

GENERAL DEVELOPMENT COMMITTEE MINUTES

August 26, 2004

The General Development Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on August 26, 2004 at 10:10 a.m.

COMMITTEE PRESENT

Rex Griswold, Chairman
Kyle Jones
Mike Whalen

COUNCIL PRESENT

None

STAFF PRESENT

Paul Wenbert
John Wesley
Jack Friedline

1. Discuss and consider selection of the 2004-2005 Opportunity Zone neighborhood.

Housing Services and Interim Neighborhood Outreach Director Ruth Anne Norris introduced Neighborhood Outreach Coordinator Mike Renshaw, and advised that he would present the staff's recommendation for the next Opportunity Zone.

Mr. Renshaw stated that staff's recommendation is based on extensive research conducted by representatives from eight City departments and the insight gained from the pilot Opportunity Zone. He expressed appreciation for the contributions made by the following internal partners: Mesa Police Department, Neighborhood Services, Code Compliance, Housing Services, Solid Waste, Transportation, Building Safety, Parks and Recreation, and the Mesa Fire Department.

Mr. Renshaw utilized a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to outline the Opportunity Zone research and recommendation. He stated that the vision of an Opportunity Zone is to "Partner with residents to focus City, Federal, private and community resources in one neighborhood to significantly improve the quality of life in the area."

Mr. Renshaw provided the following information relative to an Opportunity Zone project:

Key components:

- The process is resident driven.
- Resident and business action teams are created to identify and address key neighborhood issues.
- Key stakeholders begin the process of creating a neighborhood plan.
- All possible resources are leveraged.

Program History:

The pilot Opportunity Zone was conducted in 2001 to 2003 in the area of Country Club to Westwood and University to Cross Cut Canal. Approximately 6,800 hours of City staff time (Neighborhood Services, Solid Waste, Code Compliance, Police, Transportation, and Building Safety) were directed to the effort in addition to an equal number of resident hours. Funding of the pilot Opportunity Zone was accomplished primarily through community contributions and General Fund dollars.

Mr. Renshaw reviewed the key achievements of the pilot Opportunity Zone and reported that the effort resulted in a total of \$13 million of private reinvestment by residents, businesses and schools. He noted that the most significant “lessons learned” from the pilot program include the following:

- Resident-driven focus is crucial.
- The neighborhood must have existing organizational capacity.
- Funding for physical projects is vital.
- The size of the neighborhood must be manageable.
- A strong effort to leverage private investment is required.
- Underlying social issues should be addressed to prevent further neighborhood decline.

Mr. Renshaw advised that the internal partners began the future Opportunity Zone selection process by identifying seven candidate neighborhoods at a June meeting. He noted that Table 1 (see Attachment 1) indicates the differences between an Opportunity Zone Program and a Revitalization Area Program. Mr. Renshaw stated that the assessment process narrowed the candidates to two neighborhoods, Reed Park and Mesa Mobile Home Estates, as shown on Table 2 (see Attachment 1) and the Recommendation Summary (see Attachment 2).

Mr. Renshaw explained that the Opportunity Zone is targeted to address neighborhoods “on the cusp” of decline rather than neighborhoods that require a significant investment of funds. He added that the condition of housing stock is directly related to the level of resident income (the ability to maintain a house) rather than the age of the house.

The following data was provided regarding the Reed Park Neighborhood:

- The area encompasses Gilbert Road to Barkley and Mahoney Avenue to Elton Avenue, as shown on the Reed Park Opportunity Zone map (see Attachment 3).
- The neighborhood most closely matches key Opportunity Zone Program focus criteria.
- Residents total 7,372, of which 51 percent are of Hispanic origin.
- 984 housing units are included in the neighborhood.
- The neighborhood is located in Council Districts 2 and 4.
- Two registered neighborhoods are present (Reed Park Alliance and 2nd Avenue Group).
- Opportunities exist to partner with neighboring businesses and faith-based organizations.

