



COUNCIL MINUTES

September 26, 2013

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on September 26, 2013 at 7:34 a.m.

COUNCIL PRESENT

Scott Smith
Alex Finter
Dennis Kavanaugh
David Luna
Dave Richins

COUNCIL ABSENT

Christopher Glover
Scott Somers

OFFICERS PRESENT

Kari Kent
Debbie Spinner
Dee Ann Mickelsen

Mayor Smith excused Councilmembers Glover and Somers from the entire meeting.

1. Hear a presentation, discuss and provide direction on revisions to the Zoning Code Ordinance.

Zoning/Civil Hearing Administrator Gordon Sheffield displayed a PowerPoint presentation (**See Attachment 1**) and reported that he was prepared to discuss 15 revisions to the Zoning Code Ordinance, 14 of which the Council reviewed earlier this year, and one modification that was new. He explained that the Planning & Zoning Board (P&Z) has made recommendations with respect to the 14 modifications and said that it would be necessary for the Board to review the new item prior to Council consideration of the matter. He added that the revisions are intended to "fine tune" the Ordinance.

Mr. Sheffield discussed the proposed Land Use Revisions as follows:

- **Small Recycling Facilities in the Downtown Business (DB) 2 District.**

Mr. Sheffield remarked that staff proposes to increase the maximum floor area from 1,000 square feet to 5,000 square feet. (See Page 3 of Attachment 1) He advised that an existing facility has been operating for some time and was technically in violation of the Ordinance. He noted, however, that the business appears to be a compatible use and consistent with the other uses in the surrounding area.

Mr. Sheffield commented that the Council and P&Z have approved this item, as well as the 13 other revisions.

- **Community Gardens in the Downtown Core (DC) and Downtown Business (DB) Districts.**

Mr. Sheffield indicated that the Mesa Urban Garden currently operates under a Zoning Administrator interpretation. He stated that staff proposes to adjust the Ordinance in order to make it an explicit permitted use. (See Page 4 of Attachment 1)

- **RV Storage Lots in the Residential Single Dwelling (RS)-PAD Districts.**

Mr. Sheffield remarked that when an RV storage lot is considered an amenity in a master planned community, the development may have deed restrictions that prohibit RVs from being stored on the individual lots. He stated that the proposal would allow the use of the RV storage lot by residents outside of the PAD area in master planned developments, with the approval of a Special Use Permit (SUP) and compliance with specified standards, including historical usage.

Mayor Smith inquired whether the Council previously discussed the scenario of a master planned development starting out with an RV storage lot as an amenity and subsequently selling it to a new owner who operates the lot as a business.

Mr. Sheffield responded that the Council did not discuss that specific topic, but clarified that was one of the reasons staff brought back this item to the Council. He explained that a Mesa homeowners association did, in fact, sell its RV storage lot to an individual who thought the site could be marketed to individuals outside of the master planned community. He noted that when staff informed the business owner that was not possible, the person requested that the City change the Ordinance in that regard.

Mr. Sheffield further remarked that it was his understanding that the Council directed staff to use the SUP in the RS District versus making a change in the Code to a Commercial District (CD), due to the fact that most of the RV storage lots are located in areas that would not necessarily facilitate future commercial uses. He advised that rather than have a CD situated in "some odd spot" that was not compatible with the master planned development, the base zoning district would remain residential and the City would authorize, in essence, what could be an interim use until a long-term change is made.

In response to a question from Vice Mayor Finter, Mr. Sheffield highlighted the SUP process as follows: a person files an application; the application is reviewed by staff; and if the application meets certain criteria, staff makes a recommendation to the Board of Adjustment that the application be approved.

Responding to a question from Mayor Smith, Mr. Sheffield clarified that the Council has given the Board of Adjustment the authority to approve requests for SUPs, which is considered a quasi-judicial matter. He stated that with the Board having such authority, the City treats the SUP as an administrative matter, but with a public hearing process.

