

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers

Date September 15, 2005 Time 4:00 p.m.

MEMBERS PRESENT

Rich Adams, Chair
Barbara Carpenter, Vice-Chair
Alex Finter
Bob Saemisch
Frank Mizner
Jared Langkilde
Ken Salas

MEMBERS ABSENT

OTHERS PRESENT

John Wesley
Dorothy Chimel
Tom Ellsworth
Brandice Elliott
Jennifer Gniffke
Krissa Hargis
Ryan Matthews
Maria Salaiz
Jo Donovan

Cory Whittaker
Gordon Sheffield
Glenn Fuller
Jeff Louden
Merle Louden
Weston Mecham
Michael Kemplin
Ronald Walters
Mark Irby
Others

Chairperson Adams declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated September 15, 2005. Before adjournment at 5:20 p.m., action was taken on the following items:

It was moved by Boardmember Mizner, seconded by Boardmember Langkilde that the minutes of the August 18, 2005 meeting be approved as amended. The vote was 4-0, (Adams, Salas, and Saemisch abstaining.)

Consent Agenda Items: All items identified with an asterisk (*) were approved with one Board motion. Boardmember Salas read the Consent Agenda into the record.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Mizner that the second consent agenda regarding Zoning Case Z05-90 be approved. Vote 6-0 (Finter abstaining due to conflict of interest.)

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Code Amendment: *Amending Section 11-18-8 of the Zoning Ordinance by adding a fee for Section 106 Reviews, which are required by the National Historic Preservation Act of 1966.

Code Amendment: *Amending Section 11-1-6 “Definitions” and Section 11-13-2 “Supplementary Provisions” of the Zoning Ordinance pertaining to replacement of the term “infill site” with the term “by-passed properties”.

Code Amendment: Amending City Code Title 2 Chapter 1 “Planning and Zoning Board” and Amending City Code Title 11, Chapter 18 “Zoning Ordinance – Administration and Procedures” providing for a Planning Hearing Officer. Consider the guidelines for determining which items go through the Planning Hearing Officer.

Code Amendment: *Amending Section 11-18-8 K of the Zoning Ordinance pertaining to the legal protest filing deadline from the Friday noon prior to the City Council public hearing to one week prior to the City Council public hearing.

Zoning Cases: Z05-86, *Z05-87, *Z05-88, *Z05-89, *Z05-90.

General Discussion Items:

1. Second day of publication of Legal Notices.
2. Procedural changes of Site Plan Review and Site Plan Modification Cases.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Amending Section 11-18-8 of the Zoning Ordinance by adding a fee for Section 106 Reviews, which are required by the National Historic Preservation Act Of 1966.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board approve and recommend to the City Council approval of Amending Section 11-18-8 of the Zoning Ordinance by adding a fee for Section 106 Reviews, which are required by the National Historic Preservation Act of 1966.

Vote Passed 7-0.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Amending Section 11-1-6 "Definitions" and Section 11-13-2 "Supplementary Provisions" of the Zoning Ordinance pertaining to replacement of the term "infill site" with the term "by-passed properties".

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board approve and recommend to the City Council approval of Amending Section 11-1-6 "Definitions" and Section 11-13-2 "Supplementary Provisions" of the Zoning Ordinance pertaining to replacement of the term "infill site" with the term "by-passed properties".

Vote Passed 7-0.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Amending City Code Title 2 Chapter 1 "Planning and Zoning Board" and Amending City Code Title 11, Chapter 18 "Zoning Ordinance – Administration and Procedures" providing for a Planning Hearing Officer. Consider the guidelines for determining which items go the Planning Hearing Officer.

Comments: Mr. Wesley, Planning Director, stated that the Board had been looking at this item for sometime and added that the Planning Hearing officer will be similar to the Planning and Zoning Board in reviewing cases having to do with rezonings, preliminary plats, and making recommendations to the City Council just like the Planning and Zoning Board. He added that by creating this position staff will contract someone to hear cases on a more frequent basis and items that would go to the Planning Hearing Officer would be selected based on the guidelines that are presented in the report. He added that these cases would require citizen participation, public notice requirements, a public hearing and forwarding to City Council. Mr. Wesley also stated that Council would have the opportunity to send cases back to the Planning and Zoning Board or to the Planning Hearing Officer.

