

COUNCIL MINUTES

October 19, 1998

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on October 19, 1998 at 5:46 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
John Giles
Keno Hawker
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy

COUNCIL ABSENT

None

POLICE OFFICER
PRESENT

Marc Therre

OFFICERS PRESENT

C.K. Luster
Neal Beets
Barbara Jones

Invocation by Dr. James E. Adams, Cornerstone Bible Church.

Pledge of Allegiance led by Jessica, Jacqueline and Kimberly Miller from Girl Scout Troop 1431.

Recognition of community service performed by the students of Highland Elementary School, represented by Bill Taylor, Principal.

Councilmember Jaffa introduced Highland Elementary School Principal Bill Taylor, Student Council President Amy Jurnigan and Treasurer Amy Hoover to the members of the audience. Ms. Jurnigan and Ms. Hoover informed the Council that Highland Elementary School has received food and personal hygiene items from the General Mills Company and as part of a community service outreach program, the school would like to donate these items to assist the homeless in Mesa. Ms. Jurnigan added that the students also intend to add to these items by asking the school community to donate additional personal hygiene items that may be used to assist the homeless.

Mayor Brown thanked Principal Taylor, Ms. Jurnigan and Ms. Hoover for their efforts to assist the homeless in our community.

1. Approval of minutes of previous meetings as written.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, that the minutes of October 5 and 9, 1998 be approved.

Carried unanimously.

2. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified in these minutes with an asterisk (*) were approved with one Council action.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

3. Conduct a public hearing for the following General Plan Amendments.

- a. **GP98-1** The northeast corner of Higley Road and the Superstition Freeway. Change from Commerce Park (CP) to Medium High Density Residential (MHDR) 38± acres. (see Item 7a)
- b. **GP98-2** East of the southeast corner of Higley Road and the Superstition Freeway. Change from Commerce Park (CP) to Mixed Use (MU) 110± acres. (see Item 7b)

Mayor Brown announced that this is the time and place for a public hearing regarding GP98-1 and GP98-2.

Bill Brando, 61 South Macdonald, advised that he is a homeowner in the area under discussion and stated the opinion that the above listed General Plan Amendments will increase density levels. Mr. Brando informed the Council that traffic levels at that location are excessive and expressed concerns relative to air purity and safety hazards. Mr. Brando requested that the Council deny the proposed General Plan Amendments.

There being no additional speakers wishing to speak on this issue, the Mayor declared the public hearing closed.

Mayor Brown thanked Mr. Brando for his input.

4. Consider the following liquor license applications.

*a. RICHARD G. OUELLETTE, AGENT

Person transfer beer and wine bar license for JB's Restaurant, 1411 South Country Club Drive. This transfer is from Lynn Whiteford, Agent, JB's Restaurant Inc., to Richard G. Ouellette, Agent, GRR ATE Restaurants, Inc.

*b. LARRY COURTER, AGENT

New restaurant license for McKellips Grill, 3252 East McKellips Road. The beer and wine bar license previously held at this location by David Ciocca, Agent, Dragosz Linkside Golf Enterprises, Inc., did not renew 1995 liquor license.

5. Consider the following contracts.

- *a. 5,000 in-home plastic recycling wastebaskets as requested by the Solid Waste & Facilities Division. These 28-quart wastebaskets will be delivered to residents for use as part of the City's recycling program.

The Purchasing Division recommends accepting the low bid by Sun West Container Company at \$10,150.00 plus 6.80% sales tax of \$690.20 for a total of \$10,840.20.

- *b. One replacement forklift as requested by Community Center.

The Purchasing Division recommends accepting the low bid meeting specification by Toyotalift of Arizona (Alternate Bid #1) at \$18,495.00 plus 6.8% sales tax of \$1,257.66 and \$500.00 for a 5-year extended warranty, for a total award of \$20,252.66.

- *c. Annual supply contract for 25,000 gallons of sodium hypochlorite to be used for odor control at the waste water reclamation plants as requested by the Utilities Department.

The Purchasing Division recommends accepting the low bid meeting specification by Hill Brothers Chemical Company at \$17,375.00 plus 6.80% sales tax of \$1,181.50 for a total of \$18,556.50 based on estimated requirements.

- *d. One-year renewal of the annual supply contract for herbicides to be used for weed control by the Golf Course, Parks Maintenance, Building Maintenance, and Streets Maintenance.

The Purchasing Division recommends exercising the second and final one-year renewal option with the low bids as follows:

Item 1 to United Agri Products at \$38,472.00 plus 7.0% sales tax of \$2,693.04 for a total of \$41,165.04;

Item 2 to Fertilzona at \$31,600.00 plus 7.50% sales tax of \$2,370.00 for a total of \$33,970.00; and

Item 3 to Helena Chemical at \$3,160.00 plus 5% use tax of \$158.00 for a total of \$3,318.00.

The combined award is then \$78,453.04 based on estimated requirements.

- *e. Microwave equipment to replace 10-year-old radios at Fire Stations 5, 10, and the Training Facility to the City's communications network as requested by the Communications Division.

The Purchasing Division recommends authorizing an additional purchase option with original lowest overall bid by Alcatel Network Systems, Inc. at \$93,616.00 plus 5% use tax of \$4,680.80 for a total of \$98,296.80.