Mayor Smith commented that the Board of Adjustment must follow well-defined criteria established by State law. He also noted that he appreciated the public hearing process, as long as there was an objective standard that the Board applied so that individuals in a similar situation would receive the same consideration.

Mr. Sheffield responded that he has worked with the Board of Adjustment since 1992 and assured Mayor Smith that the members understand their role and generally adhere to the criteria. He added that the purpose of the public hearing was for the Boardmembers to gather as much information as possible to ensure that they make an informed decision.

- **Use of Modular Buildings during Remodeling.**

Mr. Sheffield remarked that the proposed revision would allow temporary use of a modular building as a place of business during remodeling. He explained that such a use is already permitted during new construction.

- **Vacation Rental Homes.**

Mr. Sheffield reported that this new modification came about as a result of a Zoning Code interpretation he was asked to make this past June. He stated that the Code does not contain a legal definition of "vacation rental home" and explained that to "ballpark" the use, it would be considered a single-family home in a typical single-family neighborhood. He commented, in addition, that there would be no onsite manager or inn-type of operation; that a property owner would rent his or her home on a temporary basis, typically for less than 30 days; that the owner would hand over the keys to the renter, who would use the home for the duration of the person's vacation; and that such a use would be subject to Mesa's transient occupancy tax.

Mr. Sheffield, in addition, remarked that Section 11-5-2 of the Zoning Ordinance indicates that any use classification that is not explicitly listed as one of the other classifications is considered prohibited.

Mr. Sheffield advised that in his role as Mesa's Zoning Administrator, he sought to determine whether there was a classification that could be considered analogous to the activity that he was asked to interpret. He commented that in the case of a vacation rental home, the idea was that it was a temporary use, but pointed out that the distinguishing feature is that the renters would occupy the homes for less than 30 days. He added that per the Model Tax Code, a transient is defined as a person who obtains lodging for not more than 29 consecutive days.

Mr. Sheffield further reported that in reviewing the use classifications in the Zoning Ordinance, the three uses that could be considered analogous to a vacation rental home included a hotel, a motel and a bed and breakfast (B&B), but stated that none of those classifications met the necessary criteria. He added, however, that when he was asked to make his interpretation in June, he was required, by default, to determine that it was a prohibited use.

Mr. Sheffield stated that he was not comfortable with such an interpretation, especially since vacation rental home activities have occurred in Mesa for many years, and thought it would be appropriate to bring this matter to the attention of the Council. He briefly outlined potential options for the Council's consideration. (See Page 7 of Attachment 1)

Councilmember Kavanaugh commented that he would prefer a zoning structure that allows vacation rental homes and does not discourage people from visiting Mesa. He also stated the opinion that it was not necessary for the property owner to go through the formality of requesting an SUP, but suggested that staff consider either the Use by Right option or the Administrative

Use Permit. He added that the latter option would ensure that the City can track and collect the transient occupancy tax on the vacation rental properties.

In response to a question from Councilmember Luna, Mr. Sheffield advised that he has not considered the issue of international home exchanges, but would be happy to research the matter and report back to him.

Mayor Smith commented that in his opinion, if a person stays in a vacation rental home six days or six months, the use of the property is the same, unless the property owner begins to operate, for example, a B&B with multiple guests. He pointed out that the use of the property would be a zoning issue and concurred with Councilmember Kavanaugh that he did not care how the owner used the property, but would want some assurance that the person paid the transient occupancy tax.

Mr. Sheffield responded that he has worked for the City of Mesa for 27 years and stated that this was the first time that he can recall being asked to make an interpretation with respect to vacation rental homes.

Mayor Smith remarked that every year, Mesa residents rent out their homes to visitors who attend the Spring Training games with little or no impact on their neighbors. He reiterated that if a property owner uses their home in such a manner for a commercial purpose, the person should be subject to the transient occupancy tax.

