

CITY OF MESA

MINUTES OF THE PLANNING AND ZONING BOARD MEETING

Held in the City of Mesa Council Chambers
Date July 15, 2004 Time 4:00 p.m.

MEMBERS PRESENT

Mike Cowan, Chair
Barbara Carpenter, Vice-Chair
Pat Esparza
Frank Mizner
Bob Saemisch

MEMBERS ABSENT

Rich Adams, excused
Alex Finter, excused

OTHERS PRESENT

John Wesley
Dorothy Chimel
Tom Ellsworth
Ryan Heiland
Scott Langford
Lois Underdah
Maria Salaiz

Jim Smith
John Gendron
Terry Williams
Wayne Balmer
Liz Zeller
Wes Hvkriede
Julee Brady

Fred Woods
Others

Chairperson Cowan declared a quorum present and the meeting was called to order at 4:00 p.m. The meeting was recorded on tape and dated July 15, 2004. Before adjournment at 4:50 p.m., action was taken on the following items:

Chairperson Cowan acknowledged and welcomed Frank Mizner as the newest member of the Planning and Zoning Board.

It was moved by Boardmember Saemisch, seconded by Boardmember Carpenter that the minutes of the June 17, 2004 meeting be approved as submitted. The vote was 3-2 (Mizner and Esparza abstaining).

It was moved by Boardmember Carpenter, seconded by Boardmember Saemisch that the minutes of the June 15, 2004 Public Meeting for GPMInor04-04 be approved as submitted. The vote was 4-1 (Mizner abstaining).

It was moved by Boardmember Carpenter, seconded by Boardmember Saemisch that the minutes of the June 17, 2004 Public Hearing for GPMInor04-04 be approved as submitted. The vote was 3-2 (Mizner and Esparza abstaining).

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter that the consent items be approved. Vote 5-0.

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Code Amendment: Amending Sections 11-17-2, 11-17-6, 11-18-3, and 11-19-8 of the Zoning Ordinance to correct references to the Uniform Building Code, the Electrical Code, the Superintendent of Building Inspections, and other clerical corrections to reflect current organizational structure and nomenclature.

Zoning Cases: *Z04-43, *Z04-52, Z04-53, *Z04-54, Z04-55, *Z04-56, * Z04-57, *Z04-58, *Z04-59

MINUTES OF THE JULY 15, 2004 PLANNING AND ZONING MEETING

Item: Amending Sections 11-17-2, 11-17-6, 11-18-3, and 11-19-8 of the Zoning Ordinance to correct references to the Uniform Building Code, the Electrical Code, the Superintendent of Building Inspections, and other clerical corrections to reflect current organizational structure and nomenclature.

Comments: Terry Williams, Building Safety Director, asked the Planning Division to review and put on the agenda three ordinances that modify four sections of Title 11. These are basically minor housekeeping measures, which would modify old references to the Building Safety Division, minor word changes and modifying references to the Uniform Building Code, which will now be the Mesa Building Code and references to the National Electrical Code, which will be converted to the Mesa Electric Code. He noted that the Building Safety Division in conjunction with the Fire Department have been under way to present an entire new Chapter 4, revising all the building, plumbing, and mechanical codes. All of these are to adopt the new International Codes, with the exception for electrical. We will be adopting the 2002 National Electrical Code and also want to incorporate the local amendments, which are part of the ordinance packages that have been introduced by the City Council. Nine of which create these chapters and the other nine are similar to the ones before the Board with minor modifications of housekeeping and old terminology throughout parts of the City Code. Mr. Williams asked the Board to approve this item.

Boardmember Mizner stated that this is a very positive step and that the City of Mesa's Building and Planning Divisions should be complimented for bringing our Codes into compliance with this international group of Codes. He noted that this has been a long-term effort by staff and input from the development community.

Boardmember Carpenter dittoed the comments.

It was moved by Boardmember Mizner, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of amending Sections 11-17-2, 11-17-6, 11-18-3, and 11-19-8 of the Zoning Ordinance to correct references to the Uniform Building Code, the Electrical Code, the Superintendent of Building Inspections, and other clerical corrections to reflect current organizational structure and nomenclature.

Vote: Passed 5-0.