Mr. Renshaw noted that the capacity of the neighborhood to participate in the planning process is critical to the success of the Opportunity Zone program due to the fact that the process is

resident-driven. He stated that the factors listed below indicate that Reed Park has the capacity to participate in the program:

- A core group of active residents and property owners is present.
- Retail businesses offer tremendous partnership opportunities.
- Three faith-based organizations have a long history of community involvement.
- Private reinvestment in the neighborhood is already occurring.

Mr. Renshaw advised that the projected timeline for the neighborhood planning process is September to November 2004, with implementation and measurement of the program anticipated in the April to September 2005 timeframe. He stated that staff's funding strategy is to leverage a variety of resources and to assist the neighborhood in applying for grants.

Other planned activities outlined by Mr. Renshaw include:

- Involvement of local corporations in partnership opportunities to improve the neighborhood.
- Cooperation with the Office of Economic Development and non-profit organizations to strengthen businesses along the Broadway corridor.
- Creation of a merchant association to encourage active participation in the neighborhood planning and improvement process.

Mr. Renshaw also provided a list (see Attachment 4) of "Committed Partners."

Committeemember Jones complimented staff for the thorough research data compiled for the selection process.

It was moved by Committeemember Jones, seconded by Committeemember Whalen, that staff's selection of Reed Park as the next Opportunity Zone be moved forward for Council consideration with a recommendation for approval.

In response to a series of questions from Committeemember Whalen, Mr. Renshaw explained that staff continues to contact area businesses and faith-based organizations. He added that the boundaries of the Reed Park Neighborhood Alliance include approximately one square mile from Main Street to Southern and Gilbert Road to Stapley. Mr. Renshaw noted that Reed Park is excluded from the Opportunity Zone boundaries due to the fact that the City recently directed significant resources to the park, and that an Opportunity Zone focuses on housing and crime issues.

Chairman Griswold called for the vote.

Carried unanimously.

Chairman Griswold thanked staff for the presentation.

2. Discuss and consider licensing use of A-frame signs beyond current permitted areas downtown.

Chairman Griswold stated that he requested a discussion on the subject of portable signs in order to determine if the success of utilizing portable signs in the downtown area could be duplicated in other areas of the City.

Zoning/Civil Hearing Administrator John Gendron provided a recap of earlier discussions regarding this subject. He advised that following a March 2004 General Development Committee meeting, staff met with Chairman Griswold to discuss portable sign alternatives. Mr. Gendron stated that the August 26th staff report to the Committee outlines possible alternatives. He further stated that for the reasons listed below staff does not support modification of the Sign Regulations that would allow the use of portable signs:

- Portable sign regulations are generally unenforceable.
- Portable signs clutter the landscape.
- The effectiveness of portable signs is dubious.
- Alternatives to portable signs are available.

Mr. Gendron advised that businesses presently have many options for signage under the existing *Code*, including multiple signs, marquee signs, banners for grand openings, unlimited window signage except in the Town Center Area, and signage for special events four times per year. He reported that other Valley communities are in the process of eliminating portable signs. Mr. Gendron also noted that enforcement of portable sign regulations is labor intensive and expensive.

Mr. Gendron outlined the draft amendment, as listed in the staff report to the Committee, that would allow limited, temporary use of portable signs for businesses meeting specific criteria. He noted that a condition requires that portable signs be spaced at least 20 feet apart, and he cited an example of a common portable sign code violation: Business A places a portable sign in a proper place; Business B measures 20 feet from the sign of Business A and properly places a portable sign; Business C places a sign between the signs of Business A and Business B, which results in three signs being in violation of the *Code*.

Senior Town Center Development Specialist Patrick Murphy advised that the process of issuing permits for the portable signs in the Town Center is very time consuming.

Chairman Griswold noted that the availability of portable signs would provide small businesses with the opportunity to inexpensively advertise their locations.

In response to a series of questions from Committeemember Whalen, Code Compliance Director Bill Petrie stated that 15 percent of a Code Compliance Officer's normal day is devoted to *Sign Code* violations. He noted that the recently modified ordinance regarding vehicle signs is being enforced on a complaint basis, but A-frame sign violations are accomplished on an "on view" basis. Mr. Petrie confirmed that enforcement of portable signs would be time consuming. He stated that political campaign sign violations are typically related to size, number of signs and proximity to a public street.