Vice Mayor Finter recounted a situation with extended family members who rent out their Mesa home in February and March annually to visitors who come to Arizona to attend Spring Training games. He noted that unlike Mr. Sheffield's scenario, they were issued a transient occupancy license, the City collects those taxes and added that the homeowners also pay an increased property tax. He concurred with Mayor Smith and Councilmember Kavanaugh's comments and urged staff to present this item to P&Z for the Board's consideration.

Mayor Smith stated that he would envision the City being primarily involved with the use and the zoning of the vacation rental homes, but not necessarily the increased property tax issue.

Mr. Sheffield summarized the Council's direction as follows: that staff present a possible amendment to the Code that would define the use of a vacation rental home and authorize it either as a Use by Right or an Administrative Use Permit.

Mayor Smith indicated that he would prefer the Administrative Use Permit option, since it would establish a regulatory process that ensures that a property owner of a vacation rental home is subject to the transient occupancy tax.

Mr. Sheffield highlighted the proposed Design Standards revisions as follows:

- **Rear Yard Encroachment when adjacent to canal.**

Mr. Sheffield indicated that the current Zoning Ordinance allows lots that back up to public alleys wider than 16 feet to measure the rear yard setback from the centerline of the alley. He said the proposal would extend such an exception to include lots that back up to canals with maintenance roads that are also at least 16 feet wide. He added that the exception for canal

banks would limit the reduced setback distance to 10 feet. (See Pages 9 through 11 of Attachment 1)

- **Residential Multiple Dwelling (RM) Districts: Allow balconies and patios to encroach into street-side setbacks.**

Mr. Sheffield stated that currently, the setback along arterial streets is 30 feet and said that the proposal would allow balconies and patios to encroach up to 10 feet into the street-side setbacks. (See Page 12 of Attachment 1)

- **Allow uses that are active and display architectural variety, such as buildings and patios, to encroach in street-side setbacks in Industrial Districts.**

Mr. Sheffield indicated that this proposal would revise the street-side setbacks along arterial streets in industrial districts to 15 feet from the present 30-foot minimum. (See Page 13 of Attachment 1)

- **Increase radius for sites eligible for transit parking reduction.**

Mr. Sheffield explained that the proposal would extend the reduction in parking radius for eligible sites from one-eighth of a mile to transit-related facilities to one-quarter of a mile. He said that such a modification would encourage minimal parking and the use of light rail and bus rapid transit (BRT). (See Page 14 of Attachment 1)

- **Ocotillo Plants.**

Mr. Sheffield advised that the proposal would allow two Ocotillo plants to substitute for one tree in street-side landscape areas. He noted that such plants do not generally grow high enough to encroach upon aerial utility lines, but would still provide a vertical presence and enhance the landscaping. He said that the proposal would further allow up to 10% of the minimum required trees to be Ocotillos under the substitution scheme and added that in the Desert Uplands Sub-Area, that number would increase to 30%.

In response to concerns expressed by Mayor Smith, Mr. Sheffield clarified that Section 33-11-7 of the Zoning Code, titled "Alternative Landscape Plan," authorizes the Zoning Administrator to approve a tree substitution scheme. He cited, for instance, if an overhead utility line impacted something greater than 10% of the scheme, the Zoning Administrator would be authorized to approve alternative plants.

Mayor Smith commented that he would like to see language in the Landscape Plan that would require that on arterial streets or wherever a utility easement might be located, that the landscape architect must demonstrate whether overhead utility lines will be installed. He stated that if that were the case, it would be necessary to select plants from an approved list.

Mr. Sheffield responded that staff will include such language as part of the submittal requirement. He added that he was already authorized to approve what plants would be appropriate.

