

COUNCIL MINUTES

February 2, 2004

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on February 2, 2004 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Dennis Kavanaugh
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

Invocation by President Terry D. Turk, Church of Jesus Christ of Latter-day Saints.

Pledge of Allegiance was led by Cody Reed, Boy Scout Troop # 659.

Mayor's Welcome.

Mayor Hawker welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

Mayor Hawker recognized citizens in the audience participating in the Mesa Leadership Training and Development (LTD) program and thanked them for their attendance. He encouraged Mesa residents who are interested in volunteer opportunities to join the Mesa LTD. Mayor Hawker explained that the program offers individuals a broad perspective with regard to volunteer options that are available at the City of Mesa, various community organizations and nonprofit agencies.

1. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified with an asterisk (*) were approved with one Council action.

It was moved by Councilmember Griswold, seconded by Vice Mayor Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

*2. Approval of minutes of previous meetings as written.

Minutes from the January 15 and 20, 2004 City Council meetings.

3. Conduct a Public Hearing and consider an amendment to the land use map for the following Minor General Plan Amendment:

- a. **GPMInor03-03 (District 6)** The 5800 block of East Southern Avenue (south side) on the east side of the Roosevelt Water Conservation District Canal. Generally located south and east of Southern Avenue and Higley Road. Change the Land Use Map from high-density residential to medium-density residential. This will allow for development of a 139-lot residential development with 7.09 du/ac. **CONTINUED FROM THE NOVEMBER 3, DECEMBER 1 AND 15, 2003, AND JANUARY 5 AND 20, 2004 COUNCIL MEETINGS. Companion Case Z03-44. (See items 6b & 9a)**

Mayor Hawker announced that this is the time and place for a public hearing regarding the 5800 block of East Southern Avenue (south side) on the east side of the Roosevelt Water Conservation District Canal.

There being no citizens present wishing to speak on this issue, the Mayor declared the public hearing closed.

4. Consider the following liquor license applications:

*a. EUGENE M. FELKER, CEO & FOUNDER

Special Event License application of Eugene M. Felker, CEO & Founder, All Sports Foundation, a one-day charitable event to be held Friday, February 27, 2004 from 5:00 p.m. to 10:30 p.m. at 200 N. Centennial Way. **(District 4)**

*b. TARLOCHAN SINGH, AGENT

New Beer and Wine Store License for Happy Food Mart, 6262 E. Main Street. This is an existing business. The Beer and Wine Store License currently held at this location by Ehab Francis, Agent, F&S Oil III LLC, will revert back to the State. **(District 5)**

*c. KENT DAVID BRO, AGENT

New Beer and Wine Store License for 4 Sons Food Store, 1205 W. Baseline Road. This is an existing business. The Beer and Wine Store License currently held at this location by Randy D. Nations, Agent, Chevron Stations Inc., will revert back to the State. **(District 3)**

*d. FRANK CARDON, AGENT

New Restaurant License for La Parrilla Suiza, 1622 S. Stapley Drive. This is an existing business. The Restaurant License currently held at this location by Charles Louise Seymour, Agent, TX CC Inc., will revert back to the State. **(District 4)**

5. Consider the following contracts:

- *a. Twenty-seven replacement electric golf cars for the Riverview Golf Course.

The Purchasing Division recommends accepting the low bid by Club Car, Inc. at \$81,496.80 including applicable sales tax.
- *b. One replacement forklift for use at the East Mesa Warehouse as requested by the Materials and Supply Division.

The Purchasing Division recommends accepting the low bid by Toyota Lift of Arizona at \$25,118.20 including extended warranty and applicable sales tax.
- *c. Document Management Hardware (Scanner) for the Mesa Police Department as requested by Information Services.

The Purchasing Division recommends authorizing purchase of the hardware and first year maintenance and support from the State of Arizona contract with Transource Computers for a total of \$19,647.18. (Funds for this purchase are in the Police Department's 2002 Local Law Enforcement Block Grant.)
- *d. Additional purchases of natural gas pipe and fittings from the City's current supply contract.

The Purchasing Division recommends authorizing additional purchases totaling \$70,590.82 from the existing supply contract with Performance Pipe.
- *e. Twenty new workstations and four offices for the Transportation Division as requested by Development Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Goodman's, Inc. at \$82,296.10 including design, installation, delivery and applicable sales tax.
- *f. Police Department Electrical and Mechanical Yard Improvements, 130 North Robson. City of Mesa Project No. 03-902-001.