Boardmember Finter stated that he supports utilizing the Planning Hearing Officer for minor cases and believed that streamlining the process without sacrificing citizen participation was a positive step to attract the quality development needed. He stated that by using this option provided for a better check and balance system and asked the Board if they would rather have the Planning Hearing Officer appointed by the Mayor and Council or hired and fired by the Planning Director.

Boardmember Mizner stated that this idea had been discussed for 3 to 4 years. He stated that while looking at other cities in Arizona the staff would learn to implement a streamlined process, but also provide some protection to the citizens. The cases heard by the Planning Hearing Officer would still have to go through the full Public Notice process, properties would be posted and legal notices would be placed in the paper. He outlined that the smaller cases were the cases that would be heard by the Planning Hearing Officer and that any large cases would still come before the Planning and Zoning Board. Boardmember Mizner felt this was a positive step and should be forwarded to Council.

Boardmember Saemisch stated that streamlining the process would eliminate the emotional debate that sometimes occurs. He stated that the Planning Hearing Officer would need to know the system, and have experience adjudicating these types of decisions. The Planning Hearing Officer would need to keep all decisions within the requirements of the law.

Boardmember Mizner stated that this is a new process and a positive change. He stated he would like to see the Board be kept current with status reports, minutes, presentations, an annual report and to be kept aware of the decisions that the Planning Hearing Officer makes. He felt it was important that the Board be aware of how these cases were supported by the City Council.

Boardmember Finter stated that he understood Boardmember Saemisch's comments regarding appointing a layperson versus someone with technical expertise and background. He stated that the Board has varying backgrounds, but that the staff should know through citizen participation which cases should be taken to the Planning Hearing Officer. He also mentioned that varying cities use different methods for appointing a hearing officer and that either the appointment method or the hiring method work positively in both directions.

Chairman Adams stated this request goes back almost three years and that when it was first

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

presented he was opposed to it. He now states that he is going to support the staff's recommendation as long as all of the checks and balances are in place. He felt that if an applicant was not happy with a decision then they had the opportunity to come before the Planning and Zoning Board and he had no problem with having a Planning Hearing Officer.

Boardmember Finter reiterated that he supports this matter and felt it was a move in the right direction. He questioned Mr. Wesley as to whether or not the guidelines that the Board received would be the same guidelines the City Council would receive. Mr. Wesley answered yes.

It was moved by Boardmember Mizner, seconded by Boardmember Saemisch

Vote: 7-0

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Amending Section 11-18-8 K of the Zoning Ordinance pertaining to the legal protest filing deadline from the Friday noon prior to the City Council public hearing to one week prior to the City Council public hearing.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board approve and recommend to the City Council approval of Amending Section 11-18-8 K of the Zoning Ordinance pertaining to the legal protest filing deadline from the Friday noon prior to the City Council public hearing to one week prior to the City Council public hearing.

Vote Passed 7-0.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: **Z05-86 (District 4)** 1316 East Southern Avenue (north side). Located on the northwest corner of East Southern Avenue and South Doran Street (1.13ac). Rezone from O-S to C-1 and Site Plan Review. This request will allow for the development of a commercial building with ancillary office and warehouse spaces. Ronald E. Walters, owner; Richard (Pete) L. Nicolds, applicant

Comments: Mr. Mark Irby, 605 S. Ash, Tempe, Arizona, applicant, stated that this is a rezoning for a retail building. The building has a landscape setting that pulls it towards the main intersection, with parking away from Southern, and a landscape buffer between the building and the residential property to the north. He stated they are looking for relief from the building height for the rotunda.

Boardmember Mizner asked Mr. Irby to discuss the applicant's Public Participation efforts on this project. Mr. Irby stated that the owners did notify neighbors within the required limits and walked the neighborhood. The applicant also had neighborhood meeting, which was attended by a couple of neighbors and Ryan Matthews from the City of Mesa.

Mr. Ron Walters, owner and partner of the Gallery of Fans and developer of the new retail center stated that he personally went out and spoke with the neighbors before they purchased the property. The only people he did not contact were the larger neighbors, such as: Food City Corporate. He also did not contact his current landlord, due to conflict of interest. The only neighborhood concern was blocked visibility, and another neighbor was interested in becoming a tenant.

Mr. Jeff Loudon, 20377 E. Pecan Lane Queen Creek, Arizona, owner of the building at 1250 E. Southern Avenue, stated he had numerous concerns, but his main concern was the location of the building. The new building would be sitting forward on the lot and he felt it did not conform to the setbacks. He also stated that he received the Citizen Participation letter three days after the neighborhood meeting. Mr. Loudon also had concerns with additional traffic and with the building height. He recommended the Board deny this request.

