



Planning and Zoning Board

Case Information

CASE NUMBER: **Z15-007 (PLN2014-00336)**
LOCATION: 108 East 2nd Avenue & 161 South Surrine
GENERAL VICINITY: Located south of Main Street on the east side of Surrine.
REQUEST: 1) To rezone from DR-2 to DB-1-BIZ; 2) A Council Use Permit for a social service facility; and 3) Site Plan Modification.
PURPOSE: This request would authorize a limited expansion of an existing substance abuse and detoxification treatment center.
COUNCIL DISTRICT: District 4
APPLICANT: Mark Bowker, Architect, The Pixolux Laboratory, LLC
STAFF PLANNER: Wahid Alam, AICP

SITE DATA

PARCEL NO.: 138-46-027E
EXISTING ZONING: Downtown Residence Districts (DR-2)
GENERAL PLAN DESIGNATION: Character Areas: Downtown Character Types
CURRENT LAND USE: Vacant 84 years old 735 SF former single story home and existing River Source social services.
LOT SIZE: 42,257 SF (.97± acres)

SITE CONTEXT

NORTH: Existing house – zoned DR-2
EAST: Existing house, currently for sale – zoned DR-2
SOUTH: (across 2nd Avenue) Existing houses – zoned DR-2
WEST: (across Surrine) Existing houses – zoned DR-2-DE

ZONING HISTORY

July 15, 1883: Incorporated as the City of Mesa (Ord. #1)

STAFF RECOMMENDATION: Denial

PLANNING & ZONING BOARD DECISION: ☐ Approval with conditions. ☒ Denial

PROP-207 WAIVER: ☒ Signed. ☐ Not Signed

PROJECT DESCRIPTION

This proposal is for an expansion of the existing social service facility located at the northeast corner of Sirrine and 2nd Avenue. If approved, a new one-story building of approximately 2,899 square-feet will be constructed to replace the existing single-story home of 735 square-feet at 161 South Sirrine. The existing land use has been operating at 108 East 2nd Avenue for over twenty years. Prior to that it was used as a nursing home.

The proposed building will accommodate 12 patients in six bedrooms with living, dining and laundry facilities. The proposed building is a single-story structure designed to be compatible with the surrounding houses with a front porch facing Sirrine. The addition will not require any new driveways; rather it will use the existing driveway for service access only. The other driveway on Sirrine will be closed with a landscape median. The proposed building will be served by the existing facility on 108 East 2nd Avenue.

The proposed site plan shows 11 on-site parking spaces and an additional 15 on-street parking spaces along 2nd Avenue and Sirrine for a total of 26 available spaces for the entire 21-bedroom (15 existing bed+6 proposed) facility. An Assisted Living facility requires one space for each room plus two additional spaces. The total parking required for this proposal is 23 spaces.

The current use is considered legal non-conforming (i.e. it was existing at this location prior to the current zoning requirements, but does not meet those requirements). Now that the business is seeking to expand the entire operation needs to be brought into conformance. The entire property is currently zoned DR-2, essentially a medium density residential district. Social service uses are not permitted in this district. The district needed to accommodate the use is the DB-1, Downtown Business District, plus approval of a Council Use Permit.

Because of concerns about changing the zoning on this property from residential to business, the applicant has also included a request for a BIZ overlay along with the request for the change in the base zoning. The purpose of the BIZ is to allow a modification of the DB-1 development standards to make them consistent with the DR-2 development standards and to allow for modification of the uses allowed in the DB-1 district to eliminate any that are not allowed in the DR-2 district, except for the ability to apply for the CUP for the social service use. The applicant will also be drafting a Development Agreement for Council approval to limit the uses.

HISTORICAL BACKGROUND

According to the Maricopa County Assessor's Office, the existing buildings on the property addressed as 108 East 2nd Avenue contain 12,360 square-feet and have been on the property approximately 56 years. The property at 161 South Sirrine has been a single-residence located at lot 13 of the L.B. Johnson Subdivision, Orchard Place for 84 years. The current deed shows that in 1997 the property at 161 South Sirrine was purchased by the owner of 108 East 2nd Avenue (Sara Care, Inc.). The property at 108 East 2nd Avenue (Parcel # 138-46-027D) and the property to the north at 161 South Sirrine (Parcel# 138-46-013) were both combined to create a single lot (Parcel# 138-46-027E) in 2013.

