

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers

Date June 20, 2002 Time 4:00 p.m.

MEMBERS PRESENT

Chris Zaharis, Chair
Marty Whalen, Vice-Chair
Dan Brock
Sue Kathe
Mike Cowan
Jerry Petrie
Lynda Bailey

MEMBERS ABSENT

None

OTHERS PRESENT

Frank Mizner	Wahid Alam	Sigfrido Ramirez	Kyle Higgins
Dorothy Chimel	Greg Hitchens	Thomas Sikora	Scott Miritello
Ryan Heiland	Ben Patton	Dina Higgins	Bill Jaffa
Lois Underdah	Gordon Sheffield	A. Kofod	E. Kofod
Maria Salaiz	Greg Marek	Glen Bowling	Sean Lake
	C. K. Sato	Robert Staten	Marti Cizek
	Julie Knight	Cliff Strait	Pat Richards

Chair Zaharis declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated June 20, 2002. Before adjournment at 5:25 p.m., action was taken on the following items:

It was moved by Boardmember Kathe, seconded by Boardmember Petrie that the minutes of the May 20, 2002 meeting be approved as submitted. The vote was 6-0-1 Bailey abstain (not present at May meeting).

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

It was moved by Boardmember Kathe, seconded by Boardmember Petrie that the consent items be approved. Vote 7-0.

Code Amendment: Amending Sections

- *1. Amending Sections 11-1-6, 11-13-2, 11-18-4, and 11-18-6 of the Zoning Ordinance
- *2. Amending Sections 11-1-3, 11-13-2, and 11-18-4 of the Zoning Ordinance
3. Amending Section 11-4-3 of the Zoning Ordinance

Zoning Cases: Z02-13, *Z02-21, *Z02-22

Following approval of the consent agenda, Planning Director Frank Mizner acknowledged the years of community service by outgoing Boardmembers Zaharis, Petrie and Kathe. He also presented Chris Zaharis a plaque from the City of Mesa, which had previously been presented to the other Boardmembers.

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Item: Amending Sections 11-1-6, 11-13-2, 11-18-4, and 11-18-6 of the Zoning Ordinance; creating a definition of "Infill Property"; establishing a Development Incentive Permit (DIP) process; authorizing the Zoning Administrator to hear and decide requests for DIP's; and setting a fee for such requests.

Comments: This item was on the consent agenda therefore it was not discussed individually, however, the following comments were made in general discussions after the vote.

Boardmember Brock stated that his understanding is that this infill ordinance is a stop-gap to allow time to revisit it at greater length. He added that he disagrees with some parts of the ordinance but at this point it is the best we have. Mr. Brock remarked that it will take some time and work to complete a good infill ordinance, something that is valuably needed in the community. He pointed out that this will affect the Redevelopment Division and the downtown redevelopment area, as well as other areas of the community.

Vice-Chair Whalen stated his concurrence with Boardmember Brock. He added his opinion that the perpetual acceptance of the downtown development area was fine when that area was one mile square. It has grown and there is a risk of putting the City in a situation where there are separate precedents and separate philosophies. He asked that City Council consider having only one definition of "Infill" that could work both in and out of the downtown.

It was moved by Boardmember Kathe, seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of amending sections 1-1-6, 11-13-2, 11-18-4, and 11-18-6 of the Zoning Ordinance.

Vote: Passed 7-0

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Item: Amending Sections 11-1-3, 11-13-2, and 11-18-4 of the Zoning Ordinance regarding expansion of nonconforming uses, buildings, structures, and sites; establishing a Substantial Conformance Improvement Permit (SCIP) process; authorizing the Zoning Administrator to hear and decide requests for SCIP's; and setting a fee for such requests.

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

It was moved by Boardmember Kathe, seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of amending Sections 11-1-3, 11-13-2, and 11-18-4 of the Zoning Ordinance.

Vote: Passed 7-0

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Item: Amending Section 11-4-3 of the Zoning Ordinance to permit the keeping of livestock in numbers exceeding the number permitted, and on parcels less than one acre, subject to a special use permit; and amending Section 6-4-20 of the Police Regulations to allow the keeping of livestock on properties less than one acre as a result of the acquisition of public right of way.

Comments: Frank Mizner explained that this issue had been brought to the City's attention by residents in certain neighborhoods with concerns regarding the current regulations. The regulation of livestock in Mesa is under the Police Code and is considered a police matter rather than a zoning issue. City Council has directed staff to schedule this for the Planning & Zoning Board and bring it to City Council in the form of an ordinance. This ordinance would address three issues.

It would allow for livestock to be maintained on properties that have been reduced to less than an acre through action of a governmental entity, primarily the taking of right-of way-for street improvements. It would also set up a use permit process for property owners who would like to maintain livestock on land that never was an acre but they had livestock privileges through historical county zoning. Or if they have more than an acre and would like to keep more than the number of livestock allowed by City Code, this would allow for them to apply for a use permit, either as an individual property or as a neighborhood (a group Special Use Permit).

