

## Board of Adjustment

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### *Minutes*

#### City Council Chambers, Lower Level December 10, 2013

**Board Members Present:**

Danette Schepers – Chair  
Trent Montague - Vice Chair  
Greg Hitchens  
Chad Cluff (present except for Minutes, Consent Agenda & BA13-066)  
Mark Freeman  
Tyler Stradling

**Staff Present:**

Gordon Sheffield  
Angelica Guevara  
Julia Kerran  
Kim Steadman  
Wahid Alam  
Lesley Davis  
Kaelee Wilson

**Board Members Absent:**

Wade Swanson

**Others Present:**

Steve Langstaff  
Amber Phelps  
Jacki Taylor  
Carl McCoy  
Jerry Grigsby  
Roger Pfundt  
Shirley Brewer  
Art Bellgraph  
Joe Schmalz  
Glenda Cope  
Chantz Tieman  
Dave Montague  
Heather Scantlebury

The study session began at 4:50 p.m. The Public Hearing meeting began at 5:50 p.m. Before adjournment at 8:46 p.m., the following items were considered and recorded.

**Study Session began at 4:50 p.m.****A. Zoning Administrator's report**

- i. Medical Marijuana facilities – The Zoning Administrator Gordon Sheffield gave an update on the present status regulations of Medical Marijuana facilities. Mr. Sheffield stated that the City of Mesa is waiting on the appeal outcomes regarding Maricopa County's Zoning for Medical Marijuana facilities. These appeals may affect the location of a dispensary proposed for the central Mesa area.
- ii. Zoning Ordinance housekeeping updates – Mr. Sheffield stated that there are fourteen proposed amendments scheduled to be going to City Council in January. He identified that one of these items would involve a Special Use Permits for established RV storage facilities in residential zones to be allowed to be operated for the benefit of the general public. He stated that there are other items that are minor issues, including revisions to parking calculations and a table allowing substitutions for required trees. Mr. Sheffield stated that proposed revisions to the zoning ordinance that would allow vacation homes are not included in the housekeeping updates, but are scheduled to coincide with the consideration of the housekeeping issues.

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B. The items scheduled for the Board's Public Hearing were discussed.

**Study Session adjourned at 5:43 p.m.**

**Public Hearing began at 5:50 p.m.**

- A. Consider Minutes from the November 12, 2013 Meeting a motion was made by Boardmember Stradling and seconded by Boardmember Freeman to approve the minutes. Vote: Passed 6-0 (Boardmember Swanson absent)
  
- B. Consent Agenda a motion to approve the consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Freeman. Vote: Passed 6-0 (Boardmember Swanson absent)

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**Case No.:** BA13-045

**Location:** 960 North Riverview

**Subject:** Requesting a Special Use Permit to allow a wireless communication facility to exceed the maximum height allowed in the PS-PAD zoning district. (PLN2013-00392)

**Decision:** Continuance to the January 14, 2014 hearing

**Summary:** This item was on the consent agenda and was not discussed on an individual basis. Requesting a Special Use Permit (SUP) to allow a wireless communication facility to exceed the maximum height allowed in the PS-PAD zoning district.

**Motion:** It was moved by Boardmember Stradling seconded by Boardmember Montague to continue case BA13-045 to the January 14<sup>th</sup>, 2014 hearing.

**Vote:** Passed (6-0) (Absent Boardmember Swanson)

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**Case No.:** BA13-063

**Location:** 5000 to 5100 blocks East Southern Avenue (north side) and the 1100 block of South Higley Road

**Subject:** Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan in the LC zoning district. (PLN2013-00476)

**Decision:** Approved with Conditions.

**Summary:** This item was on the consent agenda and was not discussed on an individual basis.

**Motion:** It was moved by Boardmember Stradling seconded by Boardmember Montague to approve case BA13-063 with the following conditions:

1. *Compliance with sign plan submitted, and as detailed in the staff report.*
2. *Compliance with all requirements of Development Services in the issuance of sign permits.*

**FINDINGS**

1. One additional detached (monument) sign will be allowed at 5058 E. Southern Ave. Monument height is 8 feet and sign area is 46.66 square feet.
2. 5058 E. Southern Ave., Suite 101 will not be allowed attached signage on the south elevation.
3. Attached signage (except as noted in "B") is not modified by this CSP. The group center has installed attached signage throughout per standard Sign Code calculations. Future signage will be per standard Code.
4. As approved through ZA99-086 the "Pharmacy Drive-Thru" sign on the east elevation of Walgreen's is interpreted as a "directional" sign, and not advertising.
5. As justification the applicant has noted that: "All signs presented are compatible and not detrimental to the surrounding properties. The additional monument for 5058 E. Southern adopts the Signature Center building features and colors and adds aesthetic value to the parcel."
6. Staff notes that, in keeping with Code, the proposed monument sign will be located more than 50' from the nearest monument sign in the center.
7. The approved CSP including staff recommended conditions of approval will be compatible with the existing development as well as surrounding properties, and will not be detrimental to adjacent development.