The project narrative indicates that the current owner of the River Source facility located at 108 East 2nd Avenue used the former single residence home at 161 South Sirrine for kitchen staff housing (2003-2007), patient housing (2008-2009), and staff on-site housing (2010-2013). These were all non-conforming uses of this property.

The current zoning regulations that allow the social service facilities only in the DB zoning districts were established in 1988.

CITIZEN PARTICIPATION

The applicant submitted a Citizen Participation Report dated December 24, 2014. The report identified various outreach efforts by the applicant. These efforts included a neighborhood meeting held on December 11, 2014, which was attended by eight neighbors and three representatives of the applicant. The applicant has notified all surrounding property owners within 500-feet of the subject site and registered neighborhoods within 1/2 mile. Staff has received one phone call from a resident of the area and three inquiries. All of them expressed their concern over the proposed expansion of the existing social service facility by rezoning the site. The neighbors are okay with the existing facility; however they do not support the rezoning from DR-2 to DB-1 for the fear of potential development from the whole range of non-residential land uses allowed within the DB-1 zoning district. On the other hand, most of them support the proposed site plan and design of the building.

The applicant has submitted 12 letters of support and staff has received one letter from Mr. Augie Gastelum expressing his concerns. All letters are attached.

CONFORMANCE WITH THE MESA 2040 GENERAL PLAN

State statutes require that all adopted zoning and rezoning ordinances be consistent with the adopted General Plan. Determining consistency with the General Plan requires a review of the proposal against the character area requirements and the other goals and policies of the Plan and any adopted sub-area plans.

General Plan

The Mesa 2040 General Plan was built around the need to use the ongoing growth and development in the city to evolve into a more holistic, sustainable, and recognizable city. The focus of the plan is on creating and maintaining great neighborhoods, growing and maintaining diverse jobs, and providing rich public spaces and cultural resources. The plan also takes a flexible approach to land use and, instead, focuses on the character of development in different areas.

Chapter 4 of the Plan describes the value of strong neighborhoods to the City. This chapter includes six key elements that need to be considered and followed to help create and maintain such neighborhoods. With regards to this particular application, many do not apply or are not affected by the requested legitimization and expansion of the social service facility. Three that do apply are:

- Safe, clean, and have a healthy living environment. Related to this it is important that we avoid incompatible land uses and avoid an over concentration of uses that require a conditional use permit. In this case the use has been here for many years and does not seem to be a significant detriment to the neighborhood. There are no other uses in the immediate area that have or require a conditional use permit to operate.
- Build community and foster social interaction. For neighborhoods to remain strong and maintain over time they need residents who take an active role in working together and building social networks. The nature of the social service facility is that its residents come and go over relatively short periods of time and do not have the time or opportunity to be active members of the neighborhood.
- Neighborhood character and personality. New development and redevelopment needs to add to the community and the sense of place. While this is a valuable and

needed business in our community, it does not serve the needs of the nearby residents or help make it a more viable neighborhood. The house at 108 E 2nd is a unique structure that does add value to the architecture of the neighborhood. The new structure will need to do the same.

One of the policies related to this section of the Plan states: "Neighborhood P1: Encourage the appropriate mix of uses that will bring life and energy to neighborhoods while protecting them from encroachment by incompatible development." The use has been in the neighborhood for many years and the proposed expansion is relatively minor. However, a decision was made many years ago to structure the zoning ordinance so that this would be a non-conforming use that would, one day, move to a more suitable location and leave this property for reuse with a more neighborhood oriented use.

