

GENERAL DEVELOPMENT COMMITTEE MINUTES

June 23, 2005

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 June 23, 2005 at 9:35 a.m.

COMMITTEE PRESENT

Rex Griswold, Chairman
Kyle Jones
Mike Whalen

COUNCIL PRESENT

None

STAFF PRESENT

Paul Wenbert

1. Discuss and consider development proposals for 51-55 East Main Street.

Senior Town Center Development Specialist Patrick Murphy and Town Center Development Administrator Shelly Allen addressed the Committee relative to two responses to the Request for Proposals (RFP) for the revitalization of the property at 51 and 55 East Main Street.

Mr. Murphy referred to the June 23, 2005 staff report and provided a brief historical overview of the property. He reported that on June 6, 2005, a Stakeholder Review Team, consisting of a diverse group of individuals from throughout the community, met to review the proposals. Mr. Murphy explained that the Review Team considered the following criteria with regard to their assessment of the proposals: 1.) The general approach to the project (i.e., conceptual drawings, cost estimate and estimated timeframe for completion); 2.) Evidence of financial strength and capacity to finance the project; 3.) Experience/involvement in this kind of project; and 4.) The submitter's pricing of the property.

Mr. Murphy commented that included with the staff report is a detailed analysis of the proposals by Avalon Investment, Inc. and BJJ Events and Entertainment, LLC. (The complete report is available for review in the City Clerk's Office.) He added that a third response to the RFP was submitted, but ultimately rejected due to the fact it was incomplete and submitted after the deadline for submittals.

Mr. Murphy advised that on June 16, 2005, the Downtown Development Committee (DDC) reviewed the proposals and concurred with the recommendations of the Stakeholder Review Team that the City Council designate Avalon Investments, Inc. as the preferred developer and enter into a 90-day exclusive negotiation period. He indicated that the DDC further recommended that Mesa lease the property and that the disposition agreement include the following: that the design of the project be compatible with the Mesa Arts Center, and that the project include mixed use with a first-class restaurant, retail and office space. Mr. Murphy

added that Scott Whittington, President of Avalon Investments, Inc., was present in the audience and available to respond to any questions the Committee may have.

Discussion ensued relative to the fact that staff is currently in the process of obtaining an appraisal of the two buildings at 51 and 55 East Main Street and also the vacant land; that in 1999 and 2000, the City purchased both buildings for approximately \$1 million; that it is the consensus of several architects that the buildings should be demolished due to their age and unsuitability for rehabilitation; that Avalon has proposed to either purchase the property for \$300,000 or lease the property for \$16,500 annually; that Avalon has requested as an incentive that the City demolish the buildings, at an estimated cost of \$48,000, although the developer may be willing to work with the City regarding this request; that the demolition would not occur until such time as the City has entered into a disposition and development agreement with Avalon; and that if the developer leased the property from the City, the City could offer the abatement of the Government Property Lease Excise Tax (GPLET), which allows the City to abate the property taxes for eight years if the developer meets certain criteria.

Chairman Griswold commented that because of the City's current financial constraints, he would strongly encourage staff to negotiate alternative options with Avalon regarding the demolition of the buildings so that the City would not be required to incur such costs.

In response to a series of questions from Committeemember Whalen and Chairman Griswold, Mr. Murphy clarified that Avalon has requested as an additional incentive that the project be provided with 60 parking spaces to be divided between the Sistine garage and the former Firestone parking lot. He explained that in speaking with Tom Verploegen, Executive Director of the Mesa Town Center Corporation, he learned that such a request could be accommodated and said that the final details would be determined during the negotiation process. Mr. Murphy added that if Avalon does receive the parking spaces, it would be required to pay various Town Center assessments.

Mr. Whittington responded to a series of questions from the Committeemembers regarding his proposal. His comments included, but were not limited to, the following: that Avalon "is only talking at this point" with representatives of Arcadia Farms regarding the possibility of the restaurant locating to the proposed site; that Arcadia Farms does have the ability to cater events at the Mesa Arts Center and could potentially create a synergy between the two venues; that in his opinion, it is time for a "sit-down" restaurant in the downtown area and the demographics seem to bear that out; that the primary reason Avalon's proposal is geared toward the demolition of the buildings is to capitalize on and gain "a density of space" at the property; that the requested parking spaces are a crucial component in the project's ultimate success; that Avalon would prefer to purchase the property, but would leave the ultimate decision to the City Council; and that Avalon would be willing to consider various tradeoffs with the City in order to mitigate the demolition costs.