**Vote:** Passed (6-0) (Absent Boardmembers Swanson)

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**Case No.:** BA13-064

**Location:** 7303 East Main Street

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing group commercial development in the LC zoning district. (PLN2013-00512)

**Decision:** Continuance to the January 14, 2014 hearing

**Summary:** Applicants, Jason Bowen and Henry Guerra, presented the case for What the Hell Bar and Grill. The request is to add landscaping and extend the patio to include TVs. The current outdoor seating is narrow and they are proposing to extend the outdoor seating availability to the east, during their hours of operation from 7:00 a.m. to 2:00 am. Mr. Bowen did mention that there was a possibility of adding a shade structure in the future.

Roger Pfundt, representing the Mesa East Property Owners Association (MEPOA), stated ten reasons why the association is opposing the patio expansion, they are as follows:

- 1) The patrons are riding motorcycles on City streets late at night.
- 2) The restaurant is just north of the community, separated by a short wall.
- 3) Helicopter was flying over the restaurant for two hours in the middle of the night.
- 4) The motorcycles have created a noisy situation.
- 5) Motorcyclists are taking girls for rides in their community.
- 6) Motorcyclists cut through their community.
- 7) The patio expansion will create a noise expansion.
- 8) Motorcyclists race through their community.
- 9) They have no license to disrupt the property owners.
- 10) The community is afraid that their property values will decrease.

Shirley Brewer, at 7251 E Baywood, attended the Board meeting in opposition of case BA13-064. Ms. Brewer stated that she lives in a retirement community and the current noise level at the restaurant is out of control. She stated that there is a short wall separating the community and the restaurant. She complained that more seating will mean more congregating and more noise. She questioned the noise ordinance in the City of Mesa. Zoning Administrator, Gordon Sheffield stated that noise ordinance is enforced at the police officers' discretion.

Art Bellgraph, at 7414 E Abilene Avenue, opposed the extension. Mr. Bellgraph stated that he has collected 118 signatures of community members to protest the patio expansion. He said that he can hear talking and music inside his house that comes from the restaurant. He stated that he has called at 12:30 a.m. to complain and there have been three incidents since October.

Joe Schmalz, 304 South 74<sup>th</sup> Street and a Boardmember of the MEPOA, stated that the community of Mesa East does not want the noise from the bar. Mr. Schmalz asked for help from this Board and the bar owner. Boardmember Freeman asked if the residents would support any expansion at all. The audience answered no. Boardmember Freeman asked if the community had approached the restaurant in order to work out a solution. Mr. Schmalz stated that he had not spoken to the owner until a few minutes prior to the Board

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meeting and that the community's complaints cannot go unnoticed. He stated that a solution needs to be found. Mr. Freeman and Mr. Schmalz discussed the noise ordinance, working with the restaurant's owners and their Neighborhood Resource officer to mitigate the problems.

The applicants stated that this was the first time that they heard about these complaints. Mr. Guerra stated that people giving motorcycle rides has nothing to do with the restaurant itself. Mr. Bowen stated that the restaurant holds 204 people and they do not anticipate being at capacity except during special events or a grand opening. Mr. Bowen suggested that perhaps the Mesa East community could become a gated community, which would prevent the motorcycles from going into their neighborhood. Mr. Bowen stated that they would do everything they can to compromise and minimize the disturbance to the neighbors. Mr. Bowen stated that there are other restaurants in the area with outdoor seating and that it would be detrimental to their business if they could not provide outdoor seating and a smoking area.

Boardmember Freeman verified onsite security and outdoor heating.

Zoning Administrator Gordon Sheffield presented the staffs comments regarding this case. Mr. Sheffield stated that the applicant does comply with the staff's four conditions of approval. He stated that staff can take a look at various ways in which sound could be minimized.

Boardmember Montague suggested a sound suppression canopy or wall to aid in the mitigation of sound.

Chair Schepers inquired about past cases which a restaurant and the community worked together for a solution. Mr. Sheffield stated that the Board has the authority to place a time limit on the use of the patio as another condition of approval. Chair Schepers asked if the applicant could build a patio without coming to the Board. Mr. Sheffield replied that they are only deficient with landscape and the foundation base, otherwise they could install a patio without appearing in front of the Board.

Boardmember Freeman stated that because the neighboring community brought 118 signatures opposing this case, and even though the applicant meets staff's conditions of approval, he would prefer that homeowners meet with the restaurant owner to resolve these issues. Mr. Freeman stated that he would support a continuance until both parties can work together to find a solution, as long as the applicant was in agreement.

