thanked staff for their involvement and attention to detail, which helped make this a quality project and showed a presentation of the quality of the project and the different uses involved.

Chairperson Adams clarified that the only reason this item wasn't on the consent agenda was that the Board felt it was an important project for the City of Mesa. He stated he wanted the applicant to have an opportunity to present the project because this was a project that would take Mesa into a whole new era.

Tom Ellsworth, Senior Planner, gave an overview of the project stating that this request was to rezone from C-2-DMP to C-2-BIZ-CUP and a Modification to the Master Plan for the Fiesta Quadrant. He stated staff is recommending approval with conditions and felt it would be asset to the Fiesta Quadrant area.

Boardmember Mizner stated that this was a complicated request and asked Mr. Ellsworth to explain what the BIZ and Council Use Permit were for.

Mr. Ellsworth stated that the existing zoning was C-2 and the Zoning Code allows for residential development as part of a mixed used development. This development is clearly a mixed used development so we needed to modify the Development Master Plan (DMP) for the Fiesta Quadrant. Currently the Fiesta Quadrant Master Plan designated this site for high intensity office. The change would be at the immediate corner, which includes the Bank of America building. The overall DMP indicates this for a mixed used development. Therefore allowing the Council Use Permit to be considered for residential development as part of the C-2 zoning. Mr. Ellsworth stated that the BIZ overlay district allows for modification to the Code for projects of innovative and unique design, which staff considers this project to be. The modification needed for this project is for the height and the BIZ overlay would support Towers 3 & 4, at 25 stories or a maximum of 272 feet. Other modifications of the site would be for the setbacks, which staff was also supportive of, as well as, the site plan submitted.

Boardmember Mizner stated that this was a unique development for Mesa as far as height, number of floors, density and a new style of living for Mesa. He asked Mr. Roszak what the market/feasibility was for this type of development in Mesa and the phasing for the project.

Mr. Thomas Roszak stated they had done market/feasibility study that showed that there was a demand for this alternate type of housing. He added that they are "pioneers" in this type of

MINUTES OF THE MARCH 23, 2006 PLANNING AND ZONING MEETING

housing in Mesa and it was environmentally more efficient to go vertical. Mr. Roszak stated there are four phases but if the market demands exist, they have the flexibility to build two buildings at once. The plan right now is to start with Tower #1, which is a 10-story building with 90 units.

Boardmember Langkilde asked what the estimated cost was for these units and if CC&R's would apply. He also asked if the parking was adequate for the retail. Mr. Roszak responded that 1 bedrooms start from \$200,000, 2 bedrooms, \$350,000 and 3 bedrooms, \$500,000, with 600-1,800 sq. ft. He stated that CC&R's would apply and that residential parking was adequate with retail just slightly under.

Boardmember Finter mentioned that this was an exciting project and looked forward to having it in Mesa. He stated that he met with representatives for this project and was impressed with the "state of the art" safety systems. Mr. Finter moved to approve zoning case Z06-22.

Boardmember Salas also stated he met with representatives and was impressed with the architectural design and the planning that went into this project. Mr. Salas seconded the motion.

Chairperson Adams stated that over the last several years there had been a decline in the Fiesta Mall area and this project would be an added bonus to the City of Mesa as well as additional revenue.

Boardmember Mizner noted that he attended one of the neighborhood meetings, which was well attended and the project well received. He stated that this project would be an asset to the neighborhood and would provide customers for the nearby retail area.

It was moved by Boardmember Finter, seconded by Boardmember Salas

That: The Board approve the preliminary plat of "Fiesta Towers" and recommend to the City Council approval of zoning case Z06-22 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 all requirements of the Design Review Board.
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.

Vote: Passed 5-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

Reason for Recommendation: The Board felt this proposal would be an asset to the neighborhood and would take Mesa into a whole new era. The Board was very impressed with the design.

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MINUTES OF THE MARCH 23, 2006 PLANNING AND ZONING MEETING

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MINUTES OF THE MARCH 23, 2006 PLANNING AND ZONING MEETING

Item: **Z06-23 (District 1)** The 900 and 1,000 blocks of North Dobson Road, west side. Southwest corner of US 202 and Dobson Road. (32.3 ac). Site Plan Review. Specific location of the private drive through the future Riverview automall site. KRS Acquisitions Corp c/o Mike Withey, owner; Withey, Anderson & Morris c/o Mike Withey, applicant.

Comment: A second consent agenda was held for zoning cases Z06-23 and Z06-24 due to a potential conflict of interest by Boardmember Saemisch.