Responding to Committeemember Jones' question regarding the availability of funds to assist small businesses with signage, Mr. Gendron stated that he was not aware of any such programs or grants. He noted that City staff is willing to work with owners and tenants to address signage issues.

Discussion ensued relative to the fact that the City of Chandler has a matching grant program for physical property improvements that also addresses signage issues; that staff will attempt to

obtain additional information on the program; and that the City could provide assistance to business owners and encourage resolution of signage issues.

Chairman Griswold expressed the opinion that the availability of portable signs would not result in a proliferation of undesirable signs. He recommended that staff refine the proposed guidelines and increase the fees for sign code violations.

Committeemember Whalen stated that although he was not in support of the proposal in the present format, he expressed the opinion that the subject should be discussed at the Council level.

Mr. Gendron advised that staff plans to meet with Town of Gilbert personnel regarding their signage problems, and he anticipated that staff could provide a refined proposal to the Committee in a month or two.

Chairman Griswold noted that the objective was a better-looking City that is also business friendly.

Mr. Murphy clarified that portable signage is allowed in the pedestrian overlay area of the Town Center on a temporary basis, and that this type of signage may be eliminated when the trees reach the appropriate height.

It was moved by Chairman Griswold, seconded by Committeemember Whalen, that staff refine the portable sign proposal to include additional limitations and provide a report to the Committee within two months.

Carried unanimously.

Chairman Griswold thanked staff for their efforts, and he assured staff that the Committee would not approve any plan that would be detrimental to the City of Mesa.

3. Discuss and consider additional requirements related to Council Use Permits.

Senior Planner Gordon Sheffield advised that the "additional requirements" relate to the type of materials and the level of detail that the Planning Staff would require applicants to provide to the Council as a part of a Council Use Permit application. He stated that the present procedure requires the applicant to provide a project narrative, which is a broad description of the use and intent of the applicant. Mr. Sheffield advised that this basic information enables staff to categorize and establish that the entitlement requested of the Council is appropriate. He noted that a recent applicant for a pawnshop at Country Club and Southern voluntarily agreed to limit the Council Use Permit to only his company, and that any subsequent owner would be required to come forward to apply for a permit. Mr. Sheffield advised that staff prefers that Council Use Permit limitations be voluntary on the part of the applicant rather than mandated by the City.

Chairman Griswold noted that Council Use Permit limitations would hold the owner accountable, but the downside from a business standpoint was that a possible future sale of the pawnshop could not be accomplished due to the uncertainty of the City's approval of the permit. He noted that staff attempted to craft a compromise proposal that would require a new owner to agree to the existing stipulations.

Mr. Sheffield confirmed that staff did attempt to craft a compromise, but the compromise proposal required an excessive amount of detail that would be difficult to enforce through a Council Use Permit, and therefore staff's recommendation is to maintain the status quo.

Discussion ensued relative to the fact that certain prohibitions can not be regulated through a Council Use Permit due to certain First Amendment protections; and that, as an example, the City has an existing sexually-oriented business law that regulates the sale of pornography, which is a zoning issue rather than a licensing issue.

Chairman Griswold expressed the opinion that the Council Use Permit stipulations were similar to deed restrictions that are assumed by the new owner of a property.

Assistant City Attorney Jim Smith advised that specified "store hours" are appropriate for inclusion as a deed restriction rather than a zoning condition. He reported that a recent City of Avondale court case resulted in a ruling that defined Avondale's "conditional use permit" as an "administrative decision" rather than a "legislative decision." Mr. Smith noted that Avondale's "conditional use permit" is similar to Mesa's "Special Use Permit." He added that the court ruled that an administrative decision tends to be limited in time and can be renewed. Mr. Smith further stated that Mesa's current "Special Use Permit" process could be limited in time and include other administrative aspects. He advised that the Planning Department and the Legal Department staff plan to meet in an effort to define the Special Use Permit and the Council Use Permit with a greater degree of specificity in view of the court's ruling that an administrative decision does not have the same level of discretion as a legislative decision. Mr. Smith added that placing time limitations on a Council Use Permit could change the definition to that of an administrative decision. He advised that the City of Avondale code has been changed to define conditional use permits as being legislative, and that all permit applications are now presented to the Avondale Council for approval rather than being considered by a lower board. Mr. Smith noted that a unique situation exists in Mesa due to the fact that Super Pawn's "voluntary waiver" is enforceable, but a similar code requirement is likely to be unenforceable.

