



## COUNCIL MINUTES

November 19, 2009

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on November 19, 2009 at 7:32 a.m.

### COUNCIL PRESENT

Alex Finter  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

Mayor Scott Smith  
Dina Higgins

### OFFICERS PRESENT

Kari Kent  
Debbie Spinner

Vice Mayor Jones excused Mayor Smith and Councilmember Higgins from the entire meeting.

1. Hear a presentation, discuss and provide direction on the Zoning Ordinance update.

Zoning/Civil Hearing Administrator Gordon Sheffield provided a brief historical overview of staff's efforts to update Mesa's Zoning Ordinance. His comments included, but were not limited to, the following: that the process began in September 2006; that the City hired the consulting firm of Dyett & Bhatia, Urban and Regional Planners, to assist with the update; that staff solicited input from Code users and stakeholders to identify key issues and priorities; that staff conducted an analysis of the General Plan and the existing Zoning Code to determine what changes could be made so that the document would be more logical and user friendly; and that the draft document, consisting of Modules 1 through 4, was subsequently presented to the Council and various advisory boards for their feedback and comments.

Mr. Sheffield explained that today's presentation is an overview of the "Council Review Draft" of the Zoning Ordinance update, which is a consolidation of the four modules. He stated that if the Council directs staff to make changes to the document, such modifications would be included in the final "Public Review Draft" which, as part of an extensive public review process, would be presented to a variety of groups (i.e., special interest, lobbyists, homeowners' associations) for their input.

Mr. Sheffield also said that it is anticipated that the public review process would begin in early 2010, followed by two public hearings with the Planning & Zoning Board (P&Z) in March or April. He added that in May or June, the final document would be brought back to the Council for adoption.

Michael Dyett, representing Dyett & Bhatia, addressed the Council and thanked Mr. Sheffield, City staff and the various advisory boards for their hard work and assistance throughout this long process. He displayed a PowerPoint presentation (**See Attachment 1**) and highlighted the primary goals of the Zoning Code update as follows:

- Make zoning easier to understand
- Streamline development approval
- Address infill development
- Achieve a high level of design quality
- Promote housing variety and choice
- Support economic growth
- Enhance environmental quality

Mr. Dyett reported that the Zoning Code update includes a series of organizational changes, with the most frequently consulted sections appearing towards the beginning of the ordinance and the less frequently used parts (i.e., administration and permits, definitions) moved to the end. He explained that lists of items are now alphabetized and said there would be a greater use of tables and cross-references throughout the Code.

Mr. Dyett also remarked that design and development standards have been consolidated in the ordinance by placing them in the specific zones where they apply or in an article where they would apply Citywide. He stated that the mandatory elements in the design guidelines are integrated in the zones that are Citywide and carried forward and added that non-mandatory elements have been removed from the Code.

Mr. Dyett displayed examples of the new graphics that have been included in the Zoning Ordinance update. (See Page 4 of Attachment 1)

Councilmember Richins made the suggestion that the definitions of abbreviated terms (i.e., PC-Planned Community) be included inside the front cover of the updated Zoning Code in order to assist individuals utilizing the document.

Mr. Dyett further reported that the draft Zoning Ordinance includes eight articles. He explained that Article I – Introductory Provisions provides an overview of the Zoning Ordinance structure; rules for language construction (i.e., and/or, shall/may); rules for measurement and interpretation; the establishment of districts and boundaries; and the designation of the zoning map.

Mr. Dyett indicated that Article II – Base Zones includes the names of existing zones as well as zones that have been renamed. (See Page 5 of Attachment 1) He briefly highlighted other general changes to Article II such as a greater opportunity for mixing uses and scales within a set urban form; increased maximum densities for residential zones (including a new RM-5 designation); allowance for front and rear yard encroachments in RS districts for one-half the width of the required yard; the addition of development character designators in the C & RM zones (i.e., P designator – Pedestrian-oriented; A designator – Auto-oriented; and M designator – Mixed); opportunities for more “urban” feeling development with greater allowances for components such as height and density; and revised purpose statements that clarify the intent of each zone.

Mr. Dyett offered a short synopsis of the new zone categories including RSL (Residential Small Lot), MX (Mixed Use), and TMX (Transit-Oriented Mixed Use). (See Pages 8 through 12 of Attachment 1)

Mr. Dyett noted that Article III – Overlay Zones includes a new Infill (IN) overlay zone. He explained that the purpose of the zone is to encourage job creation and development in areas with underutilized land or poor economic conditions. Mr. Dyett said that in addition, the area must meet specific criteria to be eligible for IN zoning, consisting of certain economic indicators and the inclusion of “bypassed land.”