Boardmember Hitchens reiterated the requirements for approving a case. He read off the criterion stating that "the SCIP is compatible with and not detrimental to the adjacent properties or neighborhoods". He stated he could not support this case due to the impacts stated regarding sound and the effect on the neighboring properties. He was not in favor of a continuance.

Boardmember Montague commented that his view on this case was similar to that of Boardmember Freeman as there is an opportunity for both parties to work together. Mr. Montague stated he was not sure what steps have been taken to work with law

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enforcement and the community to resolve these problems. He stated that he would have to support property owners.

Boardmember Stradling stated he would be open to granting the SCIP if some efforts were made to work with the neighbors. He thought it would not be possible to find a resolution acceptable to both groups within a thirty day period. Mr. Stradling stated that the SCIP does not have anything to do with the complaints the Board has heard. He stated he would be supportive of the request if reasonable measures were taken to minimize the impact that may be caused by the additional improvement.

Chair Schepers concurred that this request will not change the problem, the problem still exists and the applicants need to establish a partnership with the neighbors to see if there is any kind of solution to this problem.

**Motion:** It was moved by Boardmember Freeman seconded by Boardmember Montague to continue case BA13-064 to the January 14<sup>th</sup>, 2014 Board Meeting.

**Vote:** Passed (4-1) (Nay Boardmember Hitchens, absent Boardmembers Swanson & Cluff)

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- Case No.:** BA13-065
- Location:** 1145 West Main Street
- Subject:** Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan in the GC zoning district. (PLN2013-00548)
- Decision:** Approved with Conditions
- Summary:** The applicant, Gary Spinner, presented his case. Mr. Spinner stated that the canopy sign should not count as a wall sign as it was proposed to compensate for the invisibility of the monument sign due to the Light Rail expansion.
- Motion:** It was moved by Boardmember Montague seconded by Boardmember Freeman to approve case BA13-065 with the following conditions:
1. *Compliance with the site plan and sign elevations submitted except as modified by the conditions below.*
  2. *Revise the design of the monument sign to comply with the City of Mesa's Design Guideline requirement for signs.*
  3. *Placement of the signs must be in compliance with all City of Mesa standards.*
  4. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Vote:** Passed (4-0) (Abstain Boardmember Stradling, absent Boardmembers Cluff and Swanson)

**FINDINGS**

1. The design of the detached sign consists of an unadorned cabinet on a masonry base, which is not consistent with the adopted Design Guidelines for signs. Design elements should be added to the detached sign in order to surround the cabinets and reflect characteristics of the adjacent store building.
2. The applicant was approved for 5 attached signs that total 122 square-feet in area. The maximum amount of signage that code would allow for this site would be 3 attached signs with a total of 160 square-feet. Although the square-footage of the attached signage is below the code minimum, the number of signs exceeds what code would allow. The sign ordinance limits the aggregate area of attached signs as well as the number of attached signs with the intent to limit the signage of a project to convey identification for directional purposes only and not saturating a site with advertising.
3. The signs must be located to be out of the existing rights-of-way and they must also be sited to avoid any Public Utility Easements. The applicant will also have to locate the sign so that it does not affect site visibility.
4. The proposed modifications to the Comprehensive Sign Plan in conjunction with the recommended conditions will be compatible with, and not detrimental to, surrounding properties.

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- Case No.:** BA13-066
- Location:** 1160 East University Drive
- Subject:** Requesting: 1) an Interpretation of the definition of the term “Maintenance” as found in Sec. 11-41-5; 2) the provisions related to the issuance of “Sign Permits” as found in Sec. 11-41-8 (E); and 3) the provisions related to “Sign Maintenance” as found in Sec. 11-41-8 (H). (PLN2013-00547)
- Decision:** Technical Denial
- Summary:** The applicant, Gary Spinner with Pearson’s Sign Company and Craig Boswell with Circle K Corporation, presented their request for the Board to interpret the removal of a manual price posting with an LED electronic price changing sign as “standard maintenance and replacement in kind”, which does not require a permit.
- Staff member Angelica Guevara presented the Zoning Administrator’s interpretation, the specific code requirements and the clarification on the distinction between replacement and upgrade.
- Boardmember Hitchens stated that he sits on the Sign Code Advisory Board and understood the request to change a static sign to new technology, and the associated upgrade to sign illumination and brightness. He stated that this sign is higher than the 12’ which the code allows, therefore he must support the Zoning Administrator. Staff member Guevara verified that the sign in question is at 25’- 4”.
- Chair Schepers closed the hearing and began Board discussion.
- Motion:** It was moved by Boardmember Hitchens seconded by Chair Schepers to support the Zoning Administrator and deny case BA13-066.
- Vote:** **Tie Vote (2-2), Request is technically denied for failure to receive 4 votes in support of overturning Zoning Administrator (Section 11-66-3.B.4)** (Favor: Schepers and Hitchens; nays: Cluff and Freeman; Abstain due to conflict of interest: Stradling and Montague; Absent: Swanson)