Chairman Griswold requested that staff study the impact of the court ruling to determine if an improved process can be developed that would allow stipulations to be conveyed to future operations, and that would allow business property to be sold with the assurance that future Council decisions would not negatively impact the transaction.

Mr. Smith noted that a vested zoning entitles the owner to all of the uses, and he stressed the importance that the initial decisions relative to zoning and a Council Use Permit be correct and that the City accept all of the legal uses to which the applicant is entitled.

Mr. Sheffield noted that a specific set of guidelines is provided to applicants for social service projects, such as a homeless shelter, and that staff also requests a narrative that explains the applicant's manner of compliance with the guidelines. He noted that other types of Council Use Permits do not have guidelines, but the applicant is required to submit a narrative that explains the project and proposed activity in detail.

Chairman Griswold suggested that staff review the recent case law and provide the Committee with recommendations regarding a Council Use Permit policy.

Committeemember Whalen expressed support for Alternative A, which would maintain the legal process. He asked if a Councilmember's suggestion to add stipulations to a Council Use Permit would have the inference of being an administrative act.

Mr. Smith stated that he was unaware of case law that directly addressed that issue. He advised that the concept of a waiver is defined as a voluntary, knowing and intelligent surrender of a known right, and that a court would review and consider facts relative to possible coercion to obtain the waiver.

Chairman Griswold requested that staff continue to investigate alternatives to the present policy.

Committeemember Whalen noted that a precedent was set with Super Pawn, and that future Council Use Permit applicants may be reluctant to request conditions to which they may be entitled.

Mr. Smith advised that as a result of the Avondale court case ruling, staff plans to review the language of the Special Use Permit and the Council Use Permit.

Further discussion ensued relative to the fact that stipulations could not be binding on future owners of a business; that zoning refers to a concept of uniformity; that attempting to limit a zone to a particular use or company actually creates a unique zone; and that past efforts of the City of Phoenix to create overlay zones were negated by the Court of Appeals.

Chairman Griswold suggested that staff obtain information on how other cities handle the Council Use Permits. He noted that although Alternative B intrigued him, he recognized that enforcement would be difficult. Chairman Griswold thanked staff for the presentation, and he requested that an updated report be provided to the Committee within the next two months.

4. Discuss and consider proposed increases to application fees for items submitted to the Planning Division.

Planning Director John Wesley noted that the Committee report outlined the proposed fee increases for Planning Division applications. He stated that the additional revenue is projected to be \$90,000 per year, and that the revenue would be designated to fund two additional positions, a Zoning Inspector and a Planner 1. Mr. Wesley added that the report also outlines service improvements that can be accomplished with the additional staff. He noted that "cost recovery" was discussed at a recent Council Meeting. He reported that the cost recovery for the Planning Division is projected to be 16.6 percent (\$630,000 of the \$3.9 million budget) in 04/05 compared to 15.5 percent (\$542,589 of the \$3.5 million budget) in 03/04.

In response to a question from Committeemember Whalen, Mr. Wesley advised that the proposal was presented to developers at a recent meeting of the Developer's Forum. He stated that the only concern expressed by the developers related to how quickly the additional staff could be brought on board.

It was moved by Councilmember Whalen, seconded by Chairman Griswold, to recommend to the Council that staff's proposal relative to increased Planning Division application fees be approved.

Carried unanimously.

Chairman Griswold thanked staff for the presentation.

5. Adjournment.

Without objection, the General Development Committee meeting adjourned at 11:38 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the General Development Committee of the City of Mesa, Arizona, held on the 26th day of August 2004. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

Attachments (1 through 4)

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