

GENERAL DEVELOPMENT COMMITTEE MINUTES

September 28, 2006

The General Development Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on September 28, 2006 at 8:45 a.m.

COMMITTEE PRESENT

Tom Rawles, Chairman
Mike Whalen

COMMITTEE ABSENT

Claudia Walters

STAFF PRESENT

Christopher Brady
Jack Friedline
Paul Wenbert

COUNCIL PRESENT

Rex Griswold

Chairman Rawles excused Committeemember Walters from the entire meeting.

1. Hear a presentation and consider proposed updates to the City of Mesa Code, Title 4 Chapters 1 through 8, incorporating the 2006 updates to the national code editions for Building, Residential, Plumbing, Mechanical, Fuel Gas, Existing Buildings and Fire, and the 2005 updates to the Electric Code.

Building Safety Director Terry Williams displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) that provided an overview of the proposal to update the City of Mesa Building Code by adopting the 2006 edition of the International Code Council (ICC) Code and the National Fire Protection Association's (NFPA) 2005 edition of the National Electric Code. He stated that both the ICC and the NFPA republish updated code books on a three-year cycle in addition to providing an 18-month review and update. Mr. Williams said that staff would maintain a similar three-year update cycle for the Mesa Building Code.

Mr. Williams advised that the purpose of the update includes the following:

- Maintain the most current Code requirements.
- Enable the application of new technologies, materials and methods of construction without special effort.
- Clarify interpretations and correct minor clerical errors.
- Maintain or improve the City's Insurance Services Office (ISO) ratings (the City of Mesa's residential and commercial/industrial score of six improved in 2005 to four for residential and three for commercial/industrial).
- Adhere to the strategic plans of the Building Safety Division and the Development Services Department.

Mr. Williams stated that the update implements minor changes in Chapter 1 (Administrative Code) and completely replaces Chapters 2 through 8. He noted that staff is not recommending the adoption of the 2006 International Energy Conservation Code (IECC) for the reason that energy conservation features offered in the local market meet or exceed the IECC requirements. He reviewed the process, which included the formation of eight review teams composed of staff and several industry representatives, and he reported that the following updates were provided to the Development Advisory Forum, a group comprised of 330 developers, contractors, builders, architects and engineers who conduct business in Mesa:

- Code adoption process and timeline information (April 12, 2006).
- Team findings and requests for comments (July 12, 2006).
- Team reports (distributed electronically) with a request for comments (July 19, 2006).
- Proposed new ordinances and requests for comments (August 30, 2006).
- Summary of key changes (September 20, 2006).

Mr. Williams noted that drafts of the proposed new ordinances (copies are available for review in the City Clerk's Office), which have an effective date of January 1, 2007, were also provided to the Building Board of Appeals on August 16, 2006. He explained that the new Code would not apply to project permit applications filed before the Code is adopted and for projects already under construction. Mr. Williams advised that City staff would provide developers/architects a six-month window during which they have the option of filing under the new Code or the old Code. He outlined the key elements of the proposed Code changes as follows:

Mesa Building Code

- Maintains definitional distinction for group homes, assisted living facilities and R-3, R-4 and R-5 occupancies.
- Allows up to 5,000 square feet total area of Type B (business) without sprinklers (the change corrects an oversight in the previous update that limits the addition to being 1,000 square feet without requiring sprinklers).
- Raises threshold for requiring separate toilet facilities to 20 people (the current level is 15).
- Creates a new chart to assist in change of occupancy determination.

Mesa Residential Code

- Establishes R-5 as (single-family) occupancy type for Mesa Residential Code houses.
- Allows the use of zoning side yards to determine fire rating of exterior walls.
- Recognizes Maricopa County regulations over flood plain areas.
- Requires arc fault protection for outlets in residential bedrooms.

Mr. Williams confirmed that the industry advisory group provided no comments regarding the requirement for arc fault protection.

In response to a question from Councilmember Griswold, Mr. Williams advised that the ISO is an organization supported by the insurance industry and he noted that no direct correlation exists between ISO ratings and insurance premium rates.

Discussion ensued relative to the fact that the arc fault requirement, which costs approximately \$200 per home, would also apply to a complete remodel of an electrical system or a new addition.

Mesa Electrical Code

- Continues the Valley practice for installation of electrical service panels (does not require a recessed panel and allows access through the back utilizing openings in the block).
- Moves Lighting Control Ordinance to the front of the Electrical Code.

