

**CITY OF MESA**

**MINUTES OF THE PLANNING AND ZONING BOARD MEETING**

Held in the City of Mesa Council Chambers  
Date: September 15, 2010 Time: 4:00 p.m.

MEMBERS PRESENT

Randy Carter, Chair  
Beth Coons, Vice-Chair  
Chell Roberts  
Vince DiBella  
Lisa Hudson  
Brad Arnett  
Suzanne Johnson

MEMBERS ABSENT

None

OTHERS PRESENT

John Wesley  
Tom Ellsworth  
Lesley Davis  
Angelica Guevara  
Gordon Sheffield  
Wahid Alam  
Debbie Archuleta  
Margaret Robertson

Alice Skinner  
Ralph Pew  
Others

Chairperson Carter declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated September 15, 2010. Before adjournment at 5:27 p.m., action was taken on the following:

It was moved by Boardmember Beth Coons, seconded by Boardmember Chell Roberts that the minutes of the August 17, 2010, and August 18, 2010 study sessions and regular meeting be approved as submitted. Vote: 5 - 0 - 2 Boardmembers Carter and DiBella abstained

Consent Agenda Items: All items identified with an asterisk (\*) were approved with one Board motion.

It was moved by Boardmember Chell Roberts, seconded by Boardmember Beth Coons that the consent items be approved. Vote: 7 - 0

Zoning Cases: Z10-23, Z10-24, Z10-25

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Item: **Z10-23 (District 1)** 1017 North Dobson Road. Located south of the 202 Red Mountain Freeway and east of Dobson Road. Council Use Permit. This request will allow a commercial recreation / entertainment land use within a C-2 zoning district. Daniel Lupien, Kimco Riverview, owner; Adam Baugh, Withey Morris, PLC, applicant. (PLN2010-00251)

Comments: This case was on the consent agenda and therefore was not discussed individually.

It was moved by Boardmember Beth Coons, seconded by Boardmember Lisa Hudson

That: The Board recommend to the City Council approval of zoning case Z10-23 conditioned upon:

1. Compliance with the basic development as described in the project narrative and plan of operation submitted.
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.).

Vote: Passed 7 – 0

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**Note:** *Audiotapes of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “live broadcasted” through the City of Mesa’s website at [www.cityofmesa.org](http://www.cityofmesa.org)*

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Item: **Z10-24 (District 6)** 1454 South Crismon Road. Located north of the Superstition Freeway on the west side of Crismon Road (39± acres). Rezone from R1-43 to C-1 and PEP PAD with a Council Use Permit and Site Plan Review; also consider the Preliminary Plat for Solé at Superstition. This request will allow for a high density mixed-use business park development with ancillary retail uses exceeding the amount allowed in the PEP zoning district. Crismon Superstition Partners, owner; Rob LaGrone, Sun West Properties, applicant. (PLN2010-00231).

Comments: This case was on the consent agenda and therefore was not discussed individually.

It was moved by Boardmember Beth Coons, seconded by Boardmember Lisa Hudson

That: The Board approve the preliminary plat of "Solé at Superstition" and recommend to the City Council approval of zoning case Z10-24 conditioned upon:

1. Compliance with the basic development as described in the project narrative, design guidelines, and as shown on the site plan and preliminary plat, (without guarantee of lot yield, building count, or lot coverage).
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all City development codes and regulations.
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 Subdivision Technical Review Committee.
6. All pad buildings to be architecturally compatible with the center and the design guidelines.
7. Review and approval of a Special Use Permit by the Board of Adjustment for the assisted living facility.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway 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).
9. All limits of construction for phased development shall have temporary landscaping, extruded curbs, and screen walls where parking and loading/delivery areas are visible from rights of way and public areas.
10. Certificate of Occupancy and/or completion for individual buildings shall not be granted until Zoning Ordinance required parking and landscaping are installed for those individual buildings.
11. The Council Use Permit is approving the maximum retail square footage of 120,000sf aggregate with a maximum of 13,000sf for a single user. Retail square footage is limited to 25% of the developed office space after the initial 50,000sf of retail development.