- *f. Modular office work stations for Parks Administration. These furnishings will be used for seven employees being relocated to the building currently occupied by Mega-Corp at 100 North Center.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Goodman's inc. at \$22,514.40 including materials, design services, delivery, installation and applicable sales tax.

- *g. Communication Building Expansion, Project 97-13.

This project involves additions to the Communications Building located at 161 East 6th Place.

Recommend award to low bidder, Ysasi Constructors, in the amount of \$1,854,500.00.

6. Introduction of the following ordinances and setting November 2, 1998 as the date for the public hearing on these ordinances.

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- *a. Pertaining to Chapter 18 of the Zoning Ordinance, amending Section 11-18-6 by deleting a specified fee; amending Section 11-18-8 regarding the purpose and intent of site plan review; amending Section 11-18-9 regarding implementation and enforcement of Design Review Board decisions; amending Sections 11-18-10,

11-18-11, and 11-18-12 involving minor technical and clerical changes; and providing penalties for the violation thereof.

- *b. Pertaining to development impact fees; amending Title 5, Chapter 17, relating to development fees; and providing penalties for the violation thereof.

7. Consider the following resolutions.

- a. Adopting an amendment to the Mesa General Plan for GP98-1 – Resolution No. 7272.
- b. Adopting an amendment to the Mesa General Plan for GP98-2 – Resolution No. 7273.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that Resolution No. 7272 and Resolution No. 7273 be adopted.

Carried unanimously.

- *c. Extinguishing a Roadway Easement in the 3400 block of North Power Road – Resolution No. 7269.

This area is being subdivided and the easement is no longer needed.
- *d. Extinguishing a temporary construction easement in the 100 block of East Baseline Road – Resolution No. 7270.

This project is completed and the easement is no longer needed.
- *e. Vacating a portion of public roadway in the 6200-6400 block of East Mallory Street – Resolution No. 7271.

Excess right-of-way due to realignment of Mallory Street.
- f. Approving and authorizing the City Manager to execute a comprehensive agreement between the City of Mesa and the Roosevelt Water Conservation District for water transportation, hydroelectric generation, and joint use of facilities – Resolution No. 7274.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that Resolution No. 7274 be adopted.

In response to a request from Councilmember Jaffa, City Manager Charles Luster stated that the contract would be amended to clarify and further protect the City's position regarding this agreement.

8. Consider the following ordinances.

- *a. Reducing the speed limit from 45 mph to 35 mph on Greenfield Road from a point 600 feet south of Virginia Street to the north City limits; increasing the speed limit from 30 mph to 35 mph on Superstition Springs Boulevard from Southern Avenue to Sossaman Road; and prohibiting parking on the north side of Pepper Place from Center to a point 215 feet east of Center, and on Garnet Avenue from Sossaman Road to 76th Place; as recommended by the Traffic Safety Committee – Ordinance No. 3538.

9. Consider the following recommendation from the Finance Committee.

- a. Adoption of Amendments 1, 2, 3, 4, and 8 (unanimous); and amendments 5, 6, and 7 (2-0-1, Jim Davidson abstaining) to the Schedule of Fees and Charges be approved.

Councilmember Davidson indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflicts of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that the recommendation from the Finance Committee be approved.

Upon tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh-Pomeroy
NAYS - None
ABSTAIN - Davidson

Mayor Brown declared the motion carried unanimously by those voting.

- *b. Acceptance of the FY 1997-98 Audit Report.

10. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances.

- *a. **Z98-45** The southwest corner of Greenfield Road and the Superstition Freeway. Site plan modification (46+/- acres). This case is a request to remove the automotive stipulation for a portion of the "East Valley Auto Mall" to allow development of an office building. Pegronefa Superstition Triangle, owner; Brian Lee, applicant – Ordinance No. 3539.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
 2. Review and approval by the Planning and Zoning Board, Design Review Board, and City Council of all parcels in the development;
 3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
 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 Regulations regarding lot splits;
 6. Compliance with all requirements of the Design Review Board;
 7. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan; and
 8. Compliance with letters dated June 8, and September 17, 1998 from Stephen Earl which are included in the zoning case file.
- b. **Z98-52** The southeast corner of Signal Butte and Adobe. Rezoned from R1-43 to R1-9 PAD (53.8 acres). This case involves development of a single-residence subdivision with approximately 153 lots. Roger Nelson, owner; Ralph Pew, applicant. **CONTINUED FROM THE AUGUST 31, AND SEPTEMBER 22, 1998 COUNCIL MEETINGS. A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST.**

P&Z Recommendations: Approval with Conditions. (Vote: 4-1-2, Parker nay, Brock and Kathe absent.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat, and elevations submitted, except as noted below;
2. Compliance with the Residential Development Guidelines;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code 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. Lots in the southern third of the subdivision to be no less than 70' wide, 117' deep; and
7. All lots north and west of the wash shall be not less than 10,000 sq. ft.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that Zoning Case Z98-52 be approved subject to the seven (7) additional stipulations as outlined in the November 19, 1998 letter from Mr. Sean Lake to the Council.

Councilmember Kavanaugh commended the neighbors and the applicant for working to produce a quality project.