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MINUTES OF THE JULY 15, 2004 PLANNING AND ZONING MEETING

Item: **Z04-43 (District 6)** Southeast corner of South Power Road and East Pecos Road (105± ac.). Rezone from R1-43 to M-1. This request is to bring zoning into conformance with the Mesa 2025 General Plan. Power Enterprises, Richfield Investment Co., City of Mesa, Rhonda Raper, Patrick & Carolyn Tuffly, owners; Wayne Balmer, Project Manager WGAA, applicant.
CONTINUED FROM THE MAY 20, 2004 MEETING.

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-43 conditioned upon:

1. Compliance with all requirements of the Mesa Zoning Ordinance and land development regulations. This includes (but is not limited to) the following:
 - a. Provision of all required infrastructure including, but not limited to, street, water, sewer, fire protection and other improvements at the time of development.
 - b. Recordation of avigation easements, overflight easements and overflight disclosure statements with all subdivision plats approved and/or building permits issued.
 - c. Recordation of Covenants, Conditions and Restrictions (CC&R's) to address land use, property maintenance, landscaping, etc., with any new subdivision plats approved.
2. Site Plan Review and approval by the Planning and Zoning Board, Design Review Board and City Council of the development plans as to all aspects of future developments. Site Plan Review documentation may include, but is not limited to, presentation of a citizen participation plan, exhibits detailing the proposed land use(s), site plans, design guidelines, landscape plans, and building elevations.
3. Prior to obtaining a building permit, an archaeological survey, testing and data recovery program from an independent archaeological consulting group using the standards of the Secretary of the Interior shall be presented to, and approved by, the City of Mesa Historic Preservation Officer.

Vote: Passed 5-0.

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MINUTES OF THE JULY 15, 2004 PLANNING AND ZONING MEETING

Item: **Z04-52 (District 3)** The 1100 block of West Grove Avenue (north side). Located south and east of Southern Avenue and Alma School Road (3.76± ac.) Modification of a Development Master Plan and Site Plan Review. This request is for the development of two commercial retail buildings. ABV Development Partners, L.L.C. (Paul Klink), owners; RHL Design Group, Inc. (Brent Fike), applicant.

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-52 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.

Vote: Passed 5-0.

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Item: **Z04-53 (District 3)** 134 North Beverly Lane. Located north and east of Main Street and Alma School Road (1.59± ac.). Rezone from C-2, R-2, and R-4 to R-3 PAD and Site Plan Review. This request is for the development of a single-residence development. John L. Holt, owner; Fred E. Woods, applicant. Also consider the Preliminary Plat of "Beverly Cove".

Comments: Fred Woods, 4502 East Virginia, Mesa – applicant, acknowledged that the Board was familiar with the project and stated he was here to answer any questions or concerns that the Board may have. He added that this is a great project and a good idea for the neighborhood.

Boardmember Saemisch asked Mr. Woods to describe the recently revised setbacks. Mr. Woods stated that staff had some concerns about proposing a three (3) foot rear yard setback and they went back and finalized their plans and were able to get the five (5) foot as requested by staff. He added that they are in agreement to the stipulations and are looking forward to proceeding.

Wes Hvkriede, 1111 West 2nd Street, stated that his back lot borders the property that is to be developed and he is concerned about the setbacks of the homes being five to seven foot. He stated this would jeopardize the privacy of the lots at 1111 and 1121 West 2nd Street. He agreed that this is a great project and should move forward but they are in limbo as to what to do on this issue.

Tom Ellsworth, Senior Planner, gave an overview stating that this is a request for a 30 unit subdivision and that the applicant has met most of staff concerns. He added that this is a unique infill development and therefore staff is recommending approval.

Boardmember Carpenter, thanked Mr. Hvkriede for his comments and dialogue ensued between Mr. Hvkriede and Ms. Carpenter on the lots in question. Mr. Hvkriede reiterated that they are concerned about the lack of privacy because the homes are being built within five to seven feet from the lot line. He also noted that there are oleanders and large trees, which will be taken down and new walls added.

Boardmember Carpenter asked Mr. Ellsworth if the lot to the north is zoned C-2 and what kind of commercial was going in. Mr. Ellsworth stated in doing the case history there was a previous error to the zoning map that was corrected. The zoning of the property is R-2 to the north and the land is currently vacant.

Mr. Hvkriede noted that he and the previous owner felt that the value of the lot could go down if the privacy is eliminated but added that it could go up if there is something that could be done with the property in the future.