Vote: Passed 7 – 0

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Item: **Z10-25 (District 25)** 1240 East Main Street. Located at the northeast corner of Stapley Drive and Main Street (8± acres). District 2. Rezone from C-2 to C-3 BIZ with a Council Use Permit and Site Plan Review. This request will allow the redevelopment of a group commercial center with a farmers market. GRL Mesa Investments LLC, owner; Brian Moore, BCMA Architecture, applicant. (PLN2010-00222)

Comments: This case was removed from the consent agenda. Boardmember DiBella read a revised condition into the record. Condition 7 revised to "All improvements and landscaping to be installed in accordance with the phasing plan as indicated in the Development Agreement". Boardmember Coons confirmed with the applicant that he was in agreement with the revised condition.

It was moved by Boardmember Suzanne Johnson, seconded by Boardmember Lisa Hudson

That: The Board recommend to the City Council approval of zoning case Z10-25 conditioned upon:

1. Compliance with the development as described in the project narrative (except as modified below) and as shown on the site plan, preliminary elevations, and landscape plan provided.
2. Site Plan Review as required by Code, as necessary, of future development plans for occupancy of the eastern portion of the building.
3. Compliance with all requirements of the Administrative Design Review request.
4. Compliance with all City development codes and regulations.
5. Full compliance with all current Code requirements, unless modified through the Bonus Intensity Zone outlined in the staff report.
6. Dedicate the required easements 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.
7. All improvements and landscaping to be installed in accordance with the phasing plan as indicated in the Development Agreement.
8. Certificates of Occupancy or Completion for individual tenants shall not be granted until required parking as identified in the phasing as shown both the landscape and site plans, and as described in the project narrative, are constructed for those phases.
9. Review and approval of a Special Use Permit by the Board of Adjustment for outdoor activities or entertainment, outdoor commercial recreational/entertainment uses and a comprehensive sign plan.
10. Review and approval of Special Event License(s) by the Tax and License office for special events held on the site.

Vote: Passed 7 – 0

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*Mesa's website at [www.cityofmesa.org](http://www.cityofmesa.org)*

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### D. HEAR A PRESENTATION, DISCUSS AND PROVIDE DIRECTION ON THE FOLLOWING:

#### Public input regarding the Revised Zoning Code

Staff member Gordon Sheffield stated staff was asking for the Board's consensus regarding the final draft of the Zoning Code Update. He explained that there was a recent Code Amendment that would modify the Cities notification requirement for zoning changes. Specifically the City Attorney's office has determined that the revised Zoning Code and the revisions to the nomenclature could mean that some people could think these changes are rezoning cases. Because of that the City needs to send first class letters to every property owner in the City of Mesa, roughly 130,000 letters that need to be sent prior to adopting the revised Zoning Code. Therefore staff is going to undertake a publicity campaign to inform the public of what is happening so they will not be surprised when they get the letter in the mail. The other thought was that it was a bad idea to hold the public hearings during the holidays.

Regarding changes to the updated code. Staff has been talking to City Council about the changes that have been made in response to public input. Mr. Sheffield went through the major changes being proposed from the current Zoning Code. He stated that the TMX portion of the proposed Code is being removed. Staff felt that the new Form Based Code would be better for dealing with the issue of Transit Oriented Development. He stated there would be changes for temporary uses, zoning clearance requirements to occupy vacant land, updated historic preservation, and broader land use classifications.