This project will re-set and level the foundation pads for the switchgear and cooling tower, and will re-grade the site and install a catch basin and storm drain pipe in order to improve drainage.

Recommend award to low bidder, Five-Points Excavating, in the amount of \$21,640.00 plus an additional \$2,164.00 (10% allowance for change orders) for a total award of \$23,804.00.
- *g. Neighborhood Street Lighting (CDBG #8387), Broadway Road to 8th Street, and Extension Road to Country Club Drive. City of Mesa Project No. 01-335-002.

This project replaces existing street lighting in need of upgrading and installs new street lighting where needed to enhance the illumination and safety of these streets.

Recommend award to low bidder, Doublejack, Inc., in the amount of \$165,043.50 plus an additional \$16,504.35 (10% allowance for change orders) for a total award of \$181,547.85.

- h. Power Road Improvements, Adobe to McKellips. City of Mesa Project No. 00-43.1.

This project will improve Power Road to three lanes plus a bicycle lane in each direction, and add raised landscaped median, storm drain, street lighting, water and traffic signal modifications between Adobe Drive and McKellips Road. This project is the second of two projects to complete improvements in the Power Road Corridor between Adobe Road and the Future Red Mountain Freeway.

Recommend award to low bidder, Haydon Building Corporation, in the amount of \$4,807,833.32 plus an additional \$480,783.33 (10% allowance for change orders) for a total award of \$5,288,616.65.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation relative to this agenda item. He yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

It was moved by Councilmember Walters, seconded by Councilmember Thom, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Kavanaugh-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

Vice Mayor Kavanaugh declared the motion carried unanimously by those voting.

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

5.1 Introduction of the following ordinances and setting February 17, 2004 as the date of public hearing on this ordinance:

- *a. Amending Sections 11-19-5 and 11-19-8 of the Zoning Ordinance regarding "Vehicle Signs."

6. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an amendment to an Intergovernmental Agreement between the State of Arizona through the Department of Economic Security and the City of Mesa to increase funding from \$652,382.00 to \$682,118.00 to support a portion of the operating costs for Mesa Community Action Network – Resolution No. 8185.

- b. **GPMINOR03-03 (District 6)** – The 5800 block of East Southern Avenue (south side) on the east side of the Roosevelt Water Conservation District Canal. Generally located south and east of Southern Avenue and Higley Road. Adopting an amendment to the Mesa 2025 General Plan, A Shared Vision, as depicted by the attached map for case GPMINOR03-03, and directing municipal efforts toward implementation of the goals, objectives and policies stated within the Plan – Resolution No. 8186.

It was moved by Councilmember Thom, seconded by Councilmember Jones, that Resolution No. 8186 be adopted.

Carried unanimously.

7. Consider the following ordinance:

- *a. Deleted.

8. Consider the following recommendations from the Utility Committee.

- *a. Approving staff's recommendation to provide utility services outside of Mesa's corporate limits for the northeast corner of Broadway and Ellsworth Roads.
- *b. Approving staff's recommendation to establish utility rates for Williams Gateway Airport North General Aviation Fire Protection Area by combining a one-time connection fee with monthly demand charges.
- *c. Approving staff's recommendation to not sell long-term water storage credits.

9. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances:

- a. **Z03-44 (District 6)** The 5800 block of East Southern Avenue (south side). South of the Salt River Project sub-station on the west side of the Roosevelt Water Conservation District Canal (20± ac. ±). Generally located south and east of Southern Avenue and Higley Road. Rezone from R-3 to R1-6 PAD. This request is for the development of a residential subdivision. Harris Bank, N.A., owner; Chris Clonts, KB Homes, applicant – Ordinance No. 4155. **Companion Case GPMINOR03-03.**

P&Z Recommendation: Approval with conditions. (Vote: Passed 6-0, Esparza absent)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Street improvements and landscaping to be installed in the first phase of construction.
5. Compliance with all requirements of the Subdivision Technical Review Committee.

6. Recordation of cross-access easement over Tract F of the Stonegate Estates subdivision plat between the Stonegate Estates Board of Directors, on behalf of Stonegate Estates, and the property owner, Harris Bank, N.A., prior to recordation of the final plat.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Thom, that Ordinance No. 4155 be adopted.

Carried unanimously.