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**Case No.:** BA13-067

**Location:** 255 South Power Road

**Subject:** Requesting a Special Use Permit (SUP) to allow a wireless communication facility to exceed the maximum height allowed in the LC zoning district. (PLN2013-00556)

**Decision:** Approved with Conditions

**Summary:** The adjacent property owner's representative, Ms. Cope, asked that this item be continued until the adjacent property owner can review the request. The applicant, Mike Campbell, stated that he had contacted all the property owners in the area, yet a few never return his inquiries. Boardmember Montague commented that he would like to have heard from the property owner, however he did not believe it would change his vote.

**Motion:** It was moved by Boardmember Stradling seconded by Boardmember Freeman to approve case BA13-067 with the following conditions:

1. *Compliance with the site plans and elevations submitted and dated March 1, 2013, except as modified by the following conditions below.*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of sixty-five feet (65') to the top of the palm canopy and fifty-six (56') to the center of the antennas.*
3. *The wireless communication facility shall utilize a Faux Date Palm design with a minimum of 65 palm fronds. Palm fronds shall be a minimum of 10-feet in length.*
4. *Palm tree trunk to have bark cladding material to resemble the bark of a date palm and a bulb growth to resemble a natural looking palm.*
5. *The antenna array stand-off shall not exceed 24" from the pole.*
6. *The antenna array for each sector shall not exceed an overall width of 6' wide with 3-foot maximum width between antennas.*
7. *Nine (9) antennas shall not exceed 8' in length x 12" wide x 6" deep.*
8. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
9. *Provide and maintain a minimum 35' tall and 45' tall natural living Phoenix Canariensis - Date Palm within a landscape planter surrounded by a 6-inch vertical curb to help camouflage the base of the proposed wireless communication facility.*
10. *The 19' x 28' lease area containing the equipment shelter and generator shall be screened by an 8'-6" tall masonry wall with solid metal gates. The masonry on the screen wall shall match the masonry used on the screen walls within this site.*
11. *The operator of the monopalm shall respond to and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
12. *Provide a permanent, weather-proof identification sign, approximately 16-inches by 32-inches in size on the gate of the fence identifying the facility operator(s), operator's address, and 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.*
13. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5-l.*
14. *No later than 90 days from the date the use is discontinued or the cessation of operations, the owner of the abandoned tower or the owner of the property on which the facilities are sited shall remove all equipment*

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*and improvements associated with the use and shall restore the site to its original condition as shown on the plans submitted with the original approved application. The owner or his agent shall provide written verification of the removal of the wireless communications facility within 30 days of the date the removal is completed.*

15. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

**Vote:**                    Passed (5-0); Absent: Swanson and Cluff

**FINDINGS**

1. The Special Use Permit (SUP) would allow the placement of 65-foot tall monopalm adjacent to the east property line of the parcel located east of Power Road north of Broadway Road. The mono-palm and associated ground-mounted equipment would be located within a 19' x 28' lease area. The applicant has proposed to surround the lease area with a screen wall.
2. The wireless communication facility has been proposed to address "both capacity deficiencies and a gap in coverage". The approval of the SUP for this monopalm finds that the wireless communication facility is compatible with and not detrimental to surrounding properties and is consistent with the General Plan and other recognized plans and policies approved by the City Council.

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**Case No.:** BA13-068

**Location:** 400 block North Pasadena (both sides) and block of North Hibbert (both sides)

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of an existing multi-residence development in the RM-4 and DR-3 zoning districts. (PLN2013-00588)

