

COUNCIL MINUTES

September 20, 2001

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on September 20, 2001 at 8:00 a.m.

COUNCIL PRESENT

Jim Davidson
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

Mayor Keno Hawker

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones

Vice Mayor Davidson excused Mayor Keno Hawker from the meeting.

Vice Mayor Davidson apologized for the delay in the Study Session and reported on his attendance this morning at Race Equality Day, a nationwide event sponsored by the National League of Cities. He explained that the participants, including Civic, community, religious and cultural organizations, will address racial justice issues facing Mesa's diverse community.

1. Review items on the agenda for the September 24, 2001 Regular Council Meeting.

All of the items on the agenda were reviewed among Council and staff with no formal action taken. There was specific discussion relative to the following items:

Vice Mayor Davidson stated that agenda item 7a will be removed from the consent agenda.

2. Discuss and consider additional regulations for "big box" retail buildings.

Planning Director Frank Mizner addressed the Council relative to this agenda item. He explained that big box retail development was previously discussed at the August 2, 2001 Study Session, and at that time, Council directed staff to draft proposed amendments to the Zoning Ordinance relative to the regulation of such establishments within Mesa.

Mr. Mizner outlined three essential components which can be applied to the regulation of big box retail buildings including: design guidelines (landscaping, buffering, building materials); locational criteria, and a public hearing process which would provide citizens with an opportunity to express concerns, offer design solutions and suggest compromises.

Mr. Mizner explained that one of the proposed changes to the Zoning Ordinance is the adoption of the definition "hyperstore," which would describe a single-story retail establishment over 100,000 square feet. He noted that this definition would encompass all indoor and outdoor sales, display, storage and customer service areas served by common store entrances, walking aisles and check stands, but would not include outdoor areas for the display or sale of motor vehicles, boats, recreational vehicles or manufactured homes.

Mr. Mizner outlined the current process that is followed by developers of hyperstore retail establishments and stated that in the future, they will also be required to apply for a Council Use Permit in the C-2 or C-3 Commercial Districts, provided that such use is compatible with surrounding land uses and in conformance with the Mesa General Plan. He added that it is also staff's recommendation that the currently existing Council Use Permit, which allows for retail in the M-1 and PEP zones, be eliminated.

Mr. Mizner discussed the locational criteria for a hyperstore development site (See Attachment) and requested input from Council with respect to staff's recommendations.

Vice Mayor Davidson questioned the use of the term "hyperstore."

Councilmember Kavanaugh commended Mr. Mizner and his staff for their efforts in this regard. He noted that staff has had the opportunity to garner input from the surrounding communities that have addressed big box retail establishments relative to the impact on surrounding neighborhoods, schools and increased traffic congestion. Councilmember Kavanaugh added that the revised design guidelines are a critical component in the analysis of this issue.

Councilmember Kavanaugh voiced support for the commencement of a formal public process to consider the proposed amendments and regulations to the Zoning Ordinance.

Councilmember Pomeroy voiced opposition to the term "hyperstore."

In response to a question from Councilmember Pomeroy regarding the status of a previously approved Wal-Mart to be constructed at McKellips and Greenfield Roads, Mr. Mizner clarified that the proposed big box retail development, in addition to other existing developments over 100,000 square feet, would be considered a nonconforming use. He added that the expansion of a nonconforming use would require compliance with the new regulations, in addition to obtaining a Council Use Permit.

Councilmember Whalen expressed support for the term "hyperstore."

Mr. Mizner spoke further relative to the proposed Wal-Mart site at McKellips and Greenfield Roads; the potential for litigation if a Council Use Permit is denied; single-story versus two-story hyperstores, and the fact that hyperstores would be designated as Community Commercial, Regional Commercial or Mixed Use in the Mesa General Plan.

Councilmember Jaffa voiced a variety of concerns including the potential that areas in the General Plan which are slated to be zoned industrial could be replaced with commercial development, and also that the amendments to the Zoning Ordinance would remove the ability for retail group developments to exceed 50,000 square feet in the PEP, M-1 and M-2 districts by

the deletion of the current Council Use Permit provision. He also concurred with Councilmember Kavanaugh's comments and voiced support for increased setbacks and buffers.