- b. **Z03-12 (District 5)** The 4400 block of East McLellan Road (south side, south to Hannibal Street). (1.70 ac±). North and east of Greenfield and Brown Roads. Rezone from R-3 to R-3 P.A.D. and Site Plan Modification. This case involves the development of an apartment complex. John Bellerose, owner; Randy Carter, Dreamcatchers Planning & Design, applicant. **3/4 VOTE REQUIRED**

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all 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. Full compliance with all current Zoning Ordinance requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
5. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
6. Written notice be provided to future residents, and acknowledgment received that the project is within two miles of Falcon Field Airport.
7. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
9. As shown on the site plan, the lot fronting East Hannibal Street is to be a single residence building.

Mayor Hawker opened the meeting for public comment and the following citizens indicated their opposition to Zoning Case Z03-12, but did not wish to address the Council:

Jerry Browning, Jr.	4454 E. Halifax Street
Jerry Browning	4454 E. Halifax Street
Jessica Valdez	4425 E. Halifax Street
David Coester	4439 E. Hobart Street

The following citizens addressed the Council and expressed opposition to Zoning Case Z03-12:

Inez Wortman	4464 E. Halifax Street
Paula Demarbiex	4450 E. Hobart Street
William Demarbiex	4450 E. Hobart Street
Kimberly Browning	4454 E. Halifax Street
Neva Coester	4439 E. Hobart Street

Comments from those opposed to the case included the following:

- The site plan does not provide sufficient amenities for the apartment complex occupants.
- There are too many units proposed for the acreage.
- Two of the five proposed buildings do not have frontage on McLellan Road.
- There are already too many apartment vacancies in this area of Mesa.
- The numerous setbacks and building separations do not meet minimum City Code requirements.
- No security is being proposed at the apartment complex.
- The applicant is requesting a PAD on 1.7 acres, which is part of the entire 2.02 acres being considered.
- With regard to Condition No. 9, the surrounding neighbors want assurances from the developer that the lot facing Hannibal Street is, in fact, built as a single residence building.
- The surrounding neighborhood has already struggled with inappropriate zoning decisions in the past.

Randy Carter, the applicant in the case, displayed the site plan of the proposed development for the benefit of the Council and provided a brief overview of this agenda item.

In response to a series of questions from Mayor Hawker, Planning Director John Wesley clarified that the applicant's request is in conformance with Mesa's General Plan, provides a transition from the adjacent commercial office use, and added that staff has recommended approval of the application. He noted that staff is also satisfied with the setbacks that have been provided and commented that the PAD ordinance does allow for variances from the standard setbacks.

Councilmember Walters read the following excerpt from the minutes of a Planning and Zoning (P&Z) meeting in which Zoning Case Z03-12 was discussed: "Chairperson Whalen asked Mr. Bellerose if he was comfortable with having the property zoned with restrictions on the use for a single family residence. Mr. Bellerose stated he was not comfortable and had spoken with the neighbors about the potential of putting a duplex on that location to help offset some of the expenses of developing this site, but had not addressed that with the City Planner or agreed to a single-family home on that location. He stated that he hasn't decided if he plans to develop that parcel in conjunction with that site." She voiced concerns regarding this passage and inquired whether Mr. Carter wished to respond to his client's comments relative to Condition No. 9.

Mr. Carter explained that his client had indicated to him that he will probably sell the property as a single-family residence lot, has considered building two single-family residences instead of one, but will not construct a multi-family dwelling on the site.

(The members of the Council acknowledged the various concerns expressed by the above-referenced speakers.)

Discussion ensued relative to the fact that the applicant's zoning ordinance contains a provision that would be an obligation to an adjoining parcel that is not part of the current zoning case; that if the applicant were to develop the adjoining parcel in any way other than as a single-family residence, the case would come back before the Council for approval and the Council could consider his obligation under Condition No. 9 in the current zoning case; that the developer would not necessarily be prohibited from developing a multifamily unit if a future Council were to determine that it was appropriate to rezone the area and allow such usage; that the lot referenced in Condition No. 9 could have received conceptual zoning to single-family residential as a companion case to the current zoning case if the developer had made the application for the entire parcel; that the Site Plan Modification is for the entire tract (2.02 acres), although the PAD applies only to the property along McLellan Road; and that it was always the assumption of the applicant that the lot identified in Condition No. 9 be included in the Site Plan Modification and that it would be developed as a single-family residence.