**Decision:** Continuance to the January 14, 2014 hearing.

**Summary:** Jacki Taylor, Steve Langstaff (Representing: Save the Family) and Zach Johnson (Managing Architect and representative of the property managers – Gorman) presented the case to the Board. Mr. Johnson stated that they were here to make three requests in regards to the second phase of the Escobedo project, located on East University Drive. He commented that the first phase has been finished, with sixty-eight of seventy units leased. Mr. Johnson identified the three requests: 1) a reduction in the number of required parking stalls; 2) a reduction of the mandatory spacing requirements between buildings; and 3) a reduction of the side yard setback for Building G-4 adjacent to the north property line. He also verified the information provided by staff member Wahid Alam, stating that for Phase II they are proposing to provide sixty-seven stalls for sixty-two units. When combined with the number of parking stalls from Phase I the total number of proposed stalls will be 204, for 132 units. Mr. Johnson declared that this number greatly exceeds the need for parking as it stands currently; they have thirty-five cars for sixty-eight tenants. He clarified that this equates to approximately 1.5 parking stalls per dwelling unit, based on the aggregate total of 204 stalls. Mr. Johnson confirmed that the second request was a decrease setback on the north property from 20' to 10'. He noted that the current zoning code calls for a rear yard setback of 15-feet and an interior side yard setback of twenty feet for a single story building when a multiple residence project consists of more than three buildings. Mr. Johnson stated that in order to help facilitate the parking lot layout on the site and more closely resemble the lesser setback requirement of the single family homes to the north, he is requesting a 10' setback. He confirmed that the final request is to decrease the current building separation requirements for five areas. He stated that the current zoning calls for minimum building separation distance of thirty-five feet for a three story building. Mr. Johnson contended that the DR-3 zoning district directly to the south, where Phase I sits has no such requirements, there is a zero distance required. He stated that in order to keep in harmony with Phase I, which are eight feet apart, we have placed the buildings (of Phase II) eighteen to twenty feet apart, about fifteen feet short of the requirement. Mr. Johnson reiterated that this distance will allow for proper site lines in between buildings and maintain a similar density that the project has in Phase I.

Heather Scantlebury, a neighbor from the Evergreen Historical District, stated that she has been opposed to the Save the Family project because it is detrimental to the area and maintains the status quo. Ms. Scantlebury claimed that that it is not consistent with the improvements and things that have been happening in Downtown Mesa. She contended that this was the first opportunity that she saw to oppose what she feels will be a common theme for this project, to continually ask for variances and exception to standards, design standards, regulations and restrictions. She claimed that the reason for this request is because this is an investor property, basically it is a subsidized housing but it does have private investors. She stated she thinks that these types of variances are needed to make this project viable for investors, and that these deviations are the kind of issues that we are going to have. Ms. Scantlebury stated that the quality of this project is going to

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continue to diminish. She stated that as resident in the area and as a member of a larger neighborhood group, they have maintained a stance that Downtown and West Mesa are over saturated with multi-family housing. She emphasized that the area is especially saturated with high density housing. She stressed that for Phase II they are talking about maintaining the same density of Phase I, except now they are getting closer to a single family neighborhood. She contended that there should be some consideration that maybe the density should be lessened as they transition closer to the single family homes and private homeowners there. Ms. Scantlebury stated that she had historical documents, consisting of a letter stating her opposition that she submitted to the Mayor and Council, in October 2012, at the first opportunity that this project came to Council. She stated that in March of 2011, at one of the very first meetings talking about redevelopment of that area, some of the comments and suggestions made by residents, mostly of that specific area recorded in the minutes as follows; would like to see this area be single family, Escobedo to be redeveloped into single family housing, keep single family, cottage boutiques and small businesses and maintain sense of community. Ms. Scantlebury reiterated that she was there to say that she would like to keep the standards, there is a reason the City sets the standards, design standards and parking levels. She continued that they have already lessened the amount of parking in the area by the way they design this project. Because of this they are losing all of the on street parking. She claimed that now they are going to lessen the amount of parking that is specifically provided for the buildings. She reiterated it is not just that they are lessening their parking requirement, but because of the way this project is developed you have lost the on street parking, so there is really no place to overflow. Ms. Scantlebury stated that there is already a church in the area that does not have efficient parking and has always overflowed into the neighborhood. She continued that now where they used to overflow is gone and they are parking on the south side of University, what is now a vacant lot. She confirmed that it continues the spillover of not having sufficient spaces for the project.

Dave Montague, 451 North Olive, attended in opposition of the request due to the density of the housing. Mr. Montague inquired to the amount of units that will be increased by the approval of the variances and how many units it will increase the density by. Staff member Wahid Alam replied that the requests are not related to these issues. Mr. Alam stated that the City of Mesa has a developmental agreement with them (the applicants) for the whole project, Phase I has seventy units and Phase II will have an additional sixty-two units. Mr. Montague expressed his concern with the number of parking stalls allotted for similar projects receiving similar tax credits. Mr. Montague added that his main issue is that anytime that you minimize and reduce the parking, that a lot of these applicants (residents) may be laborers or have trades and additional work trucks that might or possibly would be on the property. He continued that by eliminating parking and decreasing the amount of available parking, due to what is currently happening, what is the planning for further projections and future planning of what will be available for future residents. He questioned how can they project the parking need when they only have 68% fill rate of Phase I, how will they know going forward by reducing the standard from 2.1 to 1.5 request. He stated that the existing church already does spillover into the neighborhood and that would negatively affect the available parking and create traffic congestion through the neighborhood as people cut through to go to the park as well.

