



Planning and Zoning Board

Minutes

Held in the City of Mesa Council Chambers
Date: November 20th, 2013 Time: 4:00 p.m.

MEMBERS PRESENT:

Beth Coons, Vice-Chair
Brad Arnett
Michael Clement
Lisa Hudson
Vince DiBella
Suzanne Johnson
Michael Clement

MEMBERS ABSENT:

Randy Carter, Chair

STAFF PRESENT:

John Wesley
Kaelee Wilson
Lesley Davis
Angelica Guevara
Margaret Robertson
Jason Sanks
Gordon Sheffield
Julia Kerran

OTHERS PRESENT:

Vice Chairperson Coons declared a quorum present and the meeting was called to order at 4:00 p.m. Before adjournment at 5:05 p.m., action was taken on the following:

It was moved by Boardmember DiBella, seconded by Boardmember Hudson that the minutes of the October 15th, 2013, and October 16th, 2013 study sessions and regular meeting be approved as submitted. Vote: 5 -0-1 (Boardmember DiBella abstained)

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

It was moved by Boardmember Johnson, seconded by Boardmember Arnett that the consent items be approved. Vote: 6-0 (Chair Carter Absent)

Zoning Cases: Z13-056, Z13-057

Preliminary Plats: Trovita Norte, Sossaman and McKellips

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

It was moved by Boardmember Johnson, seconded by Boardmember Clement that the consent items be approved. Vote: 5-0-1 (Chair Carter absent, Boardmember Arnett abstain)

Zoning Cases: Z13-055

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

Preliminary Plat: Sunland Village Unit 8

It was moved by Boardmember Arnett, seconded by Boardmember Clement that the consent items be approved. Vote: 4-0-2 (Char Carter absent, Vice Chair Coons and Boardmember DiBella abstain)

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Item: **Z13-055 (District 2)** The 4100 block of East Southern Avenue (south side). Located on the southwest corner of East Southern Avenue and South Norfolk. (6.2± acres). Rezone from RS-15 to RS-9 and Site Plan Review. This request will allow the development of a 17 lot single-residence subdivision. (PLN2013-00344)

Summary: This case was on the second consent agenda and therefore was not discussed on an individual basis.

It was moved by Boardmember Johnson, seconded by Boardmember Clement

That: The Board approves of zoning case Z13-055 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and amended preliminary plat submitted (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Building Form Standards established in the Zoning Ordinance as well as compliance with the Residential Development Guidelines.
3. Review and approval from the Planning Director of the residential product proposed for Leawood
4. Review and approval from the Planning and Zoning Board of a Preliminary Plat.
5. As requested by the applicant in a letter from W. Ralph Pew, dated November 18, 2013, homes constructed on lot numbers 1 and 16, as indicated on the Preliminary Site Plan, shall be limited to single story in height.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. 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.
8. Compliance with all City of Mesa Code requirements and regulations.

Vote: Passed (5-0-1) (Chair Carter absent, Boardmember Arnett abstain)

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Item: **Z13-056 (District 6)** 2737 South Ellsworth Road. Located at the northeast corner of Ellsworth and Guadalupe Roads. (2.35± acres). Site Plan Review and Special Use Permit. This request will allow the development of a retail store and a fueling station (PLN2013-00431).

Summary: This case was on the first consent agenda and therefore was not discussed on an individual basis.

It was moved by Boardmember Johnson, seconded by Boardmember Arnett

That: The Board approves of zoning case Z13-056 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, landscape plan, and building elevations except as otherwise conditioned.
2. Compliance with all requirements of Design Review approval.
3. Compliance with all City development codes and regulations.
4. Signs (detached and attached) require separate approval and permit for locations, size, and quantity.

Vote: Passed (6-0) (Chair Carter absent)

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Item: **Z13-057 (District 2)** The 3600-3900 blocks of East Brown Road (south side). Located on the southeast corner of East Brown Road and South Val Vista Drive. (60± acres). Rezone from RS-15 to RS-15 PAD and Site Plan Review. This request will allow the development of a 98 lot single-residence subdivision. (PLN2013-00429)

Summary: This case was on the consent agenda and therefore was not discussed on an individual basis.

It was moved by Boardmember Johnson seconded by Boardmember Arnett

That: The Board approves of zoning case Z13-057 conditioned upon:

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).
2. Compliance with the Building Form Standards established in the Zoning Ordinance as well as compliance with the Residential Development Guidelines.
3. Where a home sides on a street or open space tract, a 6-foot wall shall not extend more than 90-feet measured from the rear property line of the lot along that street or tract.
4. Review and approval from the Planning Director of the residential product proposed for Trovita Norte.
5. 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.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. Full compliance with all current Code requirements and regulations, unless modified through appropriate review and approval of the modifications outlined in the staff report.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport.
9. Written notice be provided to future residents, and acknowledgment received that the project is within 2 miles of Falcon Field Airport.
10. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.