- **Allow buildings and patios to encroach into corner landscape radius.** (See Page 16 of Attachment 1)

Mr. Sheffield further highlighted the proposed Processing Revision as follows:

- **Measuring separation or “buffer” requirements.**

Mr. Sheffield noted that the proposal would be to measure from the campus edge of a protected use to the building wall of the proposed use. (See Page 18 of Attachment 1)

Mr. Sheffield, in addition, discussed the proposed Technical Revisions. (See Page 19 of Attachment 1)

Mayor Smith thanked Mr. Sheffield for his efforts and hard work in this regard.

2. Information pertaining to the current Job Order Contracting projects.

There was no presentation or discussion regarding this item.

3. Hear reports on meetings and/or conferences attended.

Councilmember Kavanaugh: Mesa Arts Center’s announcement that it was awarded grant funds for its Artspace project

4. Scheduling of meetings and general information.

Deputy City Manager Kari Kent stated that the meeting schedule is as follows:

Friday, September 27, 2013, 7:30 a.m. – Coffee with Councilmember Kavanaugh

Tuesday, October 1, 2013, 6:30 p.m. – Building Strong Neighborhoods, District 3

Thursday, October 3, 2013, 7:30 a.m. – Study Session

5. Adjournment.

Without objection, the Study Session adjourned at 8:04 a.m.

SCOTT SMITH, MAYOR

ATTEST:

DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 26th day of September, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

pag
(attachment – 1)

Zoning Ordinance Housekeeping Revisions

Presentation to City Council
Study Session
September 26, 2013



Zoning Ordinance Housekeeping

Proposed Land Use Revisions

Small Recycling Facilities in Downtown Business (DB) – 2 District



PROPOSAL: Increase the maximum floor area from 1,000 sqft to 5,000 sqft

Community Gardens in Downtown Core (DC) and Downtown Business (DB) Districts



Proposal:
Authorize Community
Gardens “by right” in
Downtown Business
and Downtown Core
districts.

RV Storage Lots in the Residential Single Dwelling (RS)-PAD Districts



PROPOSAL: Allow use by residents outside of the PAD area in master planned developments with approval of Special Use Permit and compliance with specified standards, including historical usage.

Use of Modular Buildings During Remodeling

PROPOSAL: Allow temporary use of modular building as place of business during remodeling. Already allowed during new construction. If not tied to building permit, require a Administrative Use Permit.



Vacation Rental Homes

- Vacation Rental Homes are existing “standard” houses in residence districts rented to visitors for 30-days or less, and more typically by the week or weekend.
- Use is subject to Transient Occupancy Tax.

OPTIONS:

1. Prohibit as Commercial Use in Residential District (Current Interpretation)
2. Allow:
 - a. Use by Right,
 - b. Administrative Use Permit (Counter Review), or
 - c. Special Use Permit (Board of Adjustment).