Councilmember Richins commented that in reading the draft document, he noticed that there was no provision for single family residential uses in the IN district. He stated that he was aware of several bypassed parcels in west Mesa located in single family residence neighborhoods and noted there is some interest in developing those parcels in a similar manner.

Mr. Sheffield responded that if a single residence district (R1-6 District) is mapped with the IN overlay, it would result in a graduated density schedule. He explained that instead of the 3 to 4 units per acre density that is typically permitted in the R1-6 District, the IN zoning would allow the densities to double through land assembly. Mr. Sheffield conceded that the draft Zoning Ordinance does not contain specific language regarding infill enabling single family from the standpoint of attached single family or detached single family, but said that “those are fairly easy fixes.”

In response to a question from Councilmember Somers, Mr. Sheffield clarified that the Lehi area is being defined as an Equestrian district through the nuisance law and is not part of the Zoning Code. He stated that the Desert Uplands area is defined through the subdivision regulations in Title 9 of the City Code and is also outside of the Zoning Code.

Councilmember Finter commented that he hopes the City would aggressively address the issue of infill and the suitability of residential uses on those parcels. He noted that land assembly can sometimes create challenges and suggested that staff “take a progressive look” at how vacant land could be better utilized in residential areas.

Councilmember Richins stated that he appreciates the concept of land assembly and encouraging individuals to acquire adjacent parcels for infill projects.

Discussion ensued relative to the fact that in the IN overlay district, allowed uses would be identical to the base zone (except multiple residence in RS); that residential densities may be increased by a factor of 2 to 2.5; and that new businesses can receive decreased or waived requirements for landscaping, parking, setback or other specified standards.

Mr. Dyett continued with his presentation and reported that Article IV – Development Regulations consists of standards that apply Citywide and are organized in a logical manner. He highlighted the various standards (See Pages 14 and 15 of Attachment 1) and also offered an extensive analysis of the new standards for specific uses and activities. (See Pages 16 through 23 of Attachment 1)

Councilmember Richins commended staff and the consultants for including a development regulation that addresses shared parking for uses with different peak hours. (See Page 20 of Attachment 1)

Councilmember Kavanaugh noted that in reviewing Page 4-82 of the proposed Code relative to the regulation of antennas and wireless communications facilities, it states that there would be a prohibition with regard to erecting cell towers within any City park. He inquired if such language was part of the current Zoning Code or if this was a change proposed by staff.

Mr. Sheffield responded that in editing the draft document, he failed to notice the language referenced by Councilmember Kavanaugh and said that it should probably be changed. He explained that three or four years ago, the previous Council adopted a set of guidelines concerning the placement of cell towers in City parks.

Councilmember Kavanaugh commented that he was familiar with the previous Council policy, but stated that he preferred the proposed language in the draft document.

In response to a question from Councilmember Kavanaugh, Mr. Sheffield clarified that staff received direction from the Council regarding this matter; that there was an amendment to the Code and to the existing guidelines; and that a new guideline document was drafted that specifically addressed how to incorporate cell tower design into City parks. He noted that the guidelines stated that this could be accomplished through co-location on athletic field poles or a "stealth option," with the structure being camouflaged by a faux tree.

Councilmember Kavanaugh stated that he was comfortable with the co-location on athletic field poles, but noted that sometimes the stealth trees "look like a redwood tree in the middle of a bunch of small pinion pines." He inquired regarding the process that is undertaken to evaluate "the context" of the park in which the cell tower would be located.

Mr. Sheffield explained that the Parks and Recreation Board conducts an evaluation of any request for a cell tower in a City park. He stated that the Board's recommendation is forwarded on to the Zoning Administrator/Hearing Officer, who has final approval to grant a Special Use Permit (SUP). He added that the SUP entitles the structure to be erected in a particular location.

Councilmember Kavanaugh noted that the Council has no role in the evaluation process other than for a Councilmember to object as an individual.

Mr. Sheffield confirmed Councilmember Kavanaugh's statement.

Mr. Dyett advised that Article V – Signs is not part of the Zoning Code update and said that the chapter is reserved for later revision.

Mr. Dyett further reported that the City is undergoing a separate effort to develop form-based standards (Article VI) for the future light rail station and rail corridor in Mesa and said that such standards are not part of this update. He said that this chapter is also reserved for later revision.

Mr. Dyett explained that Article VII – Administration and Permits expands and refines many of the administrative sections in the current Zoning Ordinance. He stated that the chapters are organized to list the responsibilities of all decision makers and followed by a new "Common

Procedures” section, which establishes procedures for all types of approval. (See Pages 24 through 27 of Attachment 1)

Mr. Dyett concluded his presentation by indicating that Article VIII – General Terms serves as a reference section for the previous articles and includes the definition of use types and all definitions for the ordinance.