It was moved by Boardmember Finter, seconded by Boardmember Salas that the second consent item be approved. Vote 5-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

That: The Board approve and recommend to the City Council approval of zoning case Z06-23 conditioned upon:

1. Compliance with the basic development of the private loop drive as shown on the site plans and exhibits except that landscape setbacks from adjacent properties are to be according to the City of Mesa Zoning Ordinance unless modified through an overlay district or variance process.
2. Future development of screen walls, landscaping and buildings to adhere to Mesa City Code and regulations, Zoning Ordinance, Riverview at Dobson Design Guidelines, and to be designed in accordance with the quality expressed in the Development Agreement, with review by and in compliance with the Design Review Board.
3. Site Plan Review through the public hearing process as identified in the Mesa Zoning Ordinance for all future development plans and proposals.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

Vote: Passed 5-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

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 MARCH 23, 2006 PLANNING AND ZONING MEETING

Item: **Z06-24 (District 1)** The 1,000 and 1,100 blocks of North Alma School Road, west side. Southwest corner of US202 and Alma School Road. (47.96 ac). Site Plan Review. Specific location of private drive extending from Bass Pro Drive east to Alma School. KRS Acquisitions Corp c/o Mike Withey, owner; Withey, Anderson & Morris c/o Mike Withey, applicant.

Comment: A second consent agenda was held for zoning cases Z06-23 and Z06-24 due to a potential conflict of interest by Boardmember Saemisch.

It was moved by Boardmember Finter, seconded by Boardmember Salas that the second consent item be approved. Vote 5-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

That: The Board approve and recommend to the City Council approval of zoning case Z06-24 conditioned upon:

1. Compliance with the basic development of the private drive as shown on the site plans and exhibits except that landscape setbacks from adjacent properties are to be according to the City of Mesa Zoning Ordinance unless modified through an overlay district or variance process.
2. Future development of screen walls, landscaping and buildings to adhere to Mesa City Code and regulations, Zoning Ordinance, Riverview at Dobson Design Guidelines, and to be designed in accordance with the quality expressed in the Development Agreement, with review by and in compliance with the Design Review Board.
3. Site Plan Review through the public hearing process as identified in the Mesa Zoning Ordinance for all future development plans and proposals.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Provide colored, stamped concrete at all proposed medians.

Vote: Passed 6-0-1 with Boardmembers Carpenter absent and Saemisch abstaining.

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 MARCH 23, 2006 PLANNING AND ZONING MEETING

Item: **Z06-25 (District 6)** The 9600 block of East Southern Avenue (south side). Located at the southeast corner and southwest corner of South 96th Street and East Southern Avenue (23.12± ac). Rezone from AG and R1-43 to C-1-BIZ-PAD and R-3-PAD and Site Plan Review. This request will allow for the development of a medical office building and residential condominiums. M.R. Parasher, Yale Casitas Inc., owner; Martin Hazine, HGN, applicant. Also consider the Preliminary Plat. **COMPANION CASE GPMInor06-02.**

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

It was moved by Boardmember Langkilde, seconded by Boardmember Finter

That: The Board continue zoning case Z06-25 to the April 20, 2006 meeting.

Vote: Passed 6-0 with Boardmember Carpenter absent.

Reason for Recommendation: The applicant requested that this case be continued to allow move time to work with both staff and Engineering to solve some pending issues.

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Item: **Z06-26 (District 1)** The 100 block of West McKellips Road (south side). Southwest corner of Center and McKellips Road. (3.73 acres). Rezone from C-2 to R-3 PAD and Site Plan Review. This request will allow for the development of a townhome subdivision. Ross Farnsworth, RSB Partners LLC, owner; Jeff Welker, Welker Development Resources LLC, applicant. Also consider the Preliminary Plat for "Homestead on Center".

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

It was moved by Boardmember Langkilde, seconded by Boardmember Finter

That: The Board approve the preliminary plat of "Homestead on Center" and recommend to the City Council approval of zoning case Z06-26 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count, or lot coverage).
2. Townhome buildings closest to the site's entry drive from North Center Street shall maintain a minimum building setback of 32 feet from the right-of-way line.
3. Compliance with the Residential Development Guidelines.
4. Compliance with all requirements of the Design Review Board.
5. Compliance with all City development codes and regulations.
6. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
7. 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.
8. Compliance with all requirements of the Subdivision Technical Review Committee.
9. Retention basins to be 6:1 slopes maximum where adjacent to sidewalks.

Vote: Passed 6-0 with Boardmember 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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GENERAL DISCUSSION ITEM:

Council Use Permit for payday lenders and/or deferred presentment lenders.

Gordon Sheffield, Zoning Administrator, stated that in December, Council directed staff to develop an ordinance for payday lenders. He mentioned that there are several communities within Arizona that have been considering or had passed an ordinance requiring additional zoning for these types of facilities. He explained that in 2000, the legislature passed Senate Bill 1266, authorizing the licensing of "deferred presentment lenders" also known as payday lenders; he added that there were some concerns that these companies charged fees instead of interest rates and people were paying annualized interest rates in excess of 300%. Mr. Sheffield stated the reason for considering these regulations was the clustering of these types of facilities, which could create a detrimental impact from a land use standpoint. He added some folks were afraid that these facilities were targets for crime and they also targeted low-income areas as well as areas where there was a high population of young adults. He stated that some would argue that payday lenders are responding to market conditions and there are those who believe that this issue should be addressed through state financial regulations rather than through zoning.