Sean Lake, an attorney representing the applicant, referred to a letter distributed to the Council dated October 19, 1998, (Attachment 1) which contained additional stipulations that had been agreed to by all concerned parties. Mr. Lake indicated that one additional stipulation has been agreed upon, that the applicant landscape around the culvert that will extend over the wash, and stated that with the addition of this condition to the others contained in the letter, an agreement has been reached between the applicant and the neighbors who had previously expressed concerns regarding the project.

Dawn Nehls, 612 North Signal Butte, speaking on behalf of the Signal Butte Homeowners' Association, spoke in support of the project and commented on the fact that the wash area and a number of trees have been saved as a result of the parties' successful negotiation efforts.

Carol Owens, P.O. Box 1017, Apache Junction, concurred with the remarks of the previous speaker and commended everyone involved on their efforts and willingness to arrive at a mutually acceptable compromise.

Mayor Brown thanked the speakers for their comments.

Councilmember Davidson congratulated everyone involved on their successful negotiation efforts and stated the opinion that this case represents an excellent example of balancing density levels and environmental issues.

In response to a question from Councilmember Hawker, Community Development Manager Wayne Balmer clarified that the Council may pass a motion for approval at this time and added that a revised ordinance containing the added stipulations, could then be reintroduced at the November 2, 1998 meeting and placed on the agenda of the November 16, 1998 for Council action.

City Attorney Neal Beets expressed the opinion that in view of the changes to the proposed ordinance, it would be appropriate for the Council to adopt a motion approving the case subject to the added stipulations outlined in the November 19, 1998 letter and the additional stipulation outlined by Mr. Lake. Mr. Beets added that staff will then revise the ordinance and reintroduce it at the November 2, 1998 Regular Council Meeting.

In response to a question from Mayor Brown, Councilmembers Kavanaugh and Pomeroy stated that this is the intent of their motion that is currently before the Council.

Upon tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Kavanaugh-Hawker-Pomeroy
NAYS - None
ABSTAIN - Jaffa

Mayor Brown declared the motion carried unanimously by those voting.

- c. **Z98-53** The northwest corner of Power and Thomas Roads. Rezone from R1-9-DMP to C-2-DMP (8.7 acres). This case involves the development of a commercial strip center. AH Investments LLC, owner; Steven Bauer, applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST** - Ordinance No. 3544.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as shown on the site plan, preliminary plat, and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City at the time of recordation of the subdivision plat 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 Subdivision Technical Review Committee;
7. Compliance with all requirements of the Design Review Board;
8. All buildings to be architecturally compatible;
9. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan;
10. Compliance with letter from the applicant dated June 22, 1998; and
11. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

Steve Bauer, 320 East McDowell Road, Phoenix, representing the owner of the property, informed the Council that the property has been consistently zoned for commercial use. Mr. Bauer reported that although 118 residents in the area signed a petition in opposition to the project, recent plan revisions submitted by the applicant have addressed a majority of their stated concerns and only six or seven citizens remain in opposition at this time. Mr. Bauer noted that the gas station has been deleted from the proposal and specific landscaping and design issues have been addressed. Mr. Bauer added that the single neighbor who spoke in opposition to the approval of this case at the Planning and Zoning Board meeting is not present at this time and emphasized his intention to keep the neighbors informed of the status of the project.

Mayor Brown commended the applicant and the neighbors on working together to resolve issues of concern.

It was moved by Councilmember Pomeroy, seconded by Councilmember Jaffa, that Ordinance No. 3544 be adopted. Carried unanimously.

- *d. **Z98-73** The northeast corner of University and Extension. Rezone from R-2 to C-2 and site plan review (1+/- acre). This case involves the development of a Walgreens. Mt. Baldy Limited Partnership, owner; Evergreen Devco, Inc. applicant – Ordinance No. 3540.

P&Z Recommendations: Approval with conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
 2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
 3. 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;
 4. Recordation of cross-access agreements;
 5. Compliance with all requirements of the Design Review Board; and
 6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance outlined in the staff report.
- *e. **Z98-74** The southwest corner of Broadway and Sossaman. Rezone from O-S and R1-6 to C-2 (4.21 acres). This case involves the development of a Walgreens store, a drive-through restaurant, and two retail buildings. Greco Trust and Therese Saba, owner; Evergreen Devco, Inc. applicant. **THIS CASE HAS BEEN WITHDRAWN BY THE APPLICANT.**
- *f. **Z98-76** North of the northeast corner of Power Road and Broadway. Site plan modification (12.65 acres). This case involves the development of a convenience store and fuel pumps. Albertson's Inc. owner/applicant. **THIS CASE HAS BEEN WITHDRAWN BY THE APPLICANT.**
- g. **Z98-77** The southeast corner of Baseline Road and Roslyn. Site plan review (3.72 acres). This case involves the development of four pad buildings. PriceSmart, Inc. owner; Dexter Ives, applicant.

P&Z Recommendations: Denial. (Vote: Passed 4-3, Zaharis, Petrie, Brock nay.)

Mr. Joe Cattaneo addressed the Council relative to this agenda item and provided a brief history of the site. Mr. Cattaneo stated that the property was formerly a proposed site for a Price Club but that this proposal was abandoned when the Price Club opened a store in the Superstition Springs area. Mr. Cattaneo added that the parcel was then down-zoned from all C-2 to mostly single family residences. Mr. Cattaneo advised that the parcel in question consists of 3.72 acres and discussed the applicant's plans to develop four pad buildings and stated the opinion that the proposal is compatible with the surrounding area.