Zoning Ordinance Housekeeping

Proposed Design Standards Revisions

Rear Yard Encroachment When Adjacent to Canal



Canal Banks

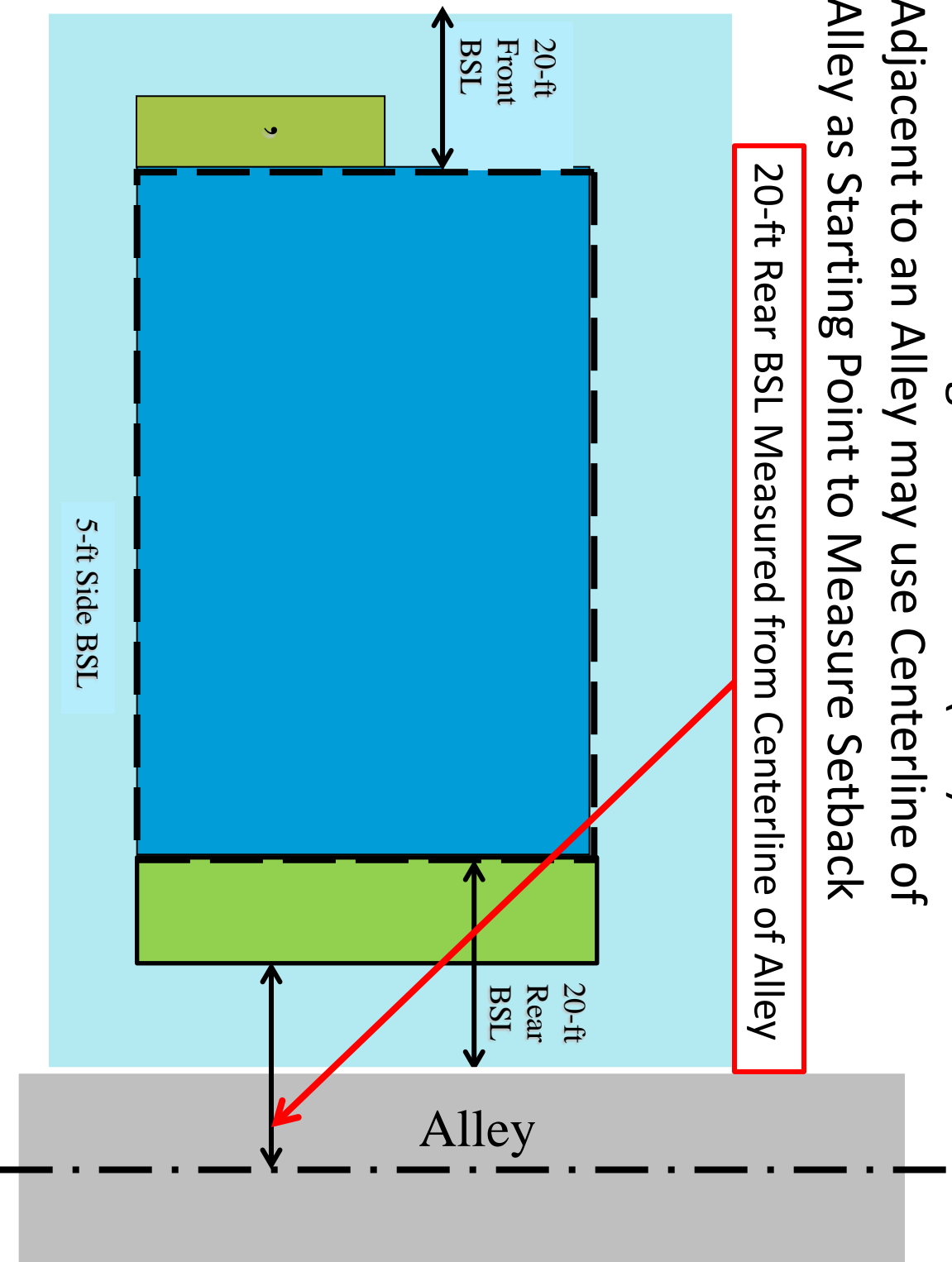


Alleys



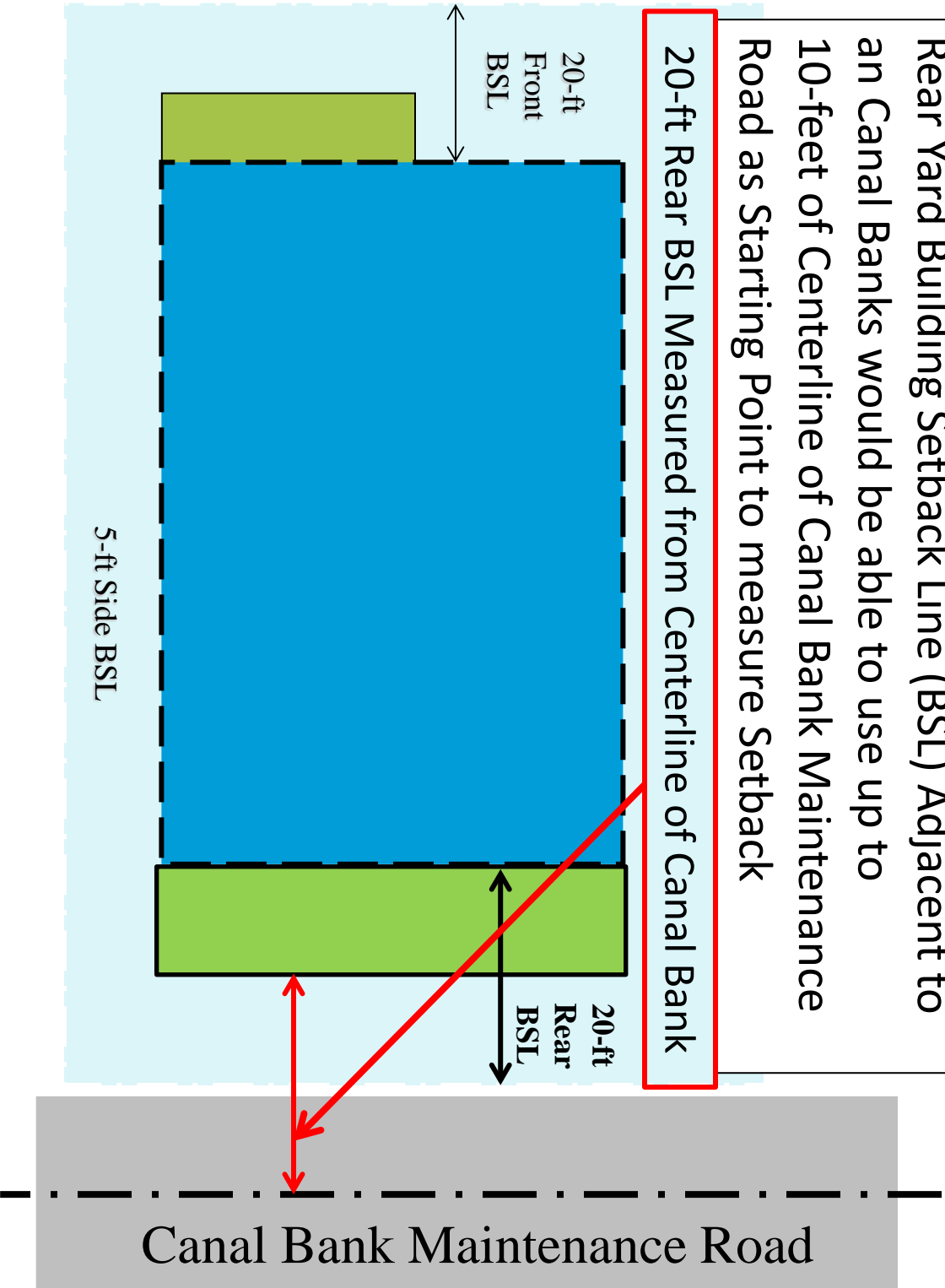
Rear Yards Building Setback Line (BSL) Adjacent to an Alley may use Centerline of Alley as Starting Point to Measure Setback

20-ft Rear BSL Measured from Centerline of Alley



PROPOSAL: Include Lots backing to Canal Banks - Rear Yard Building Setback Line (BSL) Adjacent to an Canal Banks would be able to use up to 10-feet of Centerline of Canal Bank Maintenance Road as Starting Point to measure Setback

20-ft Rear BSL Measured from Centerline of Canal Bank



Residential Multiple Dwelling (RM) Districts: Allow Balconies and Patios to Encroach into Street Side Setbacks



PROPOSAL:
Allow Balconies
and Patios to
Encroach up
to 10-ft
Into Street Side
Setbacks

**Allow Uses that are
Active and Display
Architectural Variety,
such as Buildings &
Patios, to Encroach in
Street Side Setbacks
in Industrial Districts**



PROPOSAL: Allow buildings and patios to encroach into Street Side Setback from 30-ft to 15-ft.