C.K. Sato (1240 E. Lehi Rd.), representing the Lehi Community Improvement Association, stated that they had actually had people move over this issue. He mentioned that their only concern was with someone who may obtain a Use Permit and use it in predominantly a residential rural setting for commercial purposes.

Robert Staten (522 S. 31st St.), expressed his support and appreciation of the efforts put forth by staff and by the City of Mesa. He added that it is an excellent example of democracy in action.

Marti Cizek (548 S. 31st St.), representing the Pleasure Acres neighborhood, stated that they support the amendment and are looking forward to legally having their livestock privileges restored.

Julie Knight (549 S. 31st St.), stated that it had been a pleasure to watch government in action. She added that she was in total support of the solution provided.

Vice-Chair Whalen stated that he has no quarrel with the intent of this amendment but his concern is with the approach being used, sort of a band-aid – taking an existing ordinance and come up with an overlay of a Use Permit to change the underlying ordinance. He added that he would be more comfortable with changing the ordinance itself.

Boardmember Bailey asked Mr. Sato to define “commercial”. She added that she knew of people in Lehi who boarded horses and wondered if that fell within the definition. Mr. Sato responded that there were individuals who used their property for commercial uses other than boarding horses where they would take in 20-30 animals for a period of time. He clarified that they do not consider the normal boarding of horses a problem.

Boardmember Brock asked why the Special Use Permit. Mr. Mizner responded that the animal regulations are not technically part of the Zoning Ordinance. He added that the livestock regulations are independent of zoning. The Special Use Permit process provides for notification of neighbors, a public hearing and a public record on the request.

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Boardmember Petrie asked if there is still a stable on N. Center St. Mr. Mizner responded that it had been there prior to annexation and was grandfathered in. He added that if someone wanted to start a new boarding stable it wouldn't fall into this criteria.

It was moved by Boardmember Kathe , seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of amending Section 11-4-3 of the Zoning Ordinance.

Vote: Passed 7-0

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Item: **Z02-13** The southeast corner of Val Vista Drive and McKellips Road. Rezone from R1-35 to O-S (1.15 ac). This case involves the development of an office building. Mike Saager, owner; Greg Hitchens, applicant. **CONTINUED FROM THE APRIL 18, 2002 MEETING.**

Comments: Boardmember Brock declared that he had a potential conflict of interest on this case and would not participate in discussion or voting on this item.

Greg Hitchens, the applicant, stated that the original submittal for this case entailed a 2-story two building complex. Staff had concerns and contacted the applicant regarding redesigning. At that time the issue was the design being a full two stories. He added that they came back with a new design with the first level depressed one-half grade to de-intensify the site. Then, as the result of a neighborhood meeting, the entire site was redesigned instituting many of the ideas put forth at that meeting.

Cliff Strait (2701 N. Val Vista) stated he is in opposition to the project. He added that Val Vista and McKellips have a lot of traffic and with Val Vista opening to the 202 it will increase the traffic. Mr. Strait stated that this business would have a problem with ingress and egress at this site.

Glen Bowling (1807 N. Val Vista) stated that his property is four houses down from this site and he is opposed to the rezoning.

Thomas Sikora (1859 N. Val Vista) stated that he is two doors away from this property and is opposed to the rezoning as it changes the flavor of the neighborhood.

Scott Miritello (2575 N. Val Vista) stated he is concerned with the integrity of the neighborhood and asked if the project is compatible with what is existing. He added that he thought it would de-value the existing properties to bring a commercial property into a residential area.

Bill Jaffa (1313 N. Abner) stated that the property is R-1-35 and a zoning change would increase the value of that property while lowering the value of contiguous residential property. He added that the Val Vista citrus corridor is lined with some of the most expensive homes in Mesa. Nothing in the General Plan states that every arterial corner in the City should be developed as a commercial corner or other than residential. Mr. Jaffa stated his opinion that this case is being watched by the development community as a test case and, if approved, could be the impetus for more rezoning of other Val Vista citrus corridor arterial corners, such as McDowell Road.

Dina Higgins (2341 N. Lemon Circle) stated she is opposed to the project and does not believe an office use fits into the area.

Greg Hitchens, the applicant, asked what it would involve if the property stayed zoned R-1-35 and an applicant came in with plans for a residence, specifically what would be required in terms of improvements for the streets?

Mr. Mizner responded that there would not be any public hearing process or notification of neighbors. Someone would apply for a building permit. They would then be required to improve the streets, and provide a right-turn deceleration lane for northbound Val Vista. They would be assessed sewer and water connection fees based on the new house.