Mayor Hawker and Councilmember Walters expressed concerns regarding the language as presently contained in Condition No. 9 and suggested that it may be appropriate that the subject lot be rezoned from R-3 to R-1 to assure the neighbors that only a single-family residence may be constructed at that location.

Further discussion ensued among the Councilmembers regarding the fact that the modified site plan is a marked improvement over the original design; that the proposed open space may still be lacking to accommodate families with children; that the developer has not provided sufficient amenities for the occupants of the apartment complex; that several of the buildings may be situated too close to the property lines and thereby negatively impact the surrounding neighbors; that the developer has included three-bedroom units to accommodate families; and that it was the consensus of the Council that the case be continued so that the lot identified in Condition No. 9 be rezoned from R-3 to R-1, subject to the approval of the R-3 PAD and Site Plan Modification.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Zoning Case Z03-12 be continued for the purpose of providing staff sufficient time to develop an ordinance for reconsideration at a future meeting which would include a provision that the lot identified in Condition No. 9 be rezoned from R-3 to R-1, subject to the approval of the R-3 PAD and Site Plan Modification.

Carried unanimously.

- *c. **Z03-29 (District 4)** 651 East Main Street (2.16 ac. ±). South and east of Main Street and Mesa Drive. Rezone from R-2 to C-2 and Site Plan Review. This case involves the development of a hotel. Ramesh Patel, owner; Ralph Pew, applicant – Ordinance No. 4152.

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.

2. Compliance with all requirements of the Design Review Board, including landscaping, pedestrian connections and elevations.
 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. Compliance with all conditions of a Development Incentive Permit.
 6. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans for the southern parcel.
- d. **Z03-49 (District 6)** The 7600 block to the 8100 block of East Paloma Avenue (south side) and the 8000 block to the 8100 block of East Elliot Road (north side) and the 3200 block to the 3600 block of South 80th Street (east side) and the 3200 block to the 3400 block of South 80th Street (west side). North and east of Sossaman Road and Elliot Road. (97± ac.) Rezone from R1-43 to M-1 and C-1. This request is to bring City zoning into conformance with the General Plan. Multiple owners, Wayne Balmer, City of Mesa, applicant - Ordinance No. 4156.

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with all City development codes and regulations.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
4. Site Plan Review and approval of future development plans through the Planning and Zoning Board and City Council.

Bruce Boker, 7825 E. Paloma, a resident in the area, addressed the Council and expressed opposition to this case. He stated that when the rezoning occurs, he and his neighbors will experience a decrease in their property values, and he commented that he would prefer that the area in the vicinity of Sossaman and Elliot Roads be zoned commercial and that his neighborhood be excluded from that designation.

Becky Covarrubias, 9565 E. Lompoc, concurred with the comments of the previous speaker. She stated that over a year ago, she and her husband purchased property at 7805 E. Paloma in anticipation of building a single-family home and noted that they encountered a series of obstacles with the City as a result of the proposed rezoning. She explained that she welcomes commercial development to the area, but is opposed to that designation on Prairie and Paloma which are currently zoned residential.

Project Manager for Williams Gateway Regional Economic Activity Area Wayne Balmer displayed a map of the zoning area and provided a brief overview of the case. He assured the speakers that the existing homes in the area would be allowed to remain as nonconforming uses and that the residents would be permitted to live there into the foreseeable future. Mr. Balmer explained that the homes in the area of Prairie and Paloma have their own individual wells and septic tanks; that in the City's earlier General Plan, the area was zoned mixed use, which allowed for residential; that staff met with Mr. and Mrs. Covarrubias and allowed them to obtain their building permit for the single-family residence and use a septic tank and the existing

well, but in the future, it would be necessary to address the extension of water lines and the installation of a fire hydrant in order for the City to provide emergency services/fire protection; and that there are nine or ten homes in the entire area scheduled to be rezoned.

Mrs. Covarrubias concurred with Mr. Balmer's statement that the City has allowed her and her husband to use a septic tank and the existing well; however, she also stressed the fact that the City required them to extend the water line to their property, at a cost of \$15,000, so that a fire hydrant can be installed within 700 feet of their property.

In response to a question from Councilmember Walters, Development Services Director Jack Friedline clarified that the installation of the fire hydrant is not because of the rezoning, but rather to ensure fire protection at the residence.

Discussion ensued relative to the departing flight paths at Williams Gateway Airport; limiting residential development south of the power lines in this area; and that the 1996 General Plan Amendment did provide for mixed use employment, including residential.