Boardmember Mizner stated that this case is an excellent example of the kinds of challenges the Board faces with infill development and the gentleman expressing concern about privacy raises a valid point. This appears to be a quality project and meets the intent of the General Plan and Infill policies. Mr. Mizner noted Mr. Hvkriede's concerns about the potential of the property value going down but that it could go up being adjacent to new development. He also mentioned that Mr. Hvkriede and his client have an opportunity to redevelop their property or seek a rezoning to be more compatible with this new development. Mr. Mizner mentioned that the applicant has done a good job and should be commended.

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Boardmember Esparza stated that she is familiar with this neighborhood and was thrilled when this project came along. She also stated she talked to some friends who live in the neighborhood and they were also thrilled with this project.

Boardmember Carpenter noted for the benefit of the citizens that the Board normally does not get into issues of value but pointed out that this project is most likely going to be owned by the occupants. These are homes not apartments. She also noted that should the access through the two lots be lost on West 2nd Street an access could be created off of Beverly Street.

Mr. Hvkriede asked if it could be on record that there could be an access through Beverly Street. Mr. John Wesley, Planning Director responded that staff did not have enough information to make any guarantees. Chairperson Cowan also responded stating that would have to be a discussion between him, his applicant and the Planning Division and that the Board's concern was the land use of the site.

Chairperson Cowan echoed the Board's comments and added that this is a good infill opportunity. This is a nice community, a nice neighborhood and a nice development, which will add greatly to the community. He also noted Mr. Hvkriede concerns and stated he was in favor of this project.

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-53 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Residential Development Guidelines.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. For lots 13-18 as shown on the submitted preliminary plat: provide a minimum rear yard of 5 feet.

Vote: Passed 5-0.

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Item: **Z04-54 (District 6)** 10550 East Baseline Road. Located north of Baseline Road and west of Signal Butte Road (56± ac.). Site Plan Modification. This request is to allow for the realignment of an existing driveway at Mesa Market Place. Frank Buonauro, owner; W. Ralph Pew, applicant.

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board continue zoning case Z04-54 to the August 19, 2004 meeting per the applicant's request.

Vote: Passed 5-0.

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Item: **Z04-55 (District 5)** 3607 East McKellips Road. Located at the southeast corner of Val Vista Drive and McKellips Road (1.15± ac.). Modification of Ordinance #4139. This request is to consider the deletion of existing Condition 9 of the previous zoning case Z03-62, which references the Citrus Sub Area Plan. Ottawa, Inc. (Mike Saager), owner; City of Mesa, applicant.

Comments: Dorothy Chimel, Principal Planner gave the history on this case, stating that this is a modification to an existing ordinance. The ordinance that is being modified is associated with zoning case Z03-62, located in the Citrus Sub Area that was approved by Council on January 5, 2004, for an office building. Following the adoption of the ordinance, the Board unanimously recommended that a letter be composed by the Chairperson directed to Council raising the question about the inclusion within the ordinance language reference to the Citrus Sub Area Plan, which was adopted by a resolution. She added that City Council had discussions on this issue and they directed staff to re-advertise the case and pose the question to the Planning and Zoning Board whether Condition #9 should be deleted. Ms. Chimel stated that staff is in agreement with the modification of the existing ordinance and the deletion of Condition #9.

Chairperson Cowan added that when the Board initially considered this case, the concern was not the content or the use of the Plan it was the concept of putting Condition #9 into the ordinance.

Ms. Chimel stated that the guidelines reference hours of operation and the type of land use that could go in this zoning district, which would result in a burden to the operations. She gave an example stating as pointed out by Mr. Whalen who was the Chairperson when the letter was written, in the resolution the Citrus Sub Area Plan referenced hours of operation, so if an attorney or architect or any other professional that has an office in this development stays late or come in on Saturdays they technically could be in violation of the ordinance and that would be the type of situation that staff would not want to encourage.

Julee Brady, 3044 N. 38th Circle, noted that since 1989 in meeting with Peggy Rubach, former Mayor, there were promises made about the recognition of this unique area. She mentioned that Glendale and Queen Creek both had beautiful citrus areas that are now gone. This is a unique area and the homeowners were promised not to have commercialization and they were also promised with equestrian interest. Ms. Brady added that they have spent hours creating this citrus protection. She also pointed out that on the corner of McDowell and Val Vista there were well over a hundred beautiful citrus trees that are now gone. Our concerns are to preserve the uniqueness and not have it be an office where there is a lot of coming and going. She also asked if there is anyone who could answer why the citrus doesn't get preserved.