Chapter 4 of the Plan also reviews the importance of historic preservation as a means of maintaining older neighborhoods. In 1984 the City conducted the first historic reconnaissance study of the community to identify those areas where historic districts may be appropriate. That survey identified that there are several houses in this immediate area with historic significance. There is a current effort underway to update the earlier survey and determine whether or not a historic district is viable for this area. Removal of the existing structure will further alter the historic fabric of this area; any new structure should be designed to fit the historic context.

Another significant chapter of the Plan to review for this request is Chapter 7, Community Character. This request is in the area with the Downtown character type. "The focus of this character type is the creation of a pedestrian-oriented, transit rich environment with a lot of activity. The goal for this area is to make it a people-friendly area that is alive with options for housing, employment, shopping, entertainment, and event."

As an urban area there is an expectation that there will be a wide variety of uses and that changes in uses will occur within close proximity to each other. The mix of uses is demonstrated in the area surrounding this request. The properties a block north along 1st Avenue include a mix of offices in one and two story structures; some new and some reuses of residential structures. A block to the south are some industrial uses. Within the block that encompasses this property there is a mix of single-residence lots and those that have redeveloped with duplexes and triplexes.

While a mix of uses is expected, and even desired to provide for a dynamic urban living environment, there still needs to be order to the location of the various land uses. This particular request is in the middle of the area designated for residential uses and there are no other non-residential uses in the immediate vicinity. Changing the zoning on this property to a commercial district, even one that is modified to act like a residential district, could cause concern and confusion about the real future of this area.

Central Main Plan

This property is within the Downtown sub-district of the Central Main Plan. The overall goal for this area is to take advantage of the extension of light rail to create an urban environment that becomes Mesa's City Center. The vision for this area includes the statement: "Care will be taken to ensure the maintenance and preservation of the character of stable residential neighborhoods and historic assets."

There is an emphasis in the Plan to improve Serrine as a pedestrian street to help move people from the neighborhood to Main Street. The area that contains this application is part of an area designated for neighborhood maintenance. The "Neighborhood Maintenance" label was given to areas where there are strong residential cores that should be maintained over time, even though there may be some changes or improvements to the neighborhood. The specific policy statement for this area is to "limit the intrusion of non-residential uses that break up the residential fabric of the neighborhood."

Another criteria for review listed in the General Plan is to evaluate whether or not the proposed development will serve to strengthen the character of the area by:

- **Providing appropriate infill development;**

In this case, the answer is not clear. The building that is now being proposed for the property fits the surroundings and context and could be considered appropriate infill. The question is whether or not the use is appropriate. While it is a minor expansion of a use that has operated in the area for many years with little to no negative impact, it is not a use that will tend to support the building of a stronger neighborhood.

- **Removing development that is deteriorated and/or does not contribute to the quality of the surrounding area;**

This request will allow the redevelopment of the site from an older abandoned home to a new building that is being designed to fit the neighborhood.

- **Adding to the mix of uses to further enhance the intended character of the area;**

The proposed addition will allow a mixture of uses on the site appropriate to the larger Downtown character type, but is somewhat questionable for the specific neighborhood maintenance area.

- **Improving the streetscape and connectivity within the area;**

The proposed building with its single-story height and front porch facing the street will enhance the existing streetscape and connectivity in the Downtown area. The overall bulk of the proposed structure may be a little large for the area. Continued work is needed on the specifics of the design.

- **Improving safety within the area;**

Development consistent with current development standards and codes will increase safety in the area.

- **Adding to the sense of place;**

The building is being designed to fit the scale of the area with an orientation to the street. When finished, the final design needs to add to the quality of the street scene. What may be lacking is the activity of a permanent resident living in the building and the things that go with permanent residents that add to the sense of place.

- **Meeting or exceeding the development quality of the surrounding area?**

The proposed additional development on the site will exceed the quality of the surrounding area.

In summary, the primary goals of both the General Plan and the Central Main Street Plan are to maintain this area as a residential neighborhood. With the extension of light rail into the downtown area there is increasing interest in this area as a place to live. In order to accommodate the wide variety of people who will want to live downtown we need to provide a

To address these concerns, the applicant has proposed to also apply for a BIZ. This overlay allows for modification of the development standards and allows Council (in conjunction with a development agreement) to exclude uses from the base zoning district. The application of the BIZ district also carries with it the requirement to “encourage unique, innovative designs of superior quality; further the goals of the general plan and any sub area plans, and provide social and economic benefit to the City.