Councilmember Thom stated that although she is sympathetic with the concerns expressed by Mrs. Covarrubias, she is supportive of the proposed rezoning because the City is attempting to protect Williams Gateway Airport from residential encroachment.

Mayor Hawker expressed support for the rezoning and concurred with Councilmember Thom's comments.

It was moved by Councilmember Thom, seconded by Councilmember Walters, that Zoning Case No. Z03-49 be approved and Ordinance No. 4156 adopted.

Carried unanimously.

- *e. **Z03-58 (District 5)** Southwest corner of Recker Road and McDowell Road. (1.56 ac. ±) Site Plan Modification. This request is for the development of a Quik Trip convenience store. Quik Trip Corporation; owner/applicant. **THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE FEBRUARY 17, 2004 CITY COUNCIL MEETING.**

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first.
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 variance outlined in the staff report.

6. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City prior to the issuance of a building permit.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
9. Finished floor elevation not to exceed two-foot variation in height measured from lowest point of the centerline of alley along the west property line.

*f. **Z03-65 (District 2)** 345 South Shouse Street. Located north of Broadway Road and west of Gilbert Road (1.15 ac.). Rezone from C-2 to R-3. This request is for the development of a 12-unit, three-story apartment complex. Mark Gunning, Ron Bailly, owners; Dan Brock, applicant – Ordinance No. 4153.

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first.

*g. Deleted.

*h. **Z03-68 (District 1)** Southwest corner of University Drive and Stapley Drive (2.46 ac.). Rezone from R-4 to C-2. This request is for the development of a retail pharmacy. Phillip Anderson, owner; Rick Froeb, applicant – Ordinance No. 4154.

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
2. Compliance with all City development codes and regulations not reviewed and approved through the Development Incentive Permit.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Design Review Board.
6. Review and approval of a Development Incentive Permit by the Board of Adjustment.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- i. **Z03-69 (District 3)** 500 West Southern Avenue, Suite 33. West of Country Club Drive and north of Southern Avenue (tenant space within a 3.90 ac. development site). Council Use Permit. This request is for the development of a pawnshop. Stuart Schneider, owner; Mark Gonshak, applicant.

P&Z Recommendation: Approval with conditions. (Vote: Passed 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Administrative review and approval of tenant space exterior building elevations and site landscaping improvements through Design Review Board Staff.

Larry Lazarus, an attorney representing the applicant, addressed the Council and provided a brief overview of this agenda item. He reported, among other things, that Super Pawn does not sell guns or adult merchandise and does not have check cashing facilities; is well maintained, clean and resembles a retail establishment; maintains a good working relationship with law enforcement; requires individuals to show identification and be fingerprinted when entering the facility; provides law enforcement with inventory information electronically; and donates substantially to local charities.

Mr. Lazarus outlined for the benefit of the Council the conditions under which the Council Use Permit may be granted for the development of a pawnshop. He advised that a neighborhood meeting was held concerning the proposed development and there was virtually no opposition to the project. Mr. Lazarus stated that he received only one request from a business owner located across the street that Super Pawn not deal in firearms in any manner. He added that he is willing to respond to that request by submitting a letter to the Council this evening that would stipulate that Super Pawn would not sell or pawn firearms.

Councilmember Griswold commented that he has received positive feedback from the Mesa Police Department regarding Super Pawn's relationship with the agency. He stated that having the capacity to provide inventory information electronically to the Police is a positive feature.

It was moved by Councilmember Griswold that Zoning Case Z03-69 be approved.

Discussion ensued relative to the location of the proposed Super Pawn in relationship to existing pawnshops in Districts 3 and 4.

Mayor Hawker expressed support for the case and noted that he has visited Super Pawns in other locations and was impressed by the professional manner in which they were operated and maintained.

City Attorney Debbie Spinner clarified that because Mr. Lazarus has offered to add a stipulation to the Council Use Permit application (There will be no firearms pawned or sold at Super Pawn), it is necessary that the ordinance be reintroduced to include that language.

Mayor Hawker advised that his support for the motion was not dependent upon the inclusion of Mr. Lazarus' stipulation and questioned whether Councilmember Griswold intended to include the stipulation as part of his motion. He stated that while he hoped the applicant would honor the stipulation, in his opinion, it was not necessary to delay the development process in order for the ordinance to be reintroduced.