Discussion ensued relative to the fact that the applicant has agreed to eliminate one of the two drive through restaurants, revise the trash enclosure areas as required by City ordinance, and plant a double row of trees along the southern property lines.

Community Development Manager Wayne Balmer noted that the Planning and Zoning Board, by a split vote, voted to deny the applicant's request. Mr. Balmer added that should the Council pass a motion to approve the case, staff would introduce an ordinance at the November 2, 1998 Regular Council Meeting for consideration at the November 16, 1998 Regular Council Meeting. Mr. Balmer informed the Council that the main area of concern is the issue of additional pad sites and stated that although the current plan is considerably better than the original, staff still has concerns regarding the number of pad sites.

It was moved by Councilmember Jaffa, seconded by Councilmember Pomeroy, that Zoning Case Z98-77 be referred back to the Planning and Zoning Board for additional review and consideration.

Carried unanimously.

- h. **Z98-79** The northwest corner of Baseline and Val Vista Drive. Rezone from R1-7-DMP to C-2-BIZ-DMP (Conceptual R-4) (66+/- acres). This case involves the development of a retail center with residences and a hotel. CB Richard Ellis Co. owner, Beus, Gilbert & Devitt, applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST.**

P&Z Recommendations: Approval with Conditions. (Vote: Passed 6-0-1, Boardmember Udall abstained.)

1. Compliance with the basic development as described in the project narrative and design guidelines and as shown on the site plan, commercial preliminary plat, and elevations submitted, except as noted below;
2. Review and approval by the Planning and Zoning Board, Design Review Board, and City Council of future development plans for all arterial street pad buildings;
3. Review and approval by the Design Review Board of all buildings;
4. Compliance with all requirements of the Public Works Department (Solid Waste and Facilities, Engineering, and Traffic Engineering, etc.);
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. All arterial street improvements, arterial street landscaping, and open space/retention area (except for the central core area) to be installed in the first phase of construction;
7. Compliance with all requirements of the Subdivision Technical Review Committee;
8. Record a one foot nonvehicular access easement along Baseline Road and Val Vista Drive;
9. Compliance with all requirements of the Design Review Board;
10. All pad buildings to be architecturally compatible in compliance with the character described in the project narrative;
11. Provide a consistent landscape theme (vegetation, plant palette, street furniture, and pavement pattern) throughout;
12. Provide pedestrian connections (pavement patterns, landscaping, sidewalks, etc.) between all pad buildings;
13. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan;
14. No auto-related uses (lube shops, auto repair, body shops, auto parts stores, or related facilities) permitted on the entire site; and
15. Construction of the interior core must begin prior to completion of 75% of the parcels immediately adjacent to Val Vista Drive and Baseline Road.

Jason Morris, 3200 North Central Avenue, Phoenix, an attorney representing the applicant, addressed the Council relative to this agenda item. Mr. Morris commented on the uniqueness of the project and the fact that the developer has attained national recognition as a developer of signature projects.

Mr. Morris discussed extensive effort on the part of the neighbors and the applicant to arrive at a mutually agreeable solution to stated concerns.

Mr. Stacy Rush, President of Triple Five, the developer of the project, project architect Bob Saemisch and Planning Consultant Jennifer Brooks presented a brief overview of the project to the Council. Mr. Saemisch described the proposal as a quality project that will bring together a unique blend of uses, including residential over retail, shops, restaurants, arcades, an entertainment block, a three or four star hotel, and parking garages located towards the center of the project to encourage pedestrian activity. Mr. Saemisch added that a park will buffer homes to the west and will be built in the first phase of the project.

Mr. Rush informed the Council that the 'urban village' concept will allow people to live, dine and shop all in one location and stressed that the project will be a pedestrian friendly, architecturally-pleasing project with space for boutiques, galleries, and shops not currently found anywhere in Mesa. Mr. Rush emphasized that the Triple Five Corporation is sensitive to the communities in which they locate and discussed extensive efforts expended by the developer to solicit neighbors' assistance in planning the project.

Rebecca Jarmin, a homeowner in the area, spoke in support of the project and discussed difficulties she experienced as a homeowner in the adjoining Richmond Homes subdivision. Ms. Jarmin urged the Council to approve Zoning Case Z98-79.

Edward Bunker, 1841 South Helms, advised that his property adjoins the proposed development and said that he is satisfied that the project will enhance the area. Mr. Bunker requested that the Council approve the developer's request.

Glade Jarmin, 3248 East Jacinto, commended the developer on his efforts to work with the neighbors on this quality project and spoke in strong support of the proposal.

Brad Byington, a resident in the area, spoke in strong support of the project and stated the opinion that the development will enhance the neighborhood and the community as a whole.

Deana Otis commended the developer on his efforts to work with the neighbors and urged the Council to approve the proposal.

Joel Broder, Senior Vice Present of Richmond American Homes, responded to comments from a previous speaker regarding Richmond American Homes and stated the opinion that a majority of the comments are based on inaccurate information. Mr. Broder informed the Council that the Dana Ranch project was owned and master planned by the Dana family. Mr. Broder added that the zoning attorney who proposed the planned community to the City of Mesa is the same zoning attorney who is proposing the revised community. Mr. Broder emphasized that Richmond American Homes was strictly the home builder and did not plan the master community.