Mesa Plumbing Code

- Clarifies backflow prevention requirements for dialysis equipment.
- Adds requirements for an electrical receptacle to promote water conservation (requires an outlet under the most remote sink to facilitate the installation of a hot water recirculation pump, but installation of the pump is not required).

Mesa Mechanical Code

- Exempts certain pizza ovens from fire suppression requirements (exempts “pizza only” ovens, but maintains suppression requirements for ovens that prepare other foods in addition to pizza).

Mesa Existing Building Code

- Eliminates the Mesa Rehab Code option (based on North Carolina’s Rehab Code) – the City has not utilized the Code during the past three years (the Code is difficult and complicated, and other options are available to developers in the existing Code).

In response to a question from Councilmember Griswold, Mr. Williams confirmed that an older, multi-story building could be remodeled one floor at a time without requiring the other floors to meet the current Code requirements.

IECC

- Does not propose to adopt the 2006 International Energy Conservation Code.

Mr. Williams stated that staff recommends adoption of the updated Code requirements with an effective date of January 1, 2007, and that certain Code modifications be allowed in order to accommodate the needs of Mesa’s customers.

It was moved by Committeemember Whalen, seconded by Chairman Rawles, to recommend to the Council that staff’s proposal for updates of the City of Mesa Code, Title 4, Chapters 1 through 8, be approved.

Responding to a question from Chairman Rawles, Mr. Williams advised that several questions received from members of the Development Advisory Forum regarding the proposal were answered by staff and that members of the group have not expressed any objections to the proposed update. He further advised that staff would continue to accept comments and

recommendations, and that the Development Advisory Forum would be notified of the dates that this item is scheduled for Council consideration.

In response to a question from Committeemember Whalen, Mr. Williams stated that most Valley cities utilize the International Codes, each incorporating changes unique to their operation. He advised that Mesa is among the first Valley cities to propose adoption of the 2006 standards.

Chairman Rawles called for the vote.

Upon tabulation of votes, it showed:

AYES – Rawles-Whalen
NAYS – None
ABSENT – Walters

Chairman Rawles declared the motion carried unanimously by those present.

2. Hear a presentation and consider proposed changes to the Mesa City Code, Title 9 Public Ways and Property (citywide) authorizing the Development Services Manager to allow modified or reduced off-site improvements to encourage re-development of properties if off-site improvement costs have been previously paid.

Mr. Williams continued the PowerPoint presentation and advised that the proposed changes in two small sections in two Title 9 chapters provide modifications that will enable the City to be more flexible in addressing infill development in highly specialized circumstances. He explained that the key element of the proposal is an attempt to link the development's impact to the City's need for the improvements. Mr. Williams displayed a chart depicting the City's current ordinance (see Attachment 1), and referring to the last three lines of the chart, he noted that the developer pays from zero percent to 100 percent of the arterial's cost depending on the project's status in the Transportation Master Plan and in the Capital Improvement Project (CIP) Plan.

Responding to a question from Committeemember Whalen, Mr. Williams stated that provisions of a Council-approved development agreement would supersede ordinance requirements. He also confirmed that the City could agree to pay the impact fees for a developer, but State Statutes prohibit the City from waiving impact fees.

Mr. Williams advised that the proposed language revision to Chapter 9-6-7(A) refers to the impact the development will have on the City's need for subdivision or land split improvements associated with the proposed development. He added that the Development Services Manager may reduce, defer or approve alternatives to the requirements and specifications contained in the Chapter provided that such action results in improvements that are adequate to meet the City's needs. Mr. Williams noted that the key change is the wording that states that the improvements are "adequate to meet the City's needs." He advised that similar language proposed in Chapter 9-8-4(A) provides discretionary authority to the Development Services Manager.

Chairman Rawles suggested a revision to the language in each chapter that inserts the word "eliminate" and states that the Development Services Manager has the authority to "...eliminate, reduce, defer or approve alternatives."

Mr. Williams concurred that the language proposed by Chairman Rawles more clearly defines the authority of the Development Services Manager. He listed the objectives of the proposed changes as follows:

- Allows the Development Services Manager to exercise discretion in applying improvement requirements.
- Improves the opportunities for infill developments.
- Allows for the reduction of requirements for redevelopment projects.
- Addresses boarded-up, vacant facilities that cannot be feasibly redeveloped due to the high ratio of off-site costs to construction costs.