Vote: Passed (6-0) (Chair Carter absent)

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DISCUSS AND MAKE RECOMMENDATION TO CITY COUNCIL ON THE FOLLOWING CODE AMENDMENTS:

Item: Revisions related to the general topic of "Vacation Homes:"

- a. Amending Section 11-86-4 by adding a new definition of "Vacation Homes."
- b. Amending Section 11-5-2, by adding "Vacation Homes" as a permitted land use or activity, subject to approval of an Administrative Use Permit, in the Single Residence and Multiple Residence zoning districts.
- c. Amending Chapter 31 of the Zoning Ordinance by adding a new section, 11-31-36, to establish review criteria by which to evaluate the Administrative Use Permit as listed in Item 2, above.

Summary:

Zoning Administrator Gordon Sheffield gave a short presentation to the Board. He explained that transient lodging or vacation homes usage in a residential district currently violates the zoning code. Mr. Sheffield explained that he was asked to give a technical interpretation of this usage in a residential district. Mr. Sheffield's interpretation was that the use was commercial and therefore not permitted in a residential neighborhood. Mr. Sheffield went on to state that he presented this issue to the City Council for direction. The City Council directed that any changes to the zoning code should allow vacation homes to generally blend into the neighborhood. This use, once permitted, should include an Administrative Use Permit for recording and enforcement purposes. Partnering with the Tax and Licensing Department, Mr. Sheffield stated that there are approximately 50 vacation homes on the tax rolls which generate around \$150,000 revenue annually. He stated that staff is supportive of these amendments with an over-the-counter permit process.

Boardmember Arnett asked if a code complaint is the only way to discover if transient lodging activities are taking place in a residential area. Mr. Sheffield responded that monitoring websites and advertisements are ways of discovering vacation homes as well.

Boardmember DiBella inquired about the methods of site enforcement actions in these instances through code compliance. Mr. Sheffield stated that staff would continue the current methods, which would be first and foremost to inform the property owner.

Boardmember Johnson asked Mr. Sheffield if staff was requesting the Administrative Use Permit or if it was the City Council. Boardmember Johnson verified that the Administrative Use permit would be at a minimal cost. Mr. Sheffield confirmed that the Administrative Use Permit was a City Council request. He stated that the Administrative Review Request essentially would create a dot on a map, yet the number of vacation homes in a neighborhood will not be regulated.

It was moved by Boardmember DiBella, seconded by Boardmember Clement

Vote: Passed (5-1) (Chair Carter absent)

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Item: Revisions related to the general topic of "Tattoo Parlors and Body Piercing Salons:"

- a. Amending Sections 11-6-2, 11-7-2, 11-8-2, 11-58-3, 11-58-7, 11-58-9 and 11-58-10 with regard to the listing tattoo parlors and body piercing salons as a permitted activity or land use in Commercial, Industrial and Downtown Business zoning districts, and in the T4MS, T5MSF and T5MS Form-based Code Transects.
- b. Deleting Section 11-31-28, which regards separation requirements for the location of tattoo parlors and body piercing salons, and review criteria for the evaluation of Council Use Permits for tattoo parlors.

Summary:

Zoning Administrator Gordon Sheffield gave a brief background presentation regarding the recent proceedings concerning tattoo parlors and body piercing salons in the City of Mesa. He stated that a tattoo parlor requesting a Council Use Permit in the Dobson Ranch area, presented their case before this Board. This Board recommended denial, to which the City Council agreed and denied the request. The applicant then appealed the decision through the courts. The Arizona Supreme Court's decision is that tattooing is protected under the 1st Amendment and sent the case back to a lower court for resolution. However, the matter has been settled out of court. The City Council has decided that would like to stop requiring Council Use Permits for tattoo parlors.

Attorney Margaret Robertson corrected the verbiage in regards to tattooing. The business of tattooing is protected and that the zoning code has to be content based.

Vice Chairperson Coons asked if these businesses would be the same as all other businesses in the zoning code district. Mr. Sheffield responded that they would be treated as any other business providing a service.

Boardmember Arnett asked if there would be any changes to the zoning code in the commercial district. Mr. Sheffield replied that there are no plans to revise the commercial districts zoning codes.

Boardmember DiBella requested clarification if there would be any review process to as to the placement of tattoo parlors. Mr. Sheffield assured that there would not be any additional review process. He stated the review process will be the same for all other businesses allowed in the same zoning district.