Discussion ensued relative to the fact that Richmond American Homes bought platted, engineered lots in the community, the fact that it was not Richmond American Homes' responsibility to secure dedicated rights-of-way for invernness or for the homeowners' association parks, the fact that Richmond American Homes was informed that the project would include a wide range of amenities including a school, a shopping center, a park, a road and apartments, Mr. Broder's opinion that the developer and the City of Mesa, rather than Richmond American Homes, failed to fulfill their obligations, and the fact that the City required the homebuilder to construct a road.

In response to additional comments from Mr. Broder, Mayor Brown recommended that Mr. Broder meet with City staff to address stated concerns.

Mr. Morris stated that the project represents a true mixed-use project and said that the applicant is relying upon the residential component. Mr. Morris referred the Council to stipulation number two in the proposed ordinance, which requires review and approval by the Planning and Zoning Board, Design Review Board and City Council for future development plans for all arterial street pad buildings, and stated the opinion that requiring the applicant to appear before the above stated groups for each of the parcels that are not part of the main promenade would pose a hardship and result in unnecessary delays. Mr. Morris requested that stipulation number two be deleted and that the applicant be required to appear before the Planning and Zoning Board, Design Review Board and City Council only if the developer changes his mind and/or a user for the parcel approaches with a different concept for the project which would require a site-plan amendment.

Councilmember Kavanaugh spoke in support of the mixed use concept and stated the opinion that the project represents a model example of citizen participation. Councilmember Kavanaugh commended the applicant and added that he supports the elimination of stipulation number two.

Discussion ensued among the members of the Council relative to the positive aspects of this proposal on the entire community.

In response to a question from Mayor Brown, Community Development Manager Wayne Balmer stated that the Council may vote to approve the case and staff will prepare an amended ordinance, eliminating stipulation number two, for introduction at the November 2, 1998 Regular Council Meeting.

It was moved by Councilmember Jaffa, seconded by Councilmember Pomeroy, that Zoning Case Z98-79 be approved.

In response to concerns expressed by Councilmember Hawker relative to the elimination of stipulation number two, Mr. Morris stated that a strict set of design guidelines have been established which, if changed, will require the applicant to appear before the City Council, the Design Review Board, and City staff.

Following additional discussion regarding this issue, Mayor Brown requested that the Council cast their votes on this matter.

Carried unanimously.

- i. **Z98-80** The northwest corner of Val Vista and Hermosa Vista Drives. Rezone from R1-35 to R1-35-PAD (60+/- acres). This case involves the development of a gated single-residence subdivision. Val Vista Ranches, owner; Monterey Homes, applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST.**

P&Z Recommendations: Approval with Conditions. (Vote: Passed 4-3, Parker, Kathe, Brock nay.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat, and the elevations submitted, except as noted below;
2. Compliance with the Residential Development Guidelines, including a continuation of architectural detailing around the building;
3. Compliance with all requirements of the Public Works Department (Solid Waste and Facilities, Engineering, and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code 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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report;
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 (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit);
8. Written notice be provided to future residents, and acknowledgment received that the project is within one mile of Falcon Field Airport;
9. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
10. Provide along Val Vista Drive at least two rows of citrus outside the subdivision perimeter wall; citrus to be maintained by the Homeowners Association;
11. Subdivision approved at 65 lots;
12. Provide a meandering sidewalk adjacent to the arterial, as required by Public Works; and

13. Compliance with the letters from Ross Hermann of Monterey Homes dated September 14, and September 15, 1998.

Mayor Brown read a letter into the record from Louis and Carol Kish requesting that their legal protest be rescinded.

In response to a question from Mayor Brown, Mr. Balmer advised that sufficient opposition to the case exists to require a $\frac{3}{4}$ vote.

Jason Morris, 3000 North Central, Phoenix, an attorney representing the applicant, discussed extensive efforts expended by the applicant in an effort to address neighbors' concerns and arrive at a mutually agreeable proposal, including approximately 30 neighborhood meetings.

Mr. Morris discussed the City's General Plan and stated that the plan provides for 1.12 dwelling units per acre and added that the project represents the lowest density subdivision that has appeared before the Council for rezoning to an R1-35-PAD.

Discussion ensued regarding surrounding zoning, the importance of preserving the character of the area, the fact that the current proposal calls for the construction of 63 homes versus the originally requested 65, the fact that the request will allow the applicant to develop a unique, quality project with security gates, the preservation of citrus, and a variety of quality amenities, the developer's intention to create a signature development in this area, and the fact that an acceptable compromise has been agreed to by all of the parties concerned.

Mr. Morris referred to a letter dated October 19, 1998 and an attached list of seven (7) additional stipulations which reflect an agreement that has been reached between the developer and the neighbors. (Attachment 2)

Mayor Brown advised that a significant amount of speakers have submitted requests to address the Council and present remarks in opposition to the project.

Mr. Morris outlined the significant revisions the applicant has agreed to in order to arrive at an acceptable agreement and informed the Council that it was his understanding that such an agreement had been reached between the applicant and the neighbors. Mr. Morris expressed surprise at the number of neighbors who are indicating opposition at this time and stated the opinion that the issue of 63 lots versus 60 lots is not sufficient justification to reject the proposal.