Vice Mayor Kavanaugh voiced opposition to the pawnshop development for the following reasons: there is a perception among residents in Districts 1, 2 and 3 that there is an over-saturation of pawnshops in west Mesa; that he does not view another pawnshop as an asset to the City's economic efforts in this area; and that Super Pawn does not promote reinvestment in the Fiesta Mall area.

Dave Richins, a member of the Mesa Grande Community Alliance, addressed the Council and commented that when a pawnshop locates into an area, it is grandfathered, and that when the business vacates, the site continues to be available for lease by other pawnshops. He stated that if this ordinance were adopted, he would request that a stipulation be added to the application that would require that when Super Pawn moved out of its location, the Council Use Permit would terminate and the opportunity would no longer exist for another pawnshop to lease the same location.

Mayor Hawker closed the public hearing portion of the case. He requested input from the City Attorney with regard to Mr. Richins' suggestion.

Ms. Spinner commented that per Council direction, a stipulation could be added to the application specifying that if Super Pawn were sold, its Council Use Permit would terminate at that point unless the Council reissued a new one.

Mayor Hawker voiced support for Mr. Richins' suggestion and said that part of his reasoning for supporting the Council Use Permit in the first place was because of the reputable manner in which Super Pawn operates its establishments. He added that if this stipulation is added as a provision of the Council Use Permit, it might also be appropriate to include Mr. Lazarus' previously noted stipulation regarding no firearms being pawned or sold at Super Pawn.

Councilmember Walters thanked Mr. Richins for his proposal and stated that without his stipulation, she cannot support the adoption of the Council Use Permit.

Mr. Lazarus commented that the applicant would agree to the stipulation that if the property were ever leased to another entity, the Council Use Permit would terminate.

Mayor Hawker noted that it is the direction of Council to continue this case to provide staff with sufficient time to develop an ordinance for reconsideration at a future meeting which would include the two previously cited stipulations.

Discussion ensued relative to the fact that the applicant's lease expires tomorrow; the fact that he would prefer a decision by the Council this evening and not be continued for the inclusion of the additional two stipulations; that unless there is an expressed condition, the Council Use Permit does not terminate and would go to the subsequent owner; that Mayor Hawker and Councilmember Jones noted that although they support the project, they would prefer that the case be continued so that the two stipulations can be added to the application

Councilmember Thom seconded Councilmember Griswold's motion.

Further discussion ensued relative to a timetable for final approval of the ordinance if it is reintroduced; that the applicant may be unable to obtain an extension on its lease and would prefer to proceed with the pending motion; and alternative motions if the pending motion fails.

Upon tabulation of votes, it showed:

AYES - Griswold-Thom-Whalen
NAYS - Hawker-Jones-Kavanaugh-Walters

Mayor Hawker declared the motion failed.

It was moved by Mayor Hawker, seconded by Councilmember Walters, that Zoning Case Z03-69 be continued to the February 17, 2004 Regular Council Meeting for the purpose of providing staff sufficient time to develop an ordinance for reconsideration which would include the two previously cited stipulations.

In response to a question from Councilmember Thom, Mr. Lazarus clarified that Super Pawn does not currently possess a firearms permit to buy and sell firearms.

Vice Mayor Kavanaugh stated that although he will support the procedural motion to continue this matter, when the case comes back before the Council for reconsideration, he will continue to oppose it.

Councilmember Griswold suggested that the stipulation be modified to prohibit the pawn and sale of firearms and also the sale of adult materials.

Mayor Hawker and Councilmember Walters amended their motion and second to include prohibiting the sale of adult materials.

Councilmember Whalen expressed support for the motion, but stated the opinion that the Council is being overly restrictive of a business that is already doing a good job in the industry.

Councilmember Walters stated that while she appreciates Councilmember Whalen's remarks, the added stipulation would provide staff with Council direction relative to pawnshops and the ability to terminate a Council Use Permit in the future.

Carried unanimously.

10. Items from citizens present.

Dorothy Thornton, the owner of Grandma's Kitchen, 1225 W. Main Street, addressed the Council and voiced a series of concerns regarding her inability to display A-frame signs on the sidewalk in front of her establishment. She explained that she was recently cited by Code Compliance for doing so and requested that the Council consider modifying the sign ordinance to enable her restaurant to be given the same consideration as Town Center businesses that are permitted to display similar signs in front of their stores along Main Street.

11. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:05 p.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 2nd day of February 2004. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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