Boardmember DiBella stated that clustering created an up roar in the past, is keeping the separation requirements an option. Mr. Sheffield stated that historically the fear was that the citizenry that gathered at these establishments caused additional police involvement. He went on to say that the nine tattoo parlors and body piercing salons in the City of Mesa have generated an average of thirty-one calls for service annually. Mr. Sheffield assured the board that this number is low for any commercial use. Boardmember DiBella responded that the low number is due to the current placement criteria.

Boardmember Arnett asked if these businesses would be subject to design review. Mr. Sheffield assured Boardmember Arnett that these businesses would be subject to the same requirements as all

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existing buildings are subject. He also stated that most businesses of this type located in strip centers not in new or standalone buildings.

It was moved to approve by Boardmember Clement, no second, motion died

It was moved to deny text amendment concerning tattoo parlors by Boardmember Arnett, seconded by Boardmember DiBella

Vote: Passed (6-0) (Chair Carter absent)

Discussion ensued.

Discussion:

Zoning Administrator Gordon Sheffield requested clarification from the Board. He asked that if the separation requirement was maintained, would that have made a difference in the vote. The Board verbally agreed.

Boardmember Arnett asked how this request came from the City Council, how does the request protect citizens and how do they work on resolving issues. Mr. Sheffield stated that the City Council is not requesting total deregulation, they would like to implement a Good Business Policy certification. He did verify that the Council did not want to maintain the current stipulations of separation for these businesses.

Boardmember Clement asked if the City Council's plan was to implement the revisions and Good Business Policy at the same time. Mr. Sheffield affirmed that Council would like to take action on these issues at the same time.

Boardmember Arnett stated that the Good Neighbor Policy through Design Review, regarding all uses, agreement with City Council is a big driver to approve these revisions.

Zoning Administrator Gordon Sheffield requested continuance to next month's hearing. Attorney Margaret Robinson stated that only a Boardmember who had voted for denial can request a reconsideration of this action.

It was moved for reconsideration by Boardmember Arnett, seconded by Boardmember Hudson

Vote: Passed (6-0) (Chair Carter absent)

It was moved for continuance to the December 11th, 2013 Planning & Zoning Board meeting by Boardmember Arnett, seconded by Boardmember Hudson

Vote: Passed (6-0) (Chair Carter absent)

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Preliminary Plat of Trovita Norte (District 2)

The 3600 – 3900 blocks of East Brown Road (south side). Located on the southeast corner of East Brown Road and South Val Vista Drive. This request will allow the development of a 98 lot single-residence subdivision. (PLN2013-00429)

It was moved by Boardmember Johnson, seconded by Boardmember Arnett

That: The Board approved the Preliminary Plat of Trovita Norte

Vote: Passed (6-0) (Chair Carter absent)

Preliminary Plat of Sossaman and McKellips (District 5)

The 2000 block of North Sossaman Road (east side) and the 7600 block of East McKellips Road (north side). Located at the northeast corner of Sossaman and McKellips Roads. (8.4± acres). This request will allow the development of a single-residence subdivision. (PLN2013-00265).

It was moved by Boardmember Johnson, seconded by Boardmember Arnett

That: The Board approved the Preliminary Plat of Sossaman and McKellips

Vote: Passed (6-0) (Chair Carter absent)

Preliminary Plat of Sunland Village Unit 8 (District 6)

The 2800 block of South Springwood Boulevard. This request will allow the development of a 137 lot single-residence subdivision. (PLN2013-00429)

This plat was on the third consent agenda and therefore was not discussed on an individual basis.

It was moved by Boardmember Arnett, seconded by Boardmember Clement

Vote: Passed (4-0-2) (Char Carter absent, Vice Chair and Boardmember DiBella abstain)

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PRESENTATION ON THE GENERAL PLAN UPDATE: Staff member Tom Ellsworth gave a presentation on the 2040 General Plan Draft. He stated that Staff hopes to present final draft to the Planning and Zoning Board in January or February 2014.

Vice Chairperson Coons affirmed that no matter how great a plan, it is about the people, connectivity and flexibility. She stated that without good people the city equals just houses. She declared that if the hearing is at the first of the year then all major concerns need to be aired as soon as possible.

Boardmember Clement inquired as to what major items of concern going forward as Staff been made aware of. Mr. Ellsworth replied that there were three: 1) Quality: 2) Encroachment from other uses: and 3) Flexibility.

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Respectfully submitted,

John Wesley, Secretary
Planning Director

Minutes written by Julia Kerran, Planning Assistant

JK:
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