The following citizens spoke in favor of approving Zoning Case 798-80 and commented that the project is compatible with the surrounding area, will enhance property values, and constitutes a quality development:

Dina Higgins	2341 North Lemon Circle
Hassan Pirastehfar	3720 East Menlo

The following citizens spoke in opposition to the approval of Zoning Case Z98-80 and expressed concerns relative to setbacks, density levels, maintaining a rural atmosphere, property values, and increases in traffic levels:

Lew Lenz	3717 East Pomegranate
Cora Lenz	3727 East Pomegranate
Barbara Henderson	3640 East Pomegranate
James Jenkins	3660 East Pomegranate
Lucio Garcio	3659 East Pomegranate
Jean Bergen	2251 North 32nd Street, #31
Nicholas Hagen	2251 North 32nd Street, #20
Pat Richards	3618 East Pomegranate
Susan & Donald Chudy	3657 East Palm

Cliff Strait	2701 North Val Vista
Sheri Mills	3943 East Omega Circle
Donald Traicoff	2251 North 32nd Street
Ruth Skousen	2451 North Val Vista

Mayor Brown thanked the speakers for their input.

In response to a question from Councilmember Kavanaugh, Mr. Balmer advised that should the Council vote to approve the case, staff would prepare a revised ordinance changing the number of homes listed in stipulation number 11 from 65 homes to 63 and adding the 7 additional stipulations.

Councilmember Jaffa commented that the applicant has the ability to develop a conventional subdivision and construct 60 homes on the property. Councilmember Jaffa discussed the fact that the current proposal represents a high quality product with extensive amenities and questioned whether the neighbors in opposition to the project have thoroughly evaluated their alternatives. Councilmember Jaffa pointed out that should the applicant proceed with a conventional subdivision, he has the ability to remove all of the citrus trees on the property, does not have to agree to provide irrigation, the homes may be of a lesser quality/price range which would affect property values, and the final product may not be as compatible as the current proposal to the surrounding area. Councilmember Jaffa cautioned the residents to strongly consider their alternatives and determine whether the difference of three homes, 60 versus 63, is worth all of the other changes that may occur should this proposal not be approved.

Mr. Morris addressed the Council and stated that he has worked diligently with the neighbors in an effort to arrive at a compromise solution that would benefit everyone concerned. Mr. Morris discussed Monterey Homes' intention to build on this property irregardless of the outcome of this case and concurred with Councilmember Jaffa's remarks relative to the fact that the neighbors would not benefit from the development of a conventional subdivision. Mr. Morris stated the opinion that the additional three homes would not negatively impact the area and stressed the benefits of approving the current proposal which consists of a 63 lot subdivision containing all of the amenities that have been requested by the neighbors.

Steve Hilton, President of Monterey Homes, addressed the Council and commented on the quality product his company provides. Mr. Hilton stated the opinion that the proposed gated subdivision, containing irrigated citrus and the company's most luxurious basement home model, is compatible with the surrounding neighborhood. Mr. Hilton added the opinion that the type of homes that would be built in a conventional subdivision would detract from rather than enhance the area and urged the Council to approve the case.

Councilmember Kavanaugh stated the opinion that the applicant has made significant progress in his response to the neighbors' concerns and requests. Councilmember Kavanaugh questioned whether the additional three homes requested by the applicant is worth the difference in the type of subdivision that may be built if this case is not approved. Councilmember Kavanaugh urged the residents to thoroughly consider the ramifications of the development of a conventional subdivision versus the current proposal.

It was moved by Councilmember Kavanaugh that Zoning Case Z98-80, including the seven additional stipulations outlined in the October 19, 1998 letter, be approved.

Mayor Brown declared the motion dies for lack of a second.

Vice Mayor Giles commented that he lives in the area currently under discussion and expressed the opinion that a continuance may be in order to allow additional time to consider this case.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that this case be continued to the November 16, 1998 Regular Council Meeting and that staff be instructed to prepare an ordinance for introduction at the November 2, 1998 Regular Council Meeting which conforms with the applicant's current proposal.

In response to a question from Mayor Brown, City Attorney Neal Beets stated that the Council cannot act on the ordinance at this time based on the fact that the conditions of approval have been revised.

Vice Mayor Giles commented that the continuance will allow the neighbors and the applicant to continue their discussions and negotiations prior to the November 16, 1998 Regular Council Meeting, at which time the Council will take action on the proposed case.

Councilmember Davidson expressed the opinion that the proposed subdivision adds to the inventory of existing executive homes in Mesa and stated that the project represents a quality product.

Mayor Brown concurred with Councilmember Davidson's remarks and stated the opinion that the builder intends to build a high-quality development that will enhance rather than devalue the surrounding area. Mayor Brown urged the residents to consider all aspects of this case and attempt to arrive at an acceptable agreement.

Carried unanimously.