Zach Johnson addressed two of the concerns that were brought up: 1) regarding the request from the residents to maintain a single family design, the design of the project was to flow seamlessly into the single family component of the neighborhood. The larger two

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and three story building are towards to University while the smaller and one story buildings kind of transitions into the single family home on the backside of the property. The second issue regarding parking, Mr. Johnson quantified that there are thirty-five cars for sixty eight units leased which leaves sixty-four units to be leased and the balance will be 169 stalls, which is 2.1 stalls per unit for the remaining units to be leased. Mr. Johnson specified that in their experience this amount of parking stalls is more than adequate this type of population who do not average one car/unit.

Chair Schepers asked a question in regards to the comments about the future. She inquired if there was something in the charter or use of this land stating that it will be used for this type of housing or if it was something that would change in the future. Mr. Johnson replied that there was a land use agreement for thirty years that this type of use would be maintained. Ms. Taylor added that one of the contingencies placed in the lease was that this development operate as affordable housing in to perpetuity, the likelihood that this would change is negligible. In addressing the Boards concerns regarding parking ratio, Ms. Taylor maintained that they are basing their request on experience with several other developments that are similar. She agreed with Mr. Johnson that the experience is bearing out in Phase I, where out of 68 units that are currently leased they only 35 households with one car. Ms. Taylor added that one of the purposes of the development at this location was that it would have a transit orientation, and that they are working with the City of Mesa to implement a bike share program. Bike share is a bike leasing program where residents without vehicles can ride a bike to the transit stations and park, and return.

Boardmember Stradling asked if it was common to have thirty-five spaces used for sixty-eight units. Mr. Johnson verified that Boardmember Stradling was correct. Boardmember Stradling then queried if that is because they get a dedicated space if they request one. Mr. Johnson responded that they have to register their cars. Boardmember Stradling inquired how guests are handled. Mr. Johnson replied that there are 137 total spaces in Phase I and guests can park in any available parking spaces, as there is no assigned parking.

Boardmember Stradling asked for a clarification on the justification for the separation issue. Mr. Johnson replied that Phase I is directly adjacent and it is zoned DR-3 which has no setback requirements for the separation distance between buildings. He explained that the buildings in Phase I are spaced at eight feet apart. Zoning Administrator Sheffield noted that the zoning map on the screen shows that the first 300' of the property is designated DR-3 zoning and that the aggregate site has split zoning. Mr. Sheffield stated that the City normally specifies that zoning districts follow the property lines, but specified that this is not the case in the Downtown district. Mr. Sheffield clarified that the applicant is asking to have the same set of standards throughout the development project. Mr. Alam assured the Board that the project is one development and that these waivers are only required for the second phase.

Boardmember Montague inquired as to the income requirement as he anticipates that as people improve their income situation they will pick up a second job, possibly another car and become a two wage earner home. His question was how someone moves in to Escobedo. Mr. Johnson stated that the federal tax program requires compliance with a specific set of requirements, including standards that the Federal government sets with regard to income and rent limits on an annual basis. He explained that it is based on Maricopa County (income statistics) and family size, which ranges from 30% to 60% of the area's median income in Phase II. Mr. Johnson clarified that if their maximum income must

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remain compliant, which is certified every year, if after one year, a resident is out of compliance, then that resident cannot live there any longer. Ms. Taylor specified that Phase I targets families with rents that are at 40% to 60% of annual income, and in Phase II we will actually go down to 30%. She reiterated that with the income annual certification process, it is conceivable that a family can disqualify out of the program. They are eligible to stay for a year, after which the resident would need to move to market rate housing.

Boardmember Montague inquired, in regards to density, what was Gorman's (the Builder) incentive to increase density. Mr. Johnson responded that Gorman received approval for 62. Ms. Taylor assured the Board that the increase in density was due to the location being at the ½ mile mark of the Light Rail. She explained that the Council and the Mayor's Office wanted to see this (development) reflect more of a transit oriented design. She agreed that after several meetings with the Washington/Escobedo neighborhood, the neighbors did not want a high rises; they did not want extremely high density. She stated that they (Save the Family) chose a low to moderate density while still trying to achieve that transformational look. Ms. Taylor quoted the Mayor's choice of an 'In Design' that would make it an attractive and transit oriented type of project. Boardmember Montague agreed that they are attractive buildings. However, he wanted to verify if there was an incentive to Gorman financially in order to increase the number of units.