Mr. Glen Fuller, 1049 S. Lazona, resident, stated he raised the question at the neighborhood meeting regarding the visibility. He now states that he feels this is not a concern and that he finds the project acceptable.

Mr. Merle Loudon, 325 S. Winterhaven, stated the he is the managing partner for 3 L's L.L.C., and that he owned the building 200 feet to the west formally Gallery of Fans, and had concerns with the location of the building. He wanted to ensure that the 10-foot set back for right-of-way that he had to give for his building, be met by this new project. He also had a concern with the two-story building hiding his building and having a hard time leasing his building. Mr. Loudon recommended that the Board not approve this case.

Mr. Weston Mecham, resident, stated he had lived in the area for the last 7 years and that he received two different letters regarding this project, which confused him. His other concerns were the two-story height of the building and whether or not he could build a second story on his home, and asked whether a stoplight could be placed at the corner of Doran Street and Southern Avenue. Mr. Mecham requested that the Board do the best for the neighborhood.

Mr. Michael Kemplin, 1327 E. Gable Circle, resident, stated that he would like to see something built because of the current blight of the lot. He was very interested in keeping his home value and feels that this project does that.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Mr. Irby addressed the items that the citizens had concerns with and then turned it over to staff.

Ryan Matthews, Planner I, acknowledged that Mr. Irby addressed most of the questions the citizens had concerns with, and he addressed the issue of a residence being built with a second story, which is allowed in single family residential.

Boardmember Mizner encouraged Mr. Kemplin to follow this case through the Design Review process. He stated that the Board's job was to look at the merits of this case and what the applicant proposed. He felt this project was an asset to the neighborhood and added his support for this project.

Boardmember Finter realized he had done business with Mr. Merle Loudon and recused himself from this case.

Boardmember Carpenter stated that she did have some questions as to fairness and the possibility of overruling a previous Planning and Zoning Board's considerations. But after listening to the discussions, she felt that this was not the case. She had some concerns with the setbacks, but since they have kept their landscaping low the visibility issue appears to have been addressed. Boardmember Carpenter was excited that this center bordered on mixed use and had some interesting architectural elements. She favors this project.

It was moved by Boardmember Mizner, seconded by Boardmember Langkilde.

That: The Board approve and recommend to the City Council approval of zoning case Z05-86 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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. Compliance with all requirements of the Design Review Board.
5. Review and approval by the Board of Adjustment for a Development Incentive Permit (DIP).
6. Retention basins to have a maximum slope of 6:1 when adjacent to public rights-of-way or pedestrian walkways.

Vote: 6-0 with Boardmember Finter abstaining.

* * * * *

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: **Z05-87 (District 6)** 7115 East Baseline Road (south side). Located south of Baseline Road and east of Superstition Springs Boulevard (2.1 ac). Rezone from AG to C-2 and Site Plan Review. This request will allow for the development of a retail/office complex. Eamon Roche c/o BCBC 900 Broadway, owner; Dorothy Shupe, Dream Catchers, applicant.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board approve and recommend to the City Council approval of zoning case Z05-87 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted.
2. Review and approval by the Design Review Board of the proposed retail building and of the future pad site, and compliance with all requirements of the Design Review Board.
3. All landscaping as shown on sheet L-1 and all street improvements are to be installed in the first phase of construction.
4. Compliance with all City development codes and regulations.
5. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
6. 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.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

Vote Passed 7-0.

* * * * *

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: **Z05-88 (District 5)** The 8400 -8700 block of East Range Rider Trail (north and south side). Located at the southeast corner of Thomas Road and Hawes Road (71.76 ac). Rezone from Maricopa County Rural 35 to City of Mesa R1-35. Establishment of city zoning. Sonoran Desert Holdings, LLC; Paul Dugas, owner; City of Mesa, applicant.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board approve and recommend to the City Council approval of zoning case Z05-88 conditioned upon:

1. Compliance with all City development codes and regulations.
2. 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.

Vote: Passed 7-0

* * * * *

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: **Z05-89 (District 5)** The 1100-1200 block of North Recker Road (west side). Located south of the southwest corner of Recker Road and Brown Road (2.1 ac). Site Plan Review. This request will allow for the development of a retail complex. Michael Pollack, owner; Dave Gibson, applicant.