- j. **Z98-81** The northwest corner of McKellips and Hawes Roads. Rezone from R1-35 to R1-35-PAD (36.8 acres) This case involves the development of a gated single-residence subdivision. Anna Lou Kelso, owner; Arizona Land Advisors, applicant – Ordinance No. 3545.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, elevations, and preliminary plat submitted, except as noted below;
2. Compliance with the Residential Development Guidelines and review of product and elevations prior to recordation of the final plat;
3. Compliance with all requirements of the Public Works Department (Solid Waste and Facilities, Engineering, and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code 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; and
6. Compliance with the Desert Uplands Guidelines and the Desert Uplands Development Standards.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted reflected in the minutes of the meeting and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Kent Xander, representing the applicant Arizona Land Advisors, addressed the Council relative to this agenda item. Mr. Xander noted that the proposal has received the endorsement of the Spook Hill Homeowners' Association and discussed efforts to preserve the desert uplands area and maintain lower density levels.

Carol Owens, P.O. Box 1017, stated that she supports the proposal and spoke in support of preserving as much of the desert uplands areas as possible. Ms. Owens urged the Council to require higher density levels in the future.

Chris Anderson, 3327 North Hawes, informed the Council that he is opposed to any proposal that would change the zoning on this parcel of land. Mr. Anderson stated that he lives approximately one mile away from the property currently under discussion and said that the area is unique and must be protected.

Mayor Brown thanked the speakers for their input.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that Ordinance No. 3545 be adopted.

Upon tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Hawker-Kavanaugh-Pomeroy
NAYS - None
ABSTAIN - Jaffa

Mayor Brown declared the motion carried by majority vote of those voting and Ordinance No. 3545 adopted.

- *k. **Z98-83** The southwest corner of McKellips Road and Alta Mesa Drive. Rezone from C-2 to O-S (4+/- acres). This case involves the development of an assisted living facility. Russell Weihart, owner; David Evans & Associates, Inc., applicant – Ordinance No. 3541.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat, and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. 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;
4. Compliance with all requirements of the Design Review Board; and
5. Review and approval of a Special Use Permit by the Board of Adjustment for an assisted living facility.

- *l. **Z98-85** North and east of the northeast corner of Baseline Road and Val Vista Drive. Rezone from O-S to C-2 and site plan modification (11+/- acres). This case involves the development of an office and retail complex. Benevest Development Group, owner; GAA Architects, Inc., applicant – Ordinance No. 3542.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as shown on the site plan, preliminary plat, and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. 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;
4. All street improvements and perimeter landscaping to be installed in the first phase of construction; and
5. Compliance with all requirements of the Design Review Board for all buildings.

- *m. **Z98-86** East of the southeast corner of Higley Road and the Superstition Freeway. Rezone from AG (conceptual PEP) to R-3, C-1, and PEP with DMP overlay (110+/- acres) This case involves the development of a multi-use employment center. The Langley Group, owner; Ralph Pew, applicant. Ordinance No. 3543.

P&Z Recommendations: Approval with Conditions. (Vote: Passed 7-0.)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat, and elevations submitted, except as noted below;
2. Zoning designation PEP, C-1, and R-3 be established as requested;

3. Review and approval by the Planning and Zoning Board, Design Review Board, and City Council of future development plans;
 4. Compliance with all City development codes and regulations;
 5. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
 6. 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;
 7. Compliance with all requirements of the Subdivision Technical Review Committee; and
 8. Compliance with all requirements of the Design Review Board for all buildings.
- *n. **Z98-92** The southeast corner of Greenfield Road and the Superstition Freeway. Site Plan modification (23± acres). This case involves the development of a commercial recreation center. Golf Financial Corp., owner; Beus, Gilbert & Devitt, applicant. **THE APPLICANT HAS REQUESTED THAT THIS CASE BE WITHDRAWN.**

P&Z Recommendations: Denial. (Vote: Passed 7-0.)

11. Consider the following subdivision plats.

- *a. "BOULDER MOUNTAIN HIGHLANDS UNIT IIIA" - The 2600 block of North Ellsworth Road (east side); 51 R1-15-PAD single-residence lots (14.25 acres). Pulte Home Corporation, developer; AGRA Infrastructure, Inc., engineer.
- *b. "BOULDER MOUNTAIN HIGHLANDS UNIT IIIB" - The 2800 block of North Ellsworth Road (east side) 60 R1-15-PAD single residence lots (38.68 ac.) Pulte Home Corporation, developer; AGRA Infrastructure, Inc., engineer.
- *c. "BOULDER MOUNTAIN HIGHLANDS UNIT IIIC" -- The 2600 block of N. Ellsworth Road (east side) 37 R1-15-PAD single residence lots (9.07 ac.) Pulte Home Corporation, developer; AGRA Infrastructure, Inc., engineer.
- *d. "SONORAN VILLAGE" -- The 1000 block of N. Ellsworth Road (west side) 61 *Maricopa County* R1-6-RUPD single residence lots (14.71 ac.) Granite Capital, Inc., developer; David Evans and Associates Inc., engineer.
- *e. "MESA CORONADO III" -- The 1400 block of W. Emerald Avenue (east side) 33 R-4-PAD condominium units (1.73 ac.) Creative Classic Corporation, developer; D.N.A. Inc., engineer.