It was moved by Councilmember Jaffa, seconded by Councilmember Kavanaugh, that the formal public process to consider the proposed amendments and regulations regarding big box retail be approved.

Councilmember Walters suggested minor modifications to the language contained in the amendments.

In response to a question from Councilmember Walters regarding the Council's ability to deviate from the locational restrictions and permit the development of a hyperstore more than one mile from a freeway, Mr. Mizner advised that the amendments provide the Council with the flexibility to grant exemptions from such restrictions if there are significant intervening physical features or if there are effective impact mitigation measures.

Councilmember Walters expressed support for the motion and stated that the public will have an opportunity to provide input not only on the proposed regulations but also on the design guidelines.

Councilmember Whalen voiced concerns relative to a proliferation of large retail establishments in a limited area which could potentially drive out smaller businesses. Mr. Mizner concurred with Councilmember Whalen's comments, but noted that is the nature of the free enterprise system and that the City cannot arbitrarily deny a business owner from locating to a specific area of the community.

Vice Mayor Davidson commented that staff's recommendations regarding the locational issues are prescriptive, whereas the Council exemptions are somewhat broad. He stated, however, that he will support the motion to begin the public comment process.

Vice Mayor Davidson declared the motion carried unanimously by those present.

Vice Mayor Davidson requested that staff update the Council in the future with regard to citizen input which is received relative to the definition of "hyperstore."

Vice Mayor Davidson thanked Mr. Mizner for his presentation.

3. Discuss and consider condensing minutes for Regular and Special Council Meetings and Study Sessions.

City Clerk Barbara Jones addressed the Council relative to this agenda item and reported that it is the recommendation of staff to condense the minutes of the Regular and Special Council meetings and Study Sessions. She explained that over the years, the amount, length and overall content of Council meetings has dramatically increased, which has resulted in excessive demands being placed on a limited staff to meet strict deadlines. Ms. Jones stated that although the proposed condensed minutes would significantly reduce background information and Council, staff and citizen discussion, they would continue to include Council direction/requests for information and the vote tabulation (including any declared potential conflicts of interest).

Ms. Jones emphasized that the City Clerk's Office maintains the audiocassettes of all Council meetings, and that upon request, verbatim transcripts can be produced.

Councilmember Kavanaugh spoke in support of staff's recommendation and stressed that it is the intention of the City Clerk's Office to continue to prepare in-depth minutes of all Council Committee meetings. He commented that such minutes will remain an invaluable tool to Councilmembers who are unable to attend the Committee meetings. Councilmember Kavanaugh stated that with the ongoing advances in technology, it is conceivable that the City may eventually have the capability of providing greater public access to the Council's televised meetings, as well as a more efficient information retrieval system. He also encouraged staff to investigate the possibility of televising Council Committee meetings.

In response to a question from Councilmember Pomeroy, Ms. Jones advised that at the present time, the Public Information Office retains videotapes of the various Council meetings for a period of two years.

Councilmember Pomeroy voiced support for staff's recommendation and suggested that staff explore the feasibility of retaining Council meeting videotapes for more than two years.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that a condensed version of the minutes for the Regular and Special Council meetings and Study Sessions be approved.

Councilmember Walters expressed support for the motion and also concurred with Councilmember Pomeroy's comments. She requested that staff research the conversion of the currently utilized audio and videotapes to DVDs as a more efficient storage method.

Councilmember Jaffa concurred with Councilmember Walters' opinions.

In response to a question from Councilmember Jaffa, Deputy City Clerk Linda Crocker clarified that the City Clerk's Office receives few public requests for verbatim transcripts of Council meetings, but when the need arises, staff accommodates such requests in a prompt and efficient manner.

Councilmember Jaffa spoke in support of the motion.

Ms. Jones stressed that when the Council is engaged in discussions regarding a controversial or complex issue, the City Clerk's Office will deviate from the proposed condensed minutes format and provide a more in-depth accounting of the matter.

Vice Mayor Davidson voiced support for the motion and thanked Ms. Jones and her staff for their professionalism.

Councilmember Jaffa requested that staff pursue the feasibility of making the Council meeting videotapes and DVDs available through the public libraries.

Vice Mayor Davidson declared the motion carried unanimously by those present.

Vice Mayor Davidson thanked staff for their presentation.