Mr. Williams outlined the manner in which the new requirements would be implemented, and he noted that determinations made by the Development Services Manager could be appealed to a Hearing Officer.

In response to a question from Chairman Rawles regarding the meaning of “extraordinary” conditions referred to in Section B of the proposed ordinance, Development Services Manager Jack Friedline suggested that the word “extraordinary” be omitted, and he advised that staff would develop alternate language.

Mr. Williams provided hypothetical examples of projects with off-site costs that exceed or are equal to the value of the construction project.

Chairman Rawles stated the opinion that the City should be responsible for the costs in cases where improvement plans are in place. He added that if a development project generates a requirement for additional improvements, then the developer should be responsible for the incremental costs. Chairman Rawles expressed concern that this type of issue would be resolved at the discretion of the Development Services Manager.

Mr. Friedline explained that ordinances typically address “black and white” issues, and that modifications to ordinances would be addressed utilizing procedures. He suggested that the Council could review possible changes to the ordinance at a future date when the procedures have been refined.

Chairman Rawles expressed the opinion that staff’s proposal is a very positive step forward, and he indicated support for continuing the process in order to codify the modifications in the future. He said that he was comfortable providing current staff with the discretionary power, but he noted that discretionary powers could be utilized in an unintended manner in the future.

Mr. Friedline concurred with the comments of Chairman Rawles, and he provided the Committee with a draft copy of Procedure Guidelines (see Attachment 2).

Councilmember Griswold stated the opinion that “black and white” procedures have prevented some projects from moving forward that would have provided a benefit to the community. He suggested that disciplinary action could be utilized to address a staff member’s improper use of discretionary authority.

Mr. Williams explained that staff approached the issue cautiously in view of the fact that the financial impact on the City is unknown.

Chairman Rawles expressed the opinion that the financial impact on the City was secondary in importance to implementing a fair process. He referred to the last sentence in the second bullet of the draft procedure (see Attachment 2), and he stated the opinion that costs for improvements previously included in an adopted CIP program and Transportation Plan should not be paid by a developer.

City Manager Christopher Brady noted that the proposed development could generate a more intense use than originally indicated in the plan, and he said that staff was attempting to address this type of issue.

Mr. Friedline stated that the intent of the procedure guidelines is to address the anomaly, such as an unanticipated heavy retail use not included in the original plan.

Mr. Brady suggested that following a one-year trial period staff could attempt to codify the guidelines.

Additional discussions ensued relative to the fact that a request for a modification must be approved or rejected by the Development Services Manager; that a request for a modification cannot be rejected by a staff member; and that staff will be instructed to review all applications to determine eligibility for a modification due to the fact that the applicant may not be aware of that option.

In response to a series of questions from Committeemember Whalen, Mr. Friedline advised that the project at the corner of Country Club Drive and University Drive utilized a Substantial Conformance Improvement Permit (SCIP) and a Development Incentive Permit (DIP) process. He advised that a setback adjustment could utilize the SCIP and DIP process, and he added that the City requests certain setbacks in order to address future rights-of-way requirements.

Further discussion ensued relative to the fact that SCIP and DIP provides the flexibility to eliminate the setback requirements for urban infill developments; and that developments of two and one-half acres or less are eligible for the SCIP and DIP process.

It was moved by Chairman Rawles, seconded by Committeemember Whalen, to recommend to the Council that staff's proposal for modifications to Title 9 (Chapter 6, Section 7 and Chapter 8, Section 4), incorporating the Committee's recommended language revisions (to include the word "eliminate" in the phrase "...eliminate, reduce, defer or approve alternatives..." and to remove the term "extraordinary"), be approved.

Upon tabulation of votes, it showed:

AYES – Rawles-Whalen
NAYS – None
ABSENT – Walters

Chairman Rawles declared the motion carried unanimously by those present.

Chairman Rawles thanked staff for the presentation, and he suggested that Mr. Friedline provide the refined "Procedure Guidelines for Modifications" to the Council when the Title 9 modifications are considered.

3. Adjournment.

Without objection, the General Development Committee meeting adjourned at 9:52 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the General Development Committee of the City of Mesa, Arizona, held on the 28th day of September 2006. 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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Attachments (2)