Mr. Johnson confirmed that in terms of tax credits, stating that there is no increased incentive, but rather it is based on the building costs, which have been set and the financials have been thoroughly vetted. Mr. Langstaff commented that one of the things that has happened, in regards to the tax credit, is that the City of Mesa required Save the Family provide relocation for Helen's Hope Chest and to build them a new building in our next phase. He stated that they are in the process of building an 8,000 square foot building for Helen's Hope Chest and that additional cost all comes out of the tax credit process. Mr. Johnson specified that in order to build the additional building as well as the apartments, Save the Family had to maximize as much money as they could to do that. Ms. Taylor stated that in the Pro Forma that the project is affordable housing for the working poor families, not market rate. Rents are significantly below market rate, and to get the costs to balance out, there is a breakpoint in the number of units to make the project work.

Boardmember Montague explained that he was very familiar with the area and that the concern he has had with the area is consistent with what Ms. Scantlebury said. He maintained that density has been an issue with a lot of apartment complexes and multi-family structures along Country Club, Brown and Date all within the vicinity that feed into the schools system there. He emphasized that this can create a hardship on the area to sustain, to be viable and ongoing. Boardmember Montague expressed that he can see an attractiveness to the land, there is an attractiveness being close to Main Street and to mass transit. His concern is that we are creating more density than the low density type project that was there before. Boardmember Montague also expressed his concern with public notification of 500', stating that he did consider this as much of a notification standpoint unless someone is really paying attention. Staff member Wahid Alam added that it was not just the 500' of property owner notification that they (Save the Family) did.

Mr. Alam stated that there had been were numerous meetings throughout Washington Park/Escobedo neighborhood and all of those areas. Mr. Alam specified that the City of Mesa did a lot of community outreach, because it is their land and that Gorman is only leasing the land. He confirmed that the current zoning district of RM-4 calls for more density than the low-rise development agreement signed by the City Council. Mr. Alam did

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acknowledge that a developer could come in with a market-driven project and build with higher density under RM-4 zoning. He stated that it was the neighbors that stipulated a lower density development and it was the City that set the number of units at 70 and 62. Boardmember Montague asked how consistent the current plans of Phase II are with the original plans approved by the various community groups. Staff member Alam specified that the conceptual plan, which went to the City Council did not have any floor plans details, had a slight difference with more units and fewer connections than the current plan. Mr. Alam elaborated that the original plan for Phase II had different layout of the buildings, footprint of the buildings, aligned open spaces and did not have a building for Helen's Hope Chest. Mr. Alam confirmed that the builder is giving away 8000 square feet building at their cost so they had to get those units back. Boardmember Montague asked what the reason for the change was. Staff member Alam verified that the 8,000 square foot building, to accommodate Helen's Hope Chest, was the reason for the changes.

Boardmember Hitchens asked if part of the SCIP is to grant the request to allow Helen's Hope Chest as well. Staff member Alam replied that no, the three requests today are to provide the waiver for reduced parking requirements from 2.1 to 1.5 parking stalls, to provide a waiver for the separation of the buildings and for the a portion of the one one-story building that is ten feet from the property line. Otherwise, all other buildings are at placed at twenty foot perimeter setbacks. Boardmember Hitchens had observed that there was not a floor plan included in the submittal packet. He asked if all the floor plans were they different, all the same or if they were two bedrooms. Mr. Johnson stated that the floor plans run from one to four bedrooms depending on the size of the family. Boardmember Hitchens also asked why the parking stalls were changed form 137 for 70 units to 67 stalls for 62 units, why the ratio changed so dramatically. Mr. Johnson stated that the plan was always for two phases and that the two phases would integrate seamlessly. Mr. Johnson did acknowledge that he was not sure of the parking layout or the specific number of stalls for each phase on the original plans, however, the original plan called total of 204 parking stalls. Mr. Johnson stated that the research which they had commissioned for the tax credit process drove the direction that they followed for the parking. He stated that it was always looked at as a large project so the concern was always with the total parking not the parking for each phase. Boardmember stated that he had not had a lot of time to study the plan. Mr. Hitchens observed that his original thought was that these last units do not have parking next to them, in actuality the these units do, he asked if this was a fair assessment. Ms. Taylor agreed with Boardmember Hitchens that it is very difficult to see it on the plan, but as you look at it the parking is adjacent to the units and was very accessible. Mr. Langstaff agreed that the parking was on street parking as well. Boardmember Hitchens also inquired as to what the typical peer group was for residents of this project. Ms. Taylor replied that many are single head of household with two to three children, generally under the age of six.

Boardmember Freeman asked Mr. Alam if the building separation was not granted how many units would be available for the development. Zoning Administrator, Gordon Sheffield, assured the Board that they would maximize the density so that there was separation between the buildings, 30 dwelling units per acre were allowed for the DR-3 and 40 dwellings units per acre were allowed for the RM-4 zoning district. Mr. Sheffield stated that the separation issue was setup under a suburban standard for areas outside of Downtown. Long term, the trend for Downtown-area development is to push buildings closer together.