4. Appointments to boards and committees.

Mayor Hawker recommended the following appointments to Boards and Committees:

JUDICIAL ADVISORY BOARD:

Joan G. Ruffennach

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that the Council concur with the Mayor's recommendation and the appointment be confirmed.

Councilmember Walters expressed support for the Mayor's recommendation. She stated that Ms. Ruffennach is an accomplished attorney as well as an involved parent, and that she will be a welcome addition to the Judicial Advisory Board.

Vice Mayor Davidson declared the motion carried unanimously by those present.

5. Acknowledge receipt of minutes of various boards and committees.

- a. General Development Committee meeting held September 10.
- b. Human Relations Advisory Board meeting held September 6.
- c. Parks and Recreation Board meeting held September 11.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Jaffa, that receipt of the above-listed minutes be acknowledged.

Vice Mayor Davidson declared the motion carried unanimously by those present.

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

Councilmember Kavanaugh reported on his recent attendance at a Neighborhood Ambassadors' celebration in the Marlborough Mesa neighborhood. He stated that the meeting, which was facilitated by the Neighborhood Outreach Office, acknowledged the efforts of the neighborhood to establish a system of ambassadors who provide personal greetings and welcome baskets for new residents in the community.

Councilmember Whalen stated that he attended the Police Department's "Getting Arizona Involved in Neighborhoods" (GAIN) kickoff and also the Fire Department's charity golf tournament.

Councilmember Walters commented that she attended the kickoff for the Mesa United Way campaign and stated that both she and Councilmember Kavanaugh are liaisons for the Mesa United Way Board and the City Council. She also acknowledged Mayor Hawker, who was also in attendance, for his eloquent message regarding the recent tragic passing of Balbir Singh Sodhi.

Vice Mayor Davidson advised that this evening, Maricopa County Attorney Rick Romley and Councilmember Walters will be guests on the television program "Horizon" which airs at 7:00 p.m. on Channel 8.

Vice Mayor Davidson excused Councilmember Whalen from the September 24, 2001 Regular Council meeting.

Vice Mayor Davidson stated that he and Council Assistant Andrea Esquer attended the Arizona Foundation for Women's/Men's Anti-Violence Network. He explained that the workshop, which focused on domestic violence, included speakers such as Governor Jane Hull, Secretary of State Betsy Bayless and Attorney General Janet Napolitano.

7. Scheduling of meetings and general information.

City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Monday, September 24, 2001, 3:15 p.m. – Police Committee Meeting

Monday, September 24, 2001, 4:00 p.m. – Study Session

Monday, September 24, 2001, 5:45 p.m. – Regular Council Meeting

Thursday, September 27, 2001, Study Session Cancelled

Thursday, September 27, 2001, 10:00 a.m. – Transportation Committee Meeting

Thursday, October 4, 2001, 7:30 a.m. – Study Session

Monday, October 8, 2001, TBA – Study Session

Monday, October 8, 2001, 5:45 p.m. – Regular Council Meeting

Tuesday, October 9, 2001, 6:00 p.m. – Joint Dinner Meeting with Apache Junction

Vice Mayor Davidson announced that on September 25, 2001, 6:30 p.m., there will be a Spook Hill Area Drainage Master Plan Citizens' Committee meeting at the Central Arizona Project (CAP) Water Treatment Plant, 7750 East Brown Road.

In response to a question from Councilmember Kavanaugh, Mr. Hutchinson reported that the memorial service for Mr. Balbir Singh Sodhi will be held on Saturday, September 22, 2001, 10:00 a.m. at the Phoenix Civic Plaza. He explained that Mesa does not have a facility that is large enough to accommodate the anticipated number of attendees.

Councilmember Pomeroy acknowledged the Mesa Police Department for its prompt apprehension of the suspect who committed the crime against Mr. Sodhi.

8. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Study Session adjourned at 9:22 a.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 20th day of September 2001. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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Attachment

City Council Report

Date: September 4, 2001

To: City Council

Through: Mike Hutchinson, City Manager
Paul Wenbert, Deputy City Manager

From: Jack Friedline, Development Services Manager
Frank Mizner, Planning Director

Subject: Big Box Retail Regulations

Council District: Citywide

Purpose and Recommendation

This report accompanies proposed amendments to the Zoning Ordinance geared toward the regulation of so-called "big box" retail buildings. These amendments were prepared as directed by the Council at their August 2, 2000 study session. If it is the Council's intent to further regulate these large retail establishments, staff recommends the approach contained in this report.