Committeemember Whalen stated that he would prefer that Avalon enter into a ground lease with the City as opposed to purchasing the property. He commented that because Mesa already owns all of the adjacent property, including the site of the Mesa Arts Center, "it would not make sense to have only one parcel sold within the center of it."

Further discussion ensued relative to Avalon's proposed timetable for the completion of the project.

It was moved by Committeemember Whalen, seconded by Committeemember Jones, to recommend to the full Council that Avalon Investments, Inc. be designated as the preferred developer for the revitalization of 51 and 55 East Main Street. (See Attachment 1, which contains additional recommendations from staff, the Stakeholder Review Team and the DDC regarding the proposal.)

Committeemember Whalen further noted that it is important to move this item forward to the full Council for approval of Avalon's proposal, with the final details to be decided during the negotiation process.

Carried unanimously.

Chairman Griswold thanked everyone for the presentation.

2. Discuss and consider various proposals to streamline the zoning process.

Chairman Griswold stated that in addition to staff's presentation regarding this item, he has also asked Marilyn Wennerstrom, 1112 North Center, to address the Committee and offer her perspective on item d, Introduction of ordinances.

Planning Director John Wesley referred to the June 23, 2005 General Development Committee report that outlines a series of zoning case requirements and stated that staff is seeking Council direction relative to the possible reduction/elimination of certain ambiguities concerning such requirements. He introduced Principal Planner Dorothy Chimel who was prepared to highlight staff's proposals.

a. Citizen Notification and Participation

Ms. Chimel reported that citizen notification and participation are crucial elements in the successful completion of a zoning case. She explained that there currently exists Citizen Participation Guidelines that outline the manner in which applicants should conduct outreach to the community and disseminate information to registered neighborhoods, homeowners' associations and citizens. Ms. Chimel noted that additionally, applicants are required to send letters of notification to all property owners within 300 feet of a subject site.

Ms. Chimel advised that she has recently become aware of incidents where staff members have misunderstood the differences and similarities between citizen notification and participation, as well as occasions in which applicants sent duplicate letters of notification resulting in confusion among the neighbors. She stated that in an effort to further refine the manner in which citizens and affected parties are notified and involved in the public hearing process, staff has begun to work with a citizen focus group to solicit their input in this regard. Ms. Chimel said that the groups have expressed concerns regarding accountability and clarification of the various requirements and noted that it is staff's opinion that the opportunity exists to further define such requirements. She commented that on July 13, 2005, staff has scheduled a meeting with developers and homebuilders to also solicit their input regarding this process.

b. Legal Protest

Ms. Chimel stated that per the Zoning Ordinance, the opportunity exists for a citizen to file a legal protest with regard to any site proceeding through the zoning process. She indicated that the current deadline for such a protest is Friday at noon prior to the Monday City Council public hearing. Ms. Chimel explained that legal protests are generally filed with the Planning Director, although Planning staff can accept them in his absence. She also informed the Committee that on occasion, such protests have even been filed with the Mayor. Ms. Chimel advised that the last-minute filings often cause confusion with staff in that they must verify that it is, in fact, a legal protest, contact the applicant and engage in a dialogue, if possible, and also ensure that the protest is properly agendized as such for the upcoming Council meeting.

Ms. Chimel further commented that in speaking with representatives of the Town of Gilbert, she has learned that their legal protest filing date is one week prior to a Council meeting. She stated that if a similar timeframe were implemented in Mesa, it would offer a reasonable period of time for the applicant, the neighbors and the Council to be apprised of the legal protest prior to the public hearing consideration and also for the interested parties to engage in a more productive dialogue.

c. Secondary Publication Day

Ms. Chimel noted that in November 2003, the Council adopted Ordinance No. 4131, which was later approved by Mesa voters, to amend the City Charter to designate by resolution two days of the week to publish legal notices. She stated that the resolution was never prepared and that Planning staff would like to assume the responsibility of researching which "second day" would be the best for the majority of City divisions, meet the requirements of publication for zoning and other hearings, and work within the timeframes established by the newspapers.

d. Introduction of Ordinances

Ms. Chimel stated that is it staff's opinion that it may be appropriate to eliminate the current process of the introduction of ordinances (for zoning cases only), which would necessitate a City Charter change. She reported that staff often receives input from residents that the listing of the introduction of ordinances on the Council agenda is confusing. She explained that the citizens think that is the time when they have the opportunity to address the Council, only to learn after they have traveled to the Council Chambers that is not the case.