Mr. Sheffield stated that there are very strong arguments for and against this ordinance. He stated that this board first had the option of recommending that no action be taken; or that a problem does exist and that there is a reason to regulate. If the Board found that cause exists to develop a regulation, the next step would be to determine how broad a definition was needed, and if the regulations should affect payday lenders, or also encompass auto title lenders. Third, the Board would need to determine if a separation should be required between "like uses", and if a separate separation requirement should be developed between payday lenders and residential uses. The fourth choice would be to determine the level of review, which would include options for an Administrative Review, a Special Use Permit review through the Board of Adjustment, or a City Council Permit review through this Board and City Council. Mr. Sheffield noted that if this regulation were to take place, the regulation would not affect existing payday lenders in Mesa they would be "grandfathered" in. If adopted, the regulation would be designed to prevent clustering or over-concentration in areas where these facilities are not as prevalent.

Discussion ensued regarding the need for additional regulation on these types of facilities and the impact it would bring to the neighborhoods. The Board recognized that these facilities are legal and responding to consumer demand, but several members struggled with the ideating of the need for additional regulations.

Mr. John Wesley, Planning Director, noted that this was a discussion only item to get feedback from the Board. He added that on a 4-3 vote, Council was interested in having staff pursue drafting an ordinance, which staff would present to this Board for consideration. Mr. Wesley stated staff needed direction on the options presented in the staff report.

Boardmember Mizner suggested Option 1 – S1, Option 2 – R1, and Option 3 – D2. These options would require an administrative review of the project, a separation requirement of 1200' feet between like uses, and a broad definition that encompassed payday lenders and auto title lenders.

Boardmember Finter asked if Crime Prevention Through Environmental Design (CPTED) review occurs as these businesses come in and if there was a review process in place. He also asked if there were projections on how many facilities could come in, if no action were taken. Mr. Sheffield responded that CPTED would affect new construction coming in, however there was not a separate CPTED review once the building was in place. Property owners and tenants could request a member of the community policing office come to their site and advise the property/business owner on changes to their site that would help discourage criminal activities. Mr. Sheffield also stated staff had not projected how many payday lenders would be present in the future.

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Boardmember Langkilde stated he was not in favor of going this route but if it did he would prefer Option 1 – S1, Option 2 – R2, and Option 3 – D2. This set of options would result in a broad definition affecting both payday lenders and auto title lenders, a Special Use Permit process through the Board of Adjustment, and a 1200' separation between like uses.

Boardmember Saemisch stated that this was not the City he wanted to live in with all these payday lenders at every intersection. He stated that Council should make the decision with this Board's support. He suggested they go with Option 1 – S1, Option 2 – R3, and Option 3 – D3. This set of options would result in a broad definition that encompasses auto title lenders in addition to payday lenders, a Council Use Permit process through the Planning and Zoning Board and City Council, and both a 1200' separation between like uses and a 500' separation between "non-chartered financial institutions" and residential zoning districts.

Boardmember Finter stated he was glad there was a review process for pawnshops, day labor centers, tattoo parlors, etc, but this should not be the next step to take. He added that these payday centers are a symptom of an area that might be having some challenges and not the problem. Mr. Finter stated that he was not going to give any options and would probably vote against any regulations unless there was a public safety issue.

Chairperson Adams stated that he didn't like these facilities in Mesa because they prey on a disadvantaged segment of the population and he would rather regulate these businesses to have to post the true APR of what they are charging, rather than having a facility a ¼ mile away from another. He agreed with Mr. Finter that these facilities are a result of a larger problem.

Mr. Sheffield stated he could provide four summaries of the ordinance, the Board could make a recommendation and he could prepare an ordinance to present to Council.

Boardmember Mizner asked if Planning staff was seeing more facilities being built. Mr. Sheffield responded that the figures given dated back to January 2006, and had not been reviewed since that time for additional state licenses.

Boardmember Langkilde stated that Mr. Mizner brought up a valid point, that these payday loans are going into places that had not been occupied for some time and there could have been something worse than a payday store in these areas. He added that the payday stores have "spruced up" many neighborhoods.

Boardmember Salas stated he also struggled with this issue. He surmised that because an ordinance was developed that regulated the locations of payday lenders, it would not be much further of a stretch to place similar requirements on any other land use perceived as having a bad influence.

Boardmember Mizner suggested that Mr. Sheffield develop more refined options for the Board to consider and they would review it in April.

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Respectfully submitted,

John Wesley, Secretary
Planning Director

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