Ms. Chimel acknowledged the hard work that the Citrus Sub Area representatives put into the initial plan as well as the hard work that the developer, the architect and the designer put into complying with the guidelines. She pointed out that there were no other representatives in the audience because the Citrus Area Homeowners along with the developer, the applicant (City of Mesa), the Council, and the Board were all in agreement with this request.

Boardmember Mizner also acknowledged the longtime and heartfelt efforts by Ms. Brady and the Citrus area but noted that this case has already been approved by the City Council. He added that the Board is not changing the project but if it goes forward it will be a high quality office building with a nice citrus character and would be an asset to the neighborhood. He

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pointed out that this is a procedural matter to remove a condition that would prove erroneous to any reasonable use of this property. Mr. Mizner stated he is in support of the case.

Boardmember Saemisch asked what the process was if somebody sees a lot that is being scrapped of its trees and if there was a telephone number where people could call to find out if there are any rights being violated or issues that need be resolved.

Ms. Chimel stated that the Planning Division does receive many calls from neighbors in the citrus area. She added that staff has had many meetings at the management levels as well as in the Planning Division on how best to retain citrus that is aging and no longer being used for production. There has been discussion about using other plants as landscape in order to keep the look and feel of citrus but that doesn't have the difficulties associated with irrigation. She mentioned that staff is in constant contact with the Citrus Area Homeowners.

Boardmember Saemisch also asked if an owner has the right to clear-cut their lot. Ms. Chimel stated that an owner has the right to do that unless there is a stipulation applied to the lot that is associated with the development plan or an ordinance condition and added that there are many lots that have those conditions.

Chairperson Cowan thanked Ms. Brady for coming and added that the comments presented were not so much the land use as much as terminology related to the ordinance.

It was moved by Boardmember Mizner, seconded by Boardmember Saemisch

That: The Board approve and recommend to the City Council approval of zoning case Z04-55 conditioned upon:

1. Compliance with the basic development of case Z03-62, as described in the Z03-62 project narrative and as shown on the Z03-62 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 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. 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. Provide or retain two rows of citrus trees along the arterial street frontage, between the subdivision wall and the street.
9. 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).
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Vote: Passed 5-0.

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Item: **Z04-56 (District 5)** The 9200 to 9300 block of East Main Street (north side). Located east of the northeast corner of Main Street and Ellsworth Road (1.5± ac.) This request is to rezone from Maricopa County C-2 to City of Mesa C-2. W M Grace Development Company, owner; City of Mesa, applicant.

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-56 conditioned upon:

1. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
2. Compliance with all City development codes and regulations.

Vote: Passed 5-0.

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Item: **Z04-57 (District 6)** The 1800 to 1900 block of South Crismon Road (west side). Located north and west of Crismon Road and Baseline Road (0.05± ac). Rezone from C-2 to C-3 CUP. This request is to allow an outdoor event area accessory to a commercial development. Stuart L Rider, Rider Land & Development LLC, owner/applicant.

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board continue zoning case Z04-57 to the August 19, 2004 meeting.

Vote: Passed 5-0.

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Item: **Z04-58 (District 6)** The 1300 to 1400 block of North Greenfield Road (east side). Located north and east of Greenfield Road and Brown Road (0.1± ac). Rezone from C-2 to C-2 PAD and Site Plan Review. This request is to allow individual condominium ownership of commercial buildings. Brown Field Condominium Corporation, owner; Glenwood Development (Jeff Kost), applicant. Also consider the preliminary plat "Mountain View Plaza".

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-58 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted, except as noted below.
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, 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 Subdivision Technical Review Committee.
5. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Vote: Passed 5-0.

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MINUTES OF THE JULY 15, 2004 PLANNING AND ZONING MEETING

Item: **Z04-59 (District 3)** 525 West Southern Avenue. Located south and west of Southern Avenue and Country Club Drive (1.29± ac). Rezone from O-S to O-S PAD and Site Plan Review. This request to allow individual condominium ownership for existing buildings. Joe Porter, owner; William Standage, applicant. Also consider the preliminary plat "Porter Plaza Condominiums".

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

It was moved by Boardmember Esparza, seconded by Boardmember Carpenter

That: The Board approve and recommend to the City Council approval of zoning case Z04-59 conditioned upon:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted, except as noted below.
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, 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 Subdivision Technical Review Committee.

Vote: Passed 5-0.

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Respectfully submitted,

John Wesley, Secretary
Planning Director

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