Background

What to do with large-scale single user retail buildings is a current topic of discussion among cities across the valley. Residents of neighborhoods impacted by such developments have argued that such uses should be prohibited, restricted to certain areas, or at least be subject to public input or special regulations.

Historically, in Mesa, retail development, regardless of size, scope, and scale, has been considered a "use by right", subject only to established review procedures and development regulations. However, the retail industry continues to evolve as stores for home improvements, groceries, general merchandise, appliances, furniture, and electronics have metamorphosed into "super stores", frequently ballooning to well over 200,000 square feet.

Prototypical Wal-Marts and Super Kmart's are now over 225,000 sq. ft., Home Depot and Lowe's contain over 125,000 sq. ft., and suburban-type grocery stores are sometimes greater than 75,000 sq. ft. Even the corner Walgreen's and Osco Drug stores are nearly 20,000 sq. ft. in area. No let up in this trend seems likely in the immediate future.

Citizens, civic leaders, and planners have become increasingly concerned about the real and perceived impacts of these large scale developments with respect to traffic congestion, crime, pollution, and the overall compatibility with surrounding neighborhoods. On the other hand, these mega-retailers generate substantial sales tax revenues, which many communities (including Mesa) are increasingly reliant upon.

Several local communities have addressed this topic by various means. The following is a brief summary.

Glendale - Amended approved retail zoning when Wal-Mart applied for building permits. Landowners submitted petitions for referendum. City prevailed in municipal election. City has now adopted very detailed design standards for all new and/or expanded retail over 75,000 sq. ft., as well as City Council use permit requirement.

Chandler- Denied site plan modification to accommodate Wal-Mart on previously approved retail site. Subject to pending lawsuit by developer. Has adopted detailed design standards and locational criteria (e.g. designated intersections in General Plan, one mile from City Center, 1,500' from low density residential 1,320' from school, 660' from high school) for retail over 150,000 sq. ft. No use permit requirement, but potential locations severely restricted.

Scottsdale - Adopted detailed design standards for retail over 75,000 sq. ft. No pending litigation or referendum. City Council use permit required within 300' of residential district, effectively prohibited in all of north Scottsdale.

Discussion

There are three essential elements that can be applied in various manner and degree to the regulation of big box retail.

1. Design Guidelines. These can be used to ensure that such stores are a well-designed component of the urban environment, and are appropriately sited to minimize adverse impacts on surrounding neighborhoods and other developments. Such design components as architectural style, amount and location of landscaping, optimal building setbacks, screening and site access, can be used to effectively mitigate impacts of the development.
2. Locational Criteria. Such controlling locational factors as specified zoning districts, general plan designations, distances from schools, residential areas, and even from similar uses, can be used to avoid the over-concentration or improper location of such stores on a city-wide basis.
3. Public Input. A public hearing or other citizen forum can allow affected neighbors to express concerns, offer design solutions, and suggest compromises.

The proposed amendments to the Zoning Ordinance contained in this report address components 2 and 3 above. The revised Design Guidelines are currently working their way through the adoption process and will be presented to the Council as a separate topic.

The proposed regulations and changes to the Ordinance are summarized as follows:

BIG BOX ORDINANCE

PROPOSED ACTIONS: Add a new definition of "hyperstore", require a Council Use Permit, and provide specific locational criteria and criteria for the granting of exemptions.

Remove the ability for retail stores to exceed 10,000 sq. ft. (50,000 sq. ft. group developments) in the PEP, M-1, and M-2 districts by deleting the current Council Use Permit provisions.

• ADOPT NEW DEFINITION AS FOLLOWS:

HYPERSTORE: A single story building used for the display and sale of goods and merchandise to the general public, having a gross floor area (GFA) equal to or greater than one hundred thousand square feet (100,000'). For purposes of this definition calculation of GFA shall include all indoor and outdoor sales, display, storage, and customer service areas served by common store entrances, walking aisles, and check stands, but shall not include any outdoor area for the display and sale of motor vehicles, boats, recreational vehicles, or manufactured homes.