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Boardmember Stradling asked staff if the Development and Leasing Agreement was the document that contains the requirement that this project would remain as this type of housing for thirty years. Staff member Alam replied affirmatively. Boardmember Stradling asked if things change, for whatever reason, does the SCIP change and the new owner would have to come back to the Board. Mr. Sheffield confirmed that the SCIP remains with the property. Boardmember Stradling asked if the SCIP stayed with the ownership or if it was null and void if the lease was terminated. Mr. Sheffield stated that the development agreement runs with the property along with the SCIP, and that in terms of recommended Condition 4 of the staff report, we should remove the term leasing agreement and leave it "as compliant with the Development Agreement". He established that the leasing agreement and the development agreement were two separate documents.

Boardmember Stradling asked if a stipulation for reduced income housing was in the document. Mr. Langstaff affirmed that the reduced income housing was in the Development Agreement. Ms. Taylor responded that the development document does stipulate that the investor group has to comply with tax standards and regulated program of the Internal Revenue Service (IRS). She specified that the tax credit program stipulates that this project has to be run as affordable housing for thirty years, no matter who owns it.

**Motion:** It was moved by Boardmember Hitchens seconded by Boardmember Stradling to approve case BA13-068.

**Vote:** Technical Denial (3-2) (nay: Freeman and Montague, absent: Swanson and Cluff)

The Zoning Administrator wanted to make sure that the Board was aware of their options. He acknowledged that the Board could make a motion to either to continue the case or one that differed to the motion that resulted in a technical denial.

Boardmember Freeman commented that a he could support a continuance for reduced parking request. However, he could not support reduced building separations because of concerns regarding fire safety. Mr. Freeman stated he would like a complete analysis of the separation situation.

**Motion:** It was moved by Board member Freeman seconded by Board member Stradling to continue case BA13-068 to the January 14, 2014 hearing.

**Vote:** Passed (4-1) (nay: Montague, absent: Swanson and Cluff)

**Board of Adjustment Meeting  
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**Case No.:** BA13-069

**Location:** 414 North Hobson

**Subject:** Requesting a Development Incentive Permit (DIP) to allow the development of a tri-plex apartment in the RM-2 zoning district. (PLN2013-00550)

**Decision:** Approval with Conditions

**Summary:** The applicant, Carl McCoy, presented his case. Mr. McCoy stated that the reduction of the 20' setback to 10' setback would allow additional parking, which is consistent with other residences in the neighborhood.

Chantz Tieman, at 533 East 4<sup>th</sup> Place, stated his opposition to the case due to parking, traffic issues and visibility issues. Mr. Tieman stated he was concerned with the safety of the children in the neighborhood.

Boardmember Freeman verified the setback for the other residences along East 4<sup>th</sup> Place. Mr. Freeman also confirmed the type of business to the south of the property.

Chair Schepers read another comment card that was in opposition to this project, the card was filled out by Jerry Grigsby at 536 East 4<sup>th</sup> Place.

Gordon Sheffield verified that the normal right-of-way on a local street is 25' from the center line. Mr. Sheffield clarified that this lot is on a 40' right-of-way, which is a bit large for a street classified as "local." Otherwise, the proposed location of the building is within the normal setbacks for a residential building.

Staff member Kim Steadman presented the staff's comments regarding this project.

Boardmember Montague would like the lantana along the corner be removed from the landscape plan.

**Motion:** It was moved by Boardmember Freeman seconded by Boardmember Montague to approve case BA13-069 with the following conditions:

1. *Compliance with the site plan, landscape plan, and building elevations submitted, except as modified by the conditions listed below.*
2. *Administrative approval of exterior elevations.*
3. *Compliance with all Development Services requirements with regard to the issuance of building permits.*
4. *Modify the landscape plan to be compliant with the sight distance triangle at the corner of Hobson and 4<sup>th</sup> Place.*

**Vote:** Passed (4-1) (Nay: Stradling, Absent: Cluff and Swanson)

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**FINDINGS**

1. The land use conforms to permitted uses for the RM-2 district. The development also conforms to General Plan Section 06, Goal RR-2: "Attract development to vacant areas within an urbanized community through the use of infill incentives and innovative design."
2. At three units on a .26 acre parcel, the apartment development meets the density limit of the existing RM-2 zoning district of 12 units per acre. The proposed improvements will not result in a use that is more intense than the surrounding neighborhood within a 1200' buffer.
3. This parcel was created through the Ellsworth Manor subdivision in 1945. By the 1960s, more than 50% of the surrounding parcels had developed.
4. The aerial photograph attached to the staff report demonstrates the area within 1,200 feet of this property is fully developed.
5. The architectural elements, construction and landscape materials, and other site improvements of the proposed apartments meet the intent of the Design Standards of this Ordinance.

OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a  
Zoning Administrator