

MEMORANDUM

TO: Chair and Members, Planning and Zoning Board

FROM: John D. Wesley, AICP, Planning Director/Zoning Administrator

SUBJECT: Concentration of Conditional uses and Update on Sober Living/Group Homes and Social Service Facilities

DATE: November 13, 2018

BACKGROUND:

There has been discussion at recent Planning and Zoning Board meetings regarding what constitutes a concentration of uses that require a conditional use permit. This topic came up because of the provision in the Mesa 2040 General Plan, Chapter 4: Creating and Maintaining a Variety of Great Neighborhoods, that states “It is also important that we do not have an over concentration of uses that require a conditional use permit in neighborhoods.” Based on the cases that have recently been in front of the Board, there has been a particular interest in the concentration of substance abuse treatment facilities and social service facilities, however, over concentration is a broad topic which includes the evaluation of many different uses. Staff needs more time to review this issue before we can move forward with any substantive discussion on how to address the issue of over concentration. In the meantime, I wanted to provide the Board with an overview of conditional use permits and a list of the uses that require a permit in the Zoning Ordinance, an update on the City’s efforts to review and revise the group homes section of the Zoning Ordinance and an update on the State’s rulemaking of sober living homes.

CONDITIONAL USES:

Conditional uses include both Special Use Permits (SUP’s) and Council Use Permits (CUP’s). Attached is a list of all uses that require either a SUP or CUP. Note that a given use may require a SUP or CUP in some zoning districts but not in others. One example: Automobile Rentals is a use by right in the GC District, requires approval of a SUP in the LC District, and requires a CUP in the DC District.

Typically, a use or activity that requires a SUP’s and CUP’s has additional standards and regulations. For example, an office in a single residence district requires a SUP and has additional standards including the use can only be located at the intersection of a local or collector street with an arterial street and can only be a maximum of 2,000 sq. ft.

The reasons for requiring a SUP or CUP vary based on the use and zoning district. For example, Attached Single-residence (generally not a negative activity) requires approval of a CUP in the commercial zoning districts. This was done with the current zoning ordinance to allow for a mix of uses in commercial areas, but to be able to control the amount of residential uses and ensure the commercial area remains primarily commercial. Automobile/Vehicle washing facilities require approval of a SUP in order to ensure they are not causing a negative impact on adjacent residential uses due to the noise they can generate. A Garden Center requires approval of a SUP in the LC District to provide review to make sure the amount of outdoor activity is appropriate to the location and does not overtake the parking area.

Chapter 70 of the Zoning Ordinance provides the purpose for these types of uses, the general process and review criteria for consideration of conditional uses. The Purpose section of this chapter states:

“These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The purpose of the conditional use permit application process is to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval. If adverse impacts cannot be appropriately resolved, the use is not appropriate in that location or configuration.”

The required findings for approval of a SUP are contained in Section 11-70-5 E and the review criteria for approval of a CUP are in Section 11-70-6 D.

Specific uses may also have individual standards to be considered and applied. For example, Section 11-31-7 provides standards for Automobile/Vehicle Washing. Subsection G has specific requirements associated with those instances where a Special Use Permit is required.

SOBER LIVING/GROUP HOMES AND SOCIAL SERVICE FACILITIES:

On a related topic, I wanted to remind the Board that the City adopted an ordinance to license sober living homes in Mesa. As part of the discussion on this topic it was recognized that the City’s Zoning Ordinance with regards to sober living homes, group homes and social services would benefit from a comprehensive review and update. To accomplish this, the City is bringing in a consultant with extensive experience in this area of the law and local ordinances. The City’s goal is to have the consultant begin work shortly after the first of the year.

In addition, in the last legislative session, the State Legislature passed legislation regarding sober living homes and gave the Arizona Department of Health Services (ADHS) up to two years to adopt rules for the licensing and regulation of sober living homes. ADHS is currently working on those rules and is seeking input on the draft rules. A copy of the draft rules is posted for public comment on the ADHS website, <https://azdhs.gov/director/administrative-counsel-rules/rules/index.php#rulemakings-active-sober-living>. Any citizen is allowed to review these rules and make comments. The current survey on the draft rules will close on December 2, 2018.