• ADOPT NEW SUBSECTION 11-6-3(D) AS FOLLOWS:

(D) The following use is subject to the granting of a Council Use Permit in the C-2 and C-3 Commercial Districts in accordance with the Administration and Procedures Chapter of this Ordinance, provided such use is found to be compatible with surrounding land uses and is in conformance with the General Plan and other recognized developed plans or policies:

Hyperstores.

1. In addition to the findings set forth above, such use shall also be located on a development site which:
 - (a) Is designated as Community Commercial, Regional Commercial, or Mixed Use, in the Mesa General Plan.
 - (b) Is at least one (1) mile from the site of an existing or approved similar development which exceeds or will exceed an area of 100,000 square feet, unless such development is a component of an approved regional mall, power center, or other group commercial development as provided in the Administration and Procedures chapter of this ordinance.
 - (c) Is not more than one (1) mile from an existing or proposed freeway right-of-way.
 - (d) Is not less than one (1) mile from any boundary of the Town Center Redevelopment District.
 - (e) Is not less than twelve hundred feet (1,200') from an elementary or junior high (K-9) school site when accessed from the same street.
 - (f) Is not less than twelve hundred feet (1,200') from any parcel developed, zoned, or otherwise approved for single residence use, or

any parcel designated Low or Medium Density Residential in the Mesa General Plan.

- (g) For purposes of this Subsection, measurement shall be in a straight line from the nearest boundary or property line of the development site or parcel of such use, to the nearest boundary or property line of the development site or property line of the use or development specified for separation.

2. The City Council may, in its discretion, grant an exemption from such locational restrictions set forth in (b) through (f) above if it makes one of the following findings.

- (a) That there are significant intervening physical features such as freeways, parks, golf courses, transmission line corridors, other open spaces, or similar buffering features or developments.

- (b) That there are effective impact mitigation measures such as increased building setbacks, enhanced landscaping, traffic control devices, superior architecture, or other similar site development elements.

• DELETE SUBSECTION 11-7-3(A) AS FOLLOWS:

11-7-3 Uses Subject to Approval of a Council Use Permit in the PEP and M-1 Districts in accordance with the Administration and Procedures Chapter of this Ordinance:

(A) ~~Individual retail stores exceeding ten thousand (10,000) square feet and group commercial developments exceeding an aggregate area of fifty thousand (50,000) square feet.~~

(B) Schools, as defined in Section 11-1-6 of this Ordinance.

Adoption of these new regulations would cause about a dozen existing developments in Mesa to become legal nonconforming uses. Most Targets, Kmart, Wal-Marts and all Home Depots and Lowe's would not be in compliance with some of the locational criteria suggested in the draft language. Any expansion of a nonconforming use, or change of use or change of occupancy type, would require compliance with the new regulations, including the need to obtain a Council Use Permit.

Under this proposal, hyperstores would be limited exclusively to the C-2 and C-3 Commercial districts. The proposed deletion of 11-17-3(A) would have the effect of prohibiting, without recourse, (except for rezoning) any single retail store exceeding 10,000 sq. ft. from locating in an Industrial district. For example, under the current regulations a 200,000 sq. ft. Target store could be granted a C.U.P. in order to locate in an M-1 district. Under the proposed regulations, a rezoning to C-2 or C-3 and a C.U.P. would be required.

Alternatives

1. Direct that the formal process to consider the proposed amendments and regulations begin.
Result: Stores over 100,000 sq. ft. (Hyperstores) would be subject to a C.U.P. in the C-2 and C-3 districts in addition to specified locational considerations. Approximately 12 existing stores would become legal nonconforming.
2. Discontinue consideration of the proposed amendments and regulations.
Result: Stores, regardless of size, would be subject only to normal zoning and development standards. Large stores (over 10,000 sq. ft.) could locate in industrial zones subject to a C.U.P.
3. Direct this issue back to staff for further study and development of other alternatives for future considerations.

Fiscal Impact

No direct, immediate fiscal impact. Potential sales tax revenue could be lost as a result of the denial of a requested C.U.P.

John Gendron,
Zoning Administrator

Frank Mizner,
Planning Director

Jack Friedline,
Development Services Manager

Paul Wenbert,
Deputy City Manager

Mike Hutchinson,
City Manager

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