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Mr. Hitchens added that there is a traffic signal at that intersection and the controls are on the corner in question. It will be an astronomical cost to relocate all those controls for the signal there. Mr. Hitchens responded to some of the issues raised by previous speakers by stating that this is not a "get rich quick scheme" and that the opportunity is there to alleviate some of the traffic problems by means of a right turn lane.

Frank Mizner, Planning Director, stated that this case has been a challenge for everyone involved. Staff is recommending approval. It is a quality proposal, not an obtrusive development. There is a significant amount of traffic on this corner right now and there will be more traffic in the future as the freeway interchange is built. Is it reasonable to expect that someone would invest the amount of money necessary, not in just the home, but in off-site improvements and the land to build a home on this corner? In our professional judgment that is unlikely. Staff would not support outright commercial development on this corner or other corners, such as McDowell.

Mr. Mizner clarified that O-S zoning has been used as a tool to provide transitioning between lower and higher density residential or commercial, or a busy corner. There are a lot of examples where O-S development is immediately adjacent to residential and it has turned out to be a very compatible land-use pattern. They are typically not open on the week-end or in the evening and generate very little traffic. He added that the design would be seen by the Design Review Board if approved by Council.

Boardmember Petrie stated that the requirement for two rows of citrus, the reduced height of the building, and the fact that there is an office down the street that does not impact the area had helped him to make the decision to support this project

Boardmember Bailey stated that she did not feel this project would be bad for property values and she would support the project.

Boardmember Kathe stated that she drives Val Vista all the time and this is an area she has always been proud of. She added that the Board had not allowed developers to carve out corners, but who wants to build a million dollar home on a busy arterial corner with a stoplight in the back yard? She stated she would support the project.

Chair Zaharis stated that the citrus area is an important part of Mesa. He added that he doubts this is truly viable for residential with the off-site improvements. It will have to go to Design Review and has been made to look as residential as possible. Mr. Zaharis stated that it is slightly too intense and the 2nd story component would need to go for the project to have his recommendation. He mentioned that it is a tough place to put a residential home on a busy corner.

Vice-Chair Whalen stated that the character of the McDowell corridor is different. He added his opinion that this parcel is undevelopable so the choice would be for the owner to dedicate the parcel to the City for a park or find the least intrusive use.

It was moved by Boardmember Bailey, seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of zoning case Z02-13 conditioned upon:

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1. Compliance with the basic development as described in the project narrative and as shown on the site plan, and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
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.).
4. Dedicate the right-of-way required 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.
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Design Review Board.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City prior to the issuance of a building permit.
8. Noise attenuation measures be incorporated into the design and construction of the office to achieve a noise level reduction of 25 db.
9. Compliance with the following terms of the letter from Gregory L. Hitchens to Ryan Heiland dated February 12, 2002; this letter is incorporated into the ordinance by reference:
 - a. No medical or dental uses will be allowed to operate in this office.

Vote: Passed 5-1-1 – Zaharis voting nay Brock abstaining

Reason for Recommendation: The Board felt this proposal was well-designed and should be compatible with the neighborhood.

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Item: **Z02-21** 1350 South Longmore (1+/- ac). Council Use Permit. This case involves the development of a charter school. Randy Naess, owner; Linda Proctor-Downey, applicant.

Comments: This item was on the consent agenda therefore it was not discussed individually, however, the following comments were made in general discussions after the vote.

Vice-Chair Whalen stated for the record that he believes some philosophy or minimum set of standards from City Council is needed if they are going to take school children and put them in uses that were intended to be occasional uses by transient adults (shopping) and put kids in there all day long. He added that there ought to be some minimum standards that could be developed by the City for Council Use Permits in cases like that.

It was moved by Boardmember Kathe seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of zoning case Z02-21 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the plans submitted.
2. Compliance with all City development codes and regulations.

Vote: Passed 7-0

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent retail center.

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Item: **Z02-22** The southeast corner of Southern Avenue and Val Vista Drive (1+/- ac). Council Use Permit. This case involves the development of a charter school. M C Strauss Trust, represented by Mike Eubank, owner; Rauf Moosavi, applicant.

Comments: This item was on the consent agenda therefore it was not discussed individually, however, the following comments were made in general discussions after the vote.

Vice-Chair Whalen stated for the record that he believes some philosophy or minimum set of standards from City Council is needed if they are going to take school children and put them in uses that were intended to be occasional uses by transient adults (shopping) and put kids in there all day long. He added that there ought to be some minimum standards that could be developed by the City for Council Use Permits in cases like that.

It was moved by Boardmember Kathe seconded by Boardmember Petrie

That: The Board recommends to the City Council approval of zoning case Z02-22 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the plans submitted.
2. Compliance with all City development codes and regulations.

Vote: Passed 7-0

Reason for Recommendation: The Board felt this proposal was reasonably well-designed and should be compatible with the adjacent retail center.

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Respectfully submitted,

Frank Mizner, Secretary
Planning Director

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