The project narrative states that the BIZ will be used to modify the development standards of the requested DB-1 district to be the same as the DR-2 district. This would help ensure that any buildings would be of the same scale and intensity as what is allowed in the existing neighborhood. The main impact of this will be to increase the minimum front setback from 10 feet to 15 feet and the interior side setback from 10 feet to at least 15 feet and decrease the maximum building height from 50 feet to 30 feet.

The BIZ will also be used to limit the uses allowed in the DB-1 zoned area by excluding any uses that are not allowed in the DR-2 zoning, except for the allowance for Social Service Facilities. The uses that will be allowed within this area are:

Attached single residence	Parks and recreation, public
Multiple residence	Places of worship
Small day care homes	Private school with a CUP
Large day care homes with a SUP	Social service facility with a CUP
Group homes for the handicapped up to 10	Live work unit
Home occupations	Business or professional office with a SUP
Community center with a SUP	Transportation passenger terminals
Community garden	Utilities, minor
Day care center with a SUP	

To limit these uses, the City Council will also have to approve a development agreement. With the BIZ overlay and the development agreement, the actual impact will be to just legitimize and slightly expand the existing use of the property.

As stated above, the use of the BIZ overlay carries with it requirements for superior design quality and to meet higher-level environmental site design standards. The existing property contains an older residential structure that shows the signs of aging and may have reached its useful life. The proposed new structure has been designed to fit with the character of the existing neighborhood. Should this request be approved staff will continue to work with the applicant to ensure the criteria for this zoning overlay are achieved.

While this zoning option can work, staff has concerns. One is that by looking at the zoning map it will appear that DB zoning is appropriate for the area, thus creating some destabilization and confusion about the future of the area. Once approved for this location there are no significant distinguishing features to suggest the zoning could not be extended to adjacent lots. A second concern is the long-term impact on staff to understand and monitor the fact that this “DB” zoned property is really “DR” zoned.

Council Use Permit

In order to operate a social service facility in the DB-1 zoning district Council must approve a Council Use Permit (CUP). A CUP is a discretionary permit issued by the City Council after

review and recommendation by the Planning and Zoning Board. CUP's have been established for several different uses because they may not always be appropriate within the given zoning district. The CUP process allows for specific focus on the use in a specific context to see if it should be allowed or not.

The City of Mesa Zoning code describes the standards for reviewing and approving CUP's in Sec. 11-70-6 of the Zoning Ordinance. The Ordinance also contains specific requirements for the location of a Social Service Facility as follows:

Section 11-31-26: Social Service Facilities

Social Service Facilities, as described in Section 11-86-3 shall be located, developed, and operated in compliance with the land use regulations in Article 2 and the following standards:

- A. **Location.** Social Service Facilities are not allowed on Main Street, within the designated Town Center Redevelopment Area.*
- B. **Minimum Standards.** All Social Service Facilities shall provide: adequate and accessible sanitary facilities, including lavatories, rest rooms and refuse containers; sufficient patron seating facilities for dining, whether indoor or outdoor; effective screening devices such as landscaping and masonry fences in conjunction with outdoor activity areas; a plan of operation, including but not limited to, patron access requirements, hours of operation, measures used to control potential client congregation on the site during non-operating hours, security measures, litter control, and noise attenuation. Further, evidence of compliance with all Building and Fire Safety regulations and any other measures determined by the City Council to be necessary and appropriate to ensure compatibility of the proposed use or uses with the surrounding area shall be provided with permit applications.*
- C. **Applicable Guidelines.** All Social Service Facilities are subject to the Social Service Facilities Guidelines adopted by the City.*
- D. **Criteria for Review of Council Use Permit:** When required, the review of the Council Use Permit shall include a review and determination regarding the following items:*
 - 1. The use is found to be in compliance with the General Plan, Sub Area Plans and other recognized development plans or policies, including the Social Service Facility Guidelines and will be compatible with surrounding uses; and*
 - 2. A finding that a plan of operation has been submitted, which includes, but is not limited to, acceptable evidence of compliance with all zoning, building, and fire safety regulations; and*
 - 3. A finding that a "good neighbor policy" in narrative form has been submitted, which includes, but is not limited to, descriptions of acceptable measures to ensure ongoing compatibility with adjacent use. Such policies shall include, but are not limited to, the name and telephone number of the manager or person responsible for the operation of the facility; complaint response procedures, including investigation, remedial action, and follow-up; and litter control measures; and*
 - 4. Evidence that acceptable documentation is present demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City Development Standards, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.*