Ms. Chimel advised that the passage of Proposition 102 in 1992 (which resulted in amendments to the City Charter that established new procedures pertaining to the adoption of City ordinances) was an effective tool for zoning cases at the time when the City did not have the extensive community outreach mechanisms in place that it does today (i.e., citizen participation efforts, publishing, posting of the property, video broadcasting of the public hearings, and the City's web site).

Discussion ensued relative to the fact that if the Council directed staff to prepare an ordinance that would amend the City Charter regarding the introduction of zoning ordinances and the ordinance was subsequently approved by Council, staff would take the necessary steps to place the adopted ordinance on the March 2006 ballot; the fact that it would be imperative for staff to conduct public outreach to ensure Mesa residents that the City "is not trying to hide something"

by making such changes; and that with regard to the citizen participation process, staff is proposing to work with a group of citizens and applicants to further refine the manner in which citizens/affected parties are notified and involved with the public hearing process.

Chairman Griswold invited Ms. Wennerstrom to address the Committee.

Ms. Wennerstrom provided the Committee with a series of documents, including a portion of the 1992 City of Mesa Publicity Pamphlet referencing Proposition 102, as well as sections from the Mesa, Tempe and Chandler City Charters that address ordinances. She also, as one of the authors of the citizen initiative, provided a short synopsis of her familiarity with Proposition 102 and offered her personal comments as a concerned Mesa resident regarding staff's proposals.

Ms. Wennerstrom voiced a series of opinions that included, but were not limited to, the following:

- Since 1992, "the pendulum" for Mesa's zoning requirements has gone "from black to white" and that there needs to be some "middle ground" for such requirements.
- Mesa's City Charter contains only four actions requiring an ordinance, whereas Tempe's and Chandler's contain 10 and 11 respectively.
- There have been "previous chronic abuses" where items have been placed on the agenda late on a Friday night for a Monday Council meeting and citizens were unaware of those additions.
- She would prefer that the current process of the introduction of ordinances not be eliminated.

Chairman Griswold expressed appreciation to Ms. Wennerstrom for her input. He commented that with regard to staff's proposals, he would make the following suggestions: 1.) That the citizen notification and participation process be more straightforward and clearly defined; 2.) That staff's suggestion that legal protests be filed one week prior to the Council public hearing would be appropriate, provided that there is sufficient citizen notification in that regard; 3.) That he would concur with staff's recommendation to prepare a resolution to establish the secondary day for publication; and 4.) That with reference to the introduction of ordinances, he requested that staff create a timeline of all the requirements that must be met in order to legally complete a zoning case if the current process of the introduction of ordinances was eliminated. He also emphasized the importance of interested parties having the ability to obtain information and being "protected" throughout the zoning process.

Committeemember Whalen stated that he would prefer that the full Council discuss the issue of the introduction of ordinances. He commented that it may be difficult to place this item on the ballot for Mesa voters to decide "just the zoning portion of it" and suggested that perhaps there may be "a better way" for the City to conduct the "whole zoning process" that could be taken back to the voters instead. Committeemember Whalen added that the Council might wish to address this topic at their September retreat.

Mr. Wesley advised that if the Committee is interested in moving forward with a City Charter amendment regarding the introduction of ordinances, there are certain timeframes that staff must meet in order to place the item on the March 2006 ballot. He stated that such Council discussions would need to take place prior to the September retreat.

It was moved by Chairman Griswold, seconded by Committeemember Whalen, to recommend to the Council that staff be directed to proceed with the implementation of agenda items a, b and c, as previously outlined by Chairman Griswold, and that agenda item d (Introduction of ordinances) be brought back to the General Development Committee for further discussion and consideration.

Committeemember Jones requested that the Committee be provided with the timeline requested by Chairman Griswold prior to its next discussion regarding the introduction of ordinances item.

Carried unanimously.

Chairman Griswold thanked everyone for the presentation.

3. Adjournment.

Without objection, the General Development Committee meeting adjourned at 10:35 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 23rd day of June 2005. 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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