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

It was moved by Boardmember Carpenter, seconded by Boardmember Finter.

That: The Board continue zoning case Z05-89 to the October 20, 2005 meeting.

Vote: Passed 7-0

* * * * *

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: **Z05-90 (District 6)** The 8800-9000 block of East Germann Road (north side). Located west of the northwest corner of Germann Road and Ellsworth Road (49 ac.±). Rezone from M-1 to M-1 PAD and Site Plan Review. This request is to allow for a light industrial complex. Gateway Airport Property Investors LP (Brent Payne), owner/applicant. Consider the preliminary plat of "Gateway Airport Commerce Park."

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

It was moved by Boardmember Carpenter, seconded by Boardmember Mizner.

That: The Board approve and recommend to the City Council approval of zoning case Z05-90 conditioned upon:

1. Compliance with the basic development as described in the project narrative, Architectural and Development Guidelines, and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
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, 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 modifications outlined in the staff report.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

Vote: Passed 6-0 with Boardmember Finter abstaining

* * * * *

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Second day of publication of Legal Notices.

Comments: Ms. Dorothy Chimel, Principal Planner stated that in 2004 there was a change to the City Charter that required a second alternate day for publication. It was anticipated that that second day would be used predominantly for zoning cases, and after polling various division and departments it was found that Wednesday would be the most appropriate day for a secondary day of publication. The primary day will remain on Saturdays. She stated that a secondary day of publication responds to the citizen vote that changed the Charter. It would allow staff to publish cases that are required by State Statute to be moved quickly through the process, such as charter schools. It will also allow the Planning Division additional flexibility when staff has unusual cases having some type of controversy associated with technical requirements. Ms. Chimel concluded that her goal was to get some feedback from the Board.

Chairman Adams asked if the primary effect would be to aid some applicant's move through the process faster. Ms. Chimel stated that was correct.

Boardmember Mizner stated that at this time the Board was not being asked to vote on this request. Ms. Chimel stated that it was not an amendment to the Zoning Ordinance and that it would be adopted by resolution. Boardmember Mizner stated that it was a great concept and it would provide some flexibility of scheduling items for public hearing and will not short circuit the public participation process; he added that it would allow for some cases to move through the process a bit quicker. He urged the Council to adopt resolution change.

Boardmember Carpenter stated that this would benefit everyone, including the newspaper.

Chairman Adams stated that there was a consensus and that the Board liked the idea and would like to see it go forward.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Item: Procedural changes of Site Plan Review and Site Plan Modification cases.

Comments: Mr. John Wesley, Planning Director stated that staff had been working on a number of items to improve the processes such as the Planning Hearing Officer and this potential change, as it pertains to Site Plan and Site Plan Modification. There are times that rezoning cases and Site Plan Modifications come through the process as a package. When cases that are already zoned and come back for Site Plan Modifications; those cases are the ones that staff would like to bring to the Planning and Zoning Board for final decision instead of taking an additional 4 to 6 weeks to go to City Council. He mentioned that over the last nine (9) months, 21 cases have gone through Site Plan Review or Site Plan Modification and Council has approved 19 of those cases on the consent docket. Mr. Wesley also addressed that if the Planning and Zoning Board made a decision that an applicant wanted to appeal; it would then be taken to City Council.

Chairman Adams asked if it would speed up the process by 30 days. Mr. Wesley responded that the Board hears cases on the third Thursday of the month and these cases would be heard on the third Monday of the following month, so it would cut out approximately one month.

Boardmember Saemisch asked if other communities had similar rules and regulations. Mr. Wesley answered that it varied across the Valley. Boardmember Saemisch asked if the applicant would be allowed to appeal to Council if there were a legal protest; even through the Board approved it. Mr. Wesley responded Yes, and that a citizen could also request an appeal.

Boardmember Mizner asked if the Board would see this as a Code Amendment in the next month. Mr. Wesley answered that yes, it should be created for the Board to see next month. Boardmember Mizner felt that it was a great idea.

Chairman Adams stated that he looked forward to seeing the item next month.

MINUTES OF THE SEPTEMBER 15, 2005 PLANNING AND ZONING MEETING

Respectfully submitted,

John Wesley, Secretary
Planning Director

MS:
I:\P&Z 05\Minutes\Sept05.doc