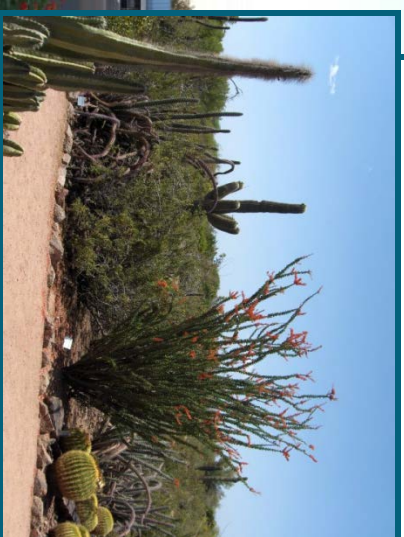
Increase Radius for Sites Eligible for Transit Parking Reduction



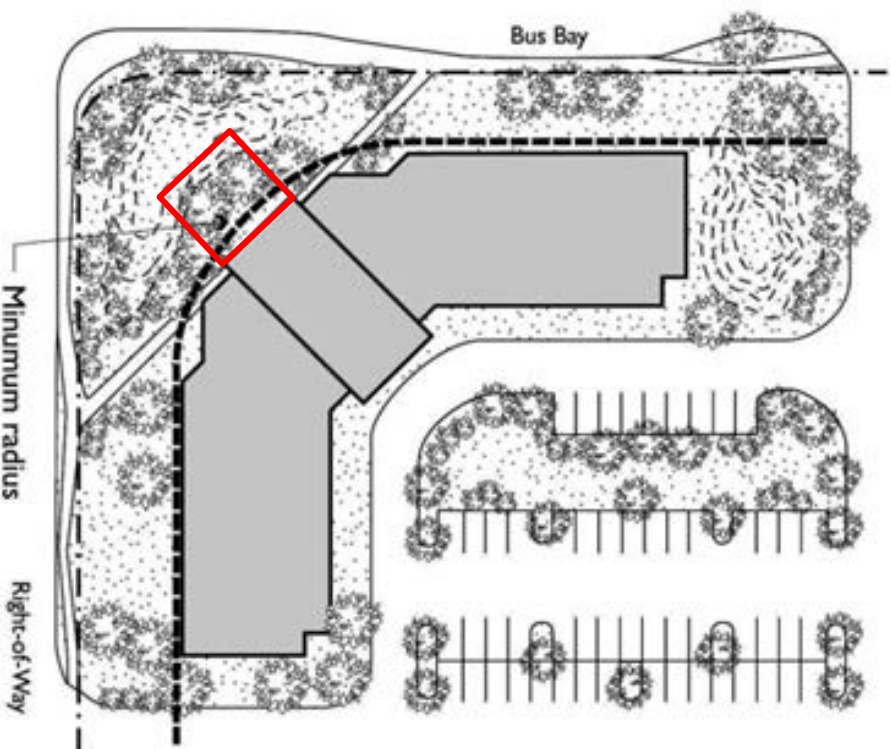
**PROPOSAL: Increase Distance of Radius
from Transit Stop from 1/8-mile to 1/4-mile**

Ocotillo Plants

PROPOSAL: Allow 2 Ocotillos Plants to substitute for 1 Tree in Street-side Landscape Areas. Maximum 30% of Required trees in Desert Uplands Sub-Area. Up to 10% elsewhere in Mesa



Allow buildings and patios to encroach into corner landscape radius



Zoning Ordinance Housekeeping

Proposed Processing & Technical Revisions

Technical Revisions

- 1) Consolidate Detached Accessory Building Sections**
- 2) Formally add Form-Based Code Transects to List of Base Zoning Districts in Chapter 3**
- 3) Fix Typo in Table 11-5-4.B : “RSL-2.5” (Residential Small Lot Single Dwelling)**

Questions ?

<http://www.mesaaz.gov/planning/>