Mr. Sheffield asked for the Board's opinion regarding changes to the requirements for detached accessory buildings. He stated that he had been working with Building Safety on the revision. The proposal would be to allow a shed up to 6 feet high, and 120 sq. ft. within any side yard, so long as they are lined with 5/8" gypsum board on the sides adjacent to the wall and to the house, and so long as they are not permanently anchored. Chair Carter was not in favor of the requirements, he did not think having the gypsum on only two sides of the structure would meet the intent of fire rated walls. He did not think this should be in the zoning code. Mr. Sheffield stated the reason behind this is so that people can put a shed in their 10' side yard, which is where they typically get placed. Because the shed could be moved temporarily it would allow vehicular access to the yard if the shed was within the 10' setback. Boardmember Coons confirmed that the shed would not require a permit. This would be a way for someone who may be cited for having a shed in the side yard to bring it into conformance. Mr. Wesley explained someone purchases a shed from a home improvement store, and places it in their side yard, Code Compliance sees the shed and cites them, their only choices now are to move the shed or apply for a variance, this will give them another option. Chair Carter asked why we don't allow them. Mr. Sheffield responded because there are issues with fire separation. Boardmember Johnson stated that this gets sticky as far as how to educate homeowners and homeowner associations. She confirmed that anyone who currently has their shed in their side yard currently is in violation. Boardmember Roberts confirmed that if this revision is not made to the Code anyone who has a shed in their side yard within 6' of the house or wall, is in violation of the Code and subject to being cited by Code Compliance.

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Mr. Sheffield spoke regarding the role of the general plan in the zoning code. He stated the purpose of the zoning code is to implement the general plan. He stated that staff uses the general plan as a tool to evaluate applications. He stated the general plan can be amended. Boardmember Coons was concerned with the term conforms with all criteria... She wanted to ensure there would be flexibility. Chair Carter was concerned that the general plan was several years old and no longer worked. He did not want future projects to be denied because they did not meet the policies of the general plan. Planning Director John Wesley stated staff currently reviews cases against the general plan. He stated the map may be very specific, but there are very good objectives and policies in the plan. Boardmember Roberts stated that the general plan can be amended. He was OK with what it says from the policy and procedures with the flexibility to change. Chair Carter was concerned the new zoning code would make it more difficult to get approval of projects that were not consistent with the general plan. Mr. Sheffield stated those were the policies staff was required to use. He stated City Council has modified policies of the general plan as well as land use designations. Mr. Sheffield stated State enabling legislation requires zoning to be consistent with and conform to the adopted general plan of the municipality. Boardmember Johnson thought the Board needed time to review the documents. Boardmember DiBella agreed with Boardmember Roberts, but understood how it could become a problem in the future.

Ralph Pew, 1745 South Val Vista then spoke regarding the General Plan. Mr. Pew stated the Arizona Supreme Court says basic harmony. In the US we have the right to own land. Without zoning people could do whatever they want with their land. States grant authority to zone land. Zoning laws are inherently a derogation of rights. It has to be done with clarity. A general plan is not a regulatory document, it is a long range plan for a community. It is a plan with fluffy language. Zoning cases must be consistent with the general plan. Mr. Pew was concerned with the requirement that each application for Council Use Permit, Special Use Permit, be reviewed to see if they are consistent with the general plan. Mr. Pew wants the requirement to be consistent with the zoning district. Mr. Pew did not want the use permits to be based on the policies and plans, section of the General Plan. He was particularly concerned with the sentence that stated "Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies". He wanted the language to say consistent the zoning district within which the land is located. He asked the Board to think carefully about this language. He stated the general plan is a guide and a vision.

Boardmember Coons confirmed Mr. Pew wants the general plan to remain "fuzzy". Mr. Pew stated the general plan is a goal. He suggested if the Board wanted more regulations for use permits they should be in the Zoning Code. Boardmember Roberts asked if there cases where the use was against the general plan. Mr. Pew said yes they should rezone the property.

Planning Director John Wesley stated staff was not trying to trample property rights to enforce the general plan; however, we don't want to put the general plan on a shelf and never review cases against it. Staff member Sheffield stated staff wants to balance the general plan against zoning and be fair to individual property owners. He stated the goal is to make the zoning code flexible so cases can go forward without having to go through the Board of Adjustment every time.

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Respectfully submitted,

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John Wesley, Secretary  
Planning Director

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