12. Adjournment.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the Regular Council Meeting adjourn at 9:26 p.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 19th day of October 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1998

BARBARA JONES, CITY CLERK

ATTACHMENT 1

W. Ralph Pew, P.C.
Real Estate and Land Use Attorneys

10 West Main Street
Mesa Arizona 85201

602 461 4670 phone
602 461 4675 fax

LandUseLaw@ipxnet.com

W. Ralph Pew

Certified Real Estate Specialist

Sean B. Lake

October 19, 1998

HAND-DELIVERED

Mayor Wayne Brown and Council Members
City of Mesa
20 E. Main Street
Mesa, Arizona 85201

Re: Southeast Comer of Signal Butte and Adobe Roads Z98-52

Dear Mayor and Council Members:

This firm represents the property owner in connection with the above-described zoning case. Over the last several months, the Property Owner has worked with the adjacent neighbors to reach an agreement regarding the development of the property. This letter is provided to make a part of the record the following stipulations to which the Property Owner has agreed.

- 1) **Density:** The Property Owners agrees to the 123 Lot plan dated October 7, 1998.
- 2) **Single Story Homes:** The Property Owner agrees to build single story homes on all lots that abut Adobe Road and Signal Butte Road.
- 3) **Vegetation:** The Property Owner agrees to hire an expert to survey the specimen native trees and cacti and preserve as many as possible. The open space areas and buffers will be landscaped with relocated trees and cactus or a desert low water usage plant palette.
- 4) **Amenities:** The Property Owner agrees to incorporate a covered picnic area including a shaded tot lot, ramada, barbecues and picnic tables in the central amenity area.
- 5) **Wall Design:** The Property Owner agrees to modify the wall design to be more consistent to the natural surroundings.

- 6) **Home Design:** The Property Owner agrees to only ground mounted A/C units and low reflective tile roofs.
- 7) **Buffer on Signal Butte:** The Property Owner agrees to a 30' buffer (20' outside the property wall and 10' in the R.O.W.) to be installed by the developer and maintained by the Homeowners Association.

Sincerely,

Sean B. Lake

SBL: gss

cc: Roger Nelson (via facsimile transmission)
Wayne Balmer (via facsimile transmission)
Dawn Nehls (via facsimile transmission)

ATTACHMENT 2

BEUS, GILBERT & DEVITT
P. L. L.C.
ATTORNEYS AT LAW

SUITE 1000 GREAT AMERICAN TOWER
3200 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA 85012-2417
(602) 274-8229
FAX (602) 234-5893

JASON B. MORRIS
DIRECT (602) 240-2962

FILE NUMBER
67099-014

October 19, 1998

VIA HAND DELIVERY

Mr. Wayne Balmer
Community Development Director
City of Mesa
20 East Main Street
Mesa, AZ 85201

Re: Monterey Homes/Z98-80

Dear Mr. Balmer:

Pursuant to our meeting Saturday morning with representatives of the Northeast Mesa Homeowners Association and Councilmember Jaffa, enclosed are revised stipulations reflecting our agreement with the neighborhood. It is my understanding these stipulations will be introduced with a revised ordinance eliminating any conflicting stipulations at the next possible Council meeting. It is further my understanding the City Council will hold a public hearing this evening on the merits of our case, but will not take action on the existing ordinance.

Thank you for your time on Saturday morning and all of your effort concerning this case. If you have any questions or comments about the enclosed stipulations, please contact me immediately.

Very truly yours,

BEUS, GILBERT & DEVITT, P.L.L.C.

Jason B. Morris

JBM:rlk
Enclosure

cc: Councilman Bill Jaffa
Steve Hilton

Russ Hermann
Lou Lenz

ADDITIONAL STIPULATIONS TO Z98-80
AGREED TO BY APPLICANT AND NEIGHBORS
OCTOBER 17, 1998

1. Applicant shall eliminate an additional two (2) lots from the preliminary plat. One (1) lot shall be removed from both the north and south perimeter resulting in six (6) lots remaining on the south perimeter and five (5) lots remaining along the north perimeter. Subdivision shall be limited to sixty-three (63) homes.
2. All home adjacent to the northern perimeter shall be limited to one-story. Existing lots 59, 60, and 61 located along the southern perimeter shall also be limited to one-story. No more than five (5) two-story homes shall be permitted along Val Vista Drive.
3. Three (3) citrus trees (15 gallon) shall be provided for each home along the northern perimeter. Said trees shall be located outside the perimeter wall at the direction of the neighbors immediately north of the subject property. The applicant shall also provide a five (5) foot easement north of the perimeter wall to accommodate the location of landscaping. Applicant shall be responsible for installation of citrus trees outside the northern perimeter wall, but all future maintenance shall be the responsibility of the individual property owners immediately north of the subject site.
4. Applicant shall provide at least one (1) row of citrus trees along all street frontages (Val Vista Drive and Hermosa Vista Drive). Applicant shall also be responsible for installation of an irrigation system for the northern forty (40) acres and shall adopt a citrus preservation program including building envelopes on the northern forty (40) acres. Homes located on the southern twenty (20) acres of the property shall receive at least three (3) new citrus trees each.
5. Applicant shall provide models as presented in the submittal to the City of Mesa including at least one (1) fully improved basement home.
6. All perimeter and entry landscaping shall be in excess of the City of Mesa standards and shall incorporate lush foliage.
7. All interior street lighting shall be the least intensive permitted by the City of Mesa, and shall mirror the Desert Uplands typical lighting plans (shoebox variety).