In response to a question from Vice Mayor Jones, Mr. Sheffield clarified that staff is still researching whether the renaming/addition of various zoning categories in the Zoning Code update could result in legal challenges for the City relative to Proposition 207. He noted that the intent of the document is to make zoning easier and to expand the options that individuals have for the use of their property. Mr. Sheffield stated that in staff’s opinion, the renaming/addition of zoning categories would not diminish value, which is the “catchall” for the Proposition 207 question.

City Attorney Debbie Spinner also commented that it is yet to be determined how the updated Zoning Code would be implemented. She stated that if the proposed Zoning Code was adopted and the old Code remained in effect, as long as property owners did not change their zoning to the new Code, there would be no Proposition 207 claim. Ms. Spinner added that the same would hold true if property owners determined that there was greater flexibility in the new Code and voluntarily changed their zoning to conform to that document.

Councilmember Richins requested that the term “bypassed parcel” be included in Article VIII with all of the definitions for the ordinance.

Councilmember Finter recounted a series of incidents in his district in which residents installed temporary storage sheds in their side yard setbacks and were issued citations by Code Compliance for doing so. He stated that as part of the Zoning Code update, he is seeking Council concurrence to direct staff to draft a reasonable exception or an allowance for side yard setback encroachments involving storage sheds. Councilmember Finter stated that of all the issues that Code Enforcement must address, in his opinion, this matter is of the least concern.

Councilmember Finter further noted that residents have expressed concern relative to allowing vehicular access in the wider portion of a side yard setback, for instance, if a pool is being installed in the back yard and creating “a canyon effect” between homes. He also urged that the Board of Adjustment be given greater flexibility with regard to considering such matters.

Councilmember Somers stressed the importance of the Fire Department being involved in the process of drafting an exception for side yard setback encroachments relative to storage sheds. He stated that he suspected setbacks are tied to the Fire Code and noted that if a storage shed contained, for example, gasoline and was located one foot from the owner’s property line and three feet from a neighbor’s house, the propagation of fire from one structure to the other would be a major concern. Councilmember Somers further referenced the general development standards for outdoor storage (See Page 16 of Attachment 1) which, in his opinion, should also be considered with regard to this issue.

Vice Mayor Jones expressed appreciation to Mr. Sheffield and Mr. Dyett for their efforts and hard work throughout the Zoning Code update process.

2. Hear reports on meetings and/or conferences attended.

Vice Mayor Jones congratulated Councilmember Kavanaugh for being elected to the National League of Cities' Board of Directors.

Councilmember Kavanaugh: National League of Cities' Information, Technology and Communications Steering Committee meeting; Communities Learning in Partnership (CLIP) Grant Planning Session.

Councilmember Richins: Acknowledged the Solid Waste Management Department for the well-designed door hanger that addresses recycling and has been distributed in Mesa neighborhoods.

Councilmember Somers: 95<sup>th</sup> Arizona Town Hall; National League of Cities; RAF Memorial Service; hosted a study tour for a delegation from the Inner Mongolia Province in the People's Republic of China.

Councilmember Finter stated that Saturday, November 21, 2009, at 7:30 a.m., is the "Morning of Service" in Districts 2 and 4. He noted that it is anticipated that over 500 volunteers would participate in the event in District 2. Councilmember Finter also acknowledged staff's efforts and hard work in organizing the event.

3. Scheduling of meetings and general information.

Deputy City Manager Kari Kent reported that Mesa's United Food Bank is in dire need of turkeys this holiday season. She explained that on November 24, 2009, City employees will participate in "Great Turkey Tuesday," with a goal of donating 500 turkeys for Thanksgiving and another 500 turkeys for Christmas. Ms. Kent also stated that today many employees are participating in "Dollars for Denim," wherein they pay \$2 to wear jeans to work and the proceeds are donated toward the purchase of turkeys.

Ms. Kent stated that the meeting schedule is as follows:

Saturday, November 21, 2009, 10:00 a.m. – MAC Fest

Thursday, November 26, 2009 – Study Session (Cancelled)

Thursday, December 3, 2009, 7:30 a.m. – Study Session

Saturday, December 5, 2009, 8:00 a.m. – District 3 Pancake Breakfast and Holiday Toy Drive at Fire Station 207

Monday, December 7, 2009, TBA – Study Session

Monday, December 7, 2009, 5:45 p.m. – Regular Council Meeting

4. Items from citizens present.

There were no items from citizens present.

5. Adjournment.

Without objection, the Study Session adjourned at 8:45 a.m.

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KYLE JONES, VICE MAYOR

ATTEST:

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LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 19<sup>th</sup> day of November, 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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(attachment – 1)