Approval of a CUP is conditional on the use being compatible with the given location and the

general plan and any sub area plans. Social service facilities must meet the same criteria. As described above in the review of compatibility with the general plan, there is some concern that legitimizing this use and its expansion would not be consistent with these plans. At the same time, it should be noted that the current operation has been functioning at this location for many years with little to no direct negative impact on the surrounding neighborhood. Staff worked with the applicant to make the proposed site plan, landscape plan and building design compatible to the surrounding neighborhood in context, scale and character.

A significant portion of the review for this type of CUP is the plan of operation for the facility. In order to assess the potential impact on the neighborhood we need information on: 1) how clients are referred to the facility; 2) the security steps taken at the facility to ensure clients do not become a danger to the surrounding neighborhood; 3) an understanding of what clients do during the treatment process; and, 4) what the release procedures are. None of this information has been provided in the statement supplied with this application. This information is needed before action can be taken to approve this request.

Site Plan Modification

The proposed site plan, landscape plan and building design will definitely enhance the current condition at the northeast corner of Sirrine and 2nd Avenue. As stated before the existing structure on the property is older and in need of upgrading or removal. There are other current site issues with driveways and the dumpster located along the street that have been addressed in the site plan. Staff still has some minor concerns about the proposed building in terms of its massing as compared to the other buildings in the area, but these are design issues that can still be worked out between the applicant and staff.

CONCLUSION:

Review of this request has been challenging. The existing operation has not created any identified problems for the neighborhood and the requested increase to the operation is minimal. The visual appearance of the property will be improved based on the site plan and building elevations that have been submitted. One of the main concerns from the neighbors was the possibility of other DB-1 uses occurring on the property should the request be approved. This issue is being addressed through the BIZ and the proposed development agreement.

Staff has concerns, however, from both a general plan and sub area plan perspective and from a zoning perspective. The zoning that is in place specifically made the existing use non-conforming with the intent the use would eventually revert back to a more traditional residential use. Expanding the current use for a commercial purpose could have a negative impact on the Plan goals to maintain and strengthen this area as a residential neighborhood. Further, taking the extreme steps necessary to make a business zoning district function as a residential zoning district to allow this use to continue in the neighborhood seems to be too much of an abuse of the zoning process for staff to be comfortable. Therefore, staff is recommending denial of the rezoning, council use permit and site plan modification.

Should the Board determine that, given the controls put in place with the rezoning and development agreement, this minor expansion of the use will not be a detriment to the neighborhood, action cannot be taken to make a positive recommendation to the City Council until a complete plan of operation has been supplied and reviewed by staff. Should such a plan be supplied and found acceptable prior to the Board meeting, staff would recommend the following conditions:

CONDITIONS OF APPROVAL:

1. Compliance with the development as described in the project narrative, plan of operation, good neighbor policy, and as shown on the site plan, landscape plan and preliminary elevations approved for this project except as may be modified to meet the conditions below.
2. Compliance with all City development codes and regulations.
3. **Compliance with the Council approved Development Agreement.**
4. **Planning staff approval required prior to building permit to replace the existing noncompliant wooden fences along Sirrine and 2nd Avenue with an enhanced see-thru fence material.**
5. **Administrative design review approval required prior to obtaining a building permit.**
6. **All site improvements, including landscaping, shall be completed per the approved site plan prior to obtaining the certificate of occupancy.**