



Planning and Zoning Board

Meeting Minutes

Mesa City Council Chambers – Upper Level, 57 East 1st Street
Date: October 13, 2021 Time: 4:00 p.m.

MEMBERS PRESENT:

Chair Jessica Sarkissian
Vice Chair Deanna Villanueva-Saucedo
*Tim Boyle
Jeffrey Crockett
Ben Ayers
Troy Peterson

MEMBERS ABSENT:

Shelly Allen

(*Boardmembers participated in the meeting through the use of telephonic and video conference equipment)

STAFF PRESENT:

Nana Appiah
Michelle Dahlke
Rachel Prelog
Lesley Davis
Cassidy Welch
Charlotte Bridges
Kellie Rorex
Jennifer Gniffke
Charlotte McDermott
Sarah Staudinger
Rebecca Gorton

OTHERS PRESENT:

None

Call Meeting to Order.

Chair Sarkissian declared a quorum present and the meeting was called to order at 4:00 p.m.

1. Take action on all consent agenda items.

Items on the Consent Agenda

2. **Approval of minutes:** Consider the minutes from the September 22, 2021, study session and regular hearing and corrected minutes from the July 9, 2021 regular hearing.

*2-a Boardmember Crockett motioned to approve the minutes from the September 22, 2021 study session and regular hearing. The motion was seconded by Vice Chair Villanueva-Saucedo.

MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

Vote: 6-0 Approved (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

- *2-b** Boardmember Crockett motioned to approve the corrected minutes from the July 9, 2021 regular hearing. The motion was seconded by Vice Chair Villanueva-Saucedo.

Vote: 6-0 Approved (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

Boardmember Crockett motioned to approve the consent agenda. The motion was seconded by Vice Chair Villanueva-Saucedo.

Zoning Cases: ZON21-00132, ZON21-00589, ZON21-00640, ZON21-00653, ZON21-00689, ZON20-00840, and ZON21-00278

Vote: 6-0 Approved (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *3-a ZON21-00132 District 4.** Within the 800 block of West Broadway Road (north side), and within the 300 block of South Extension Road (west side). Located east of Alma School Road on the north side of Broadway Road. (1.9± acres). Site Plan Review; and Special Use Permit. This request will allow for the development of a convenience market with an associated fuel station. Land Development Consultants, LLC, applicant; Circle K Stores Inc., owner.

Planner: Charlotte Bridges

Staff Recommendation: Approval with conditions

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to approve case ZON21-00132 with conditions of approval. The motion was seconded by Vice Chair Villanueva-Saucedo.

That: The Board recommends the approval of case ZON21-00132 conditioned upon:

1. Compliance with the final site plan and landscape plan submitted.
2. Prior to application for a building permit, apply for and receive approval for an Administrative Use Permit to allow the number of parking spaces to exceed 125% of the minimum required parking spaces or reduce the parking to comply with the Zoning Ordinance.
3. Compliance with the plan of operation and good neighbor policy submitted.
4. Compliance with all City development codes and regulations.
5. Compliance with all requirements of Design Review.

Vote: 6-0 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *3-b ZON21-00589 District 6.** Within the 9300 to 9400 blocks of East Ray Road (north side), the 5000 to 5200 blocks of South Bradley Way (east side) and within the 9300 block of East Serenity Avenue (south side). Located East of Ellsworth Road and North of Ray Road. (9.12± acres). Site Plan Review. This request will allow for a multiple residence development within the Eastmark Community. Drew Olson, PCS Development, applicant; Premiere Multi-Family at Eastmark II LLC., owner. **(Continued from September 22, 2021)**

Planner: Kellie Rorex

Staff Recommendation: Approval with conditions

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to approve case ZON21-00589 with conditions of approval. The motion was seconded by Vice Chair Villanueva-Saucedo.

That: The Board recommends the approval of case ZON21-00589 conditioned upon:

1. Compliance with the final site plan submitted.
2. Final Eastmark Design Review approval is required prior to permitting.
3. Compliance with Ordinance number 4893 and the adopted Eastmark (Mesa Proving Grounds) Community Plan.
4. Compliance with the Eastmark Development Unit 3 /4 North Development Unit Plan dated October 17, 2018.
5. Compliance with all City development codes and regulations.
6. Prior to the issuance of a building permit, record a new subdivision plat for the subject parcels.
7. Compliance with all requirements of the Subdivision Regulations
8. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Prior to the issuance of a building permit, provide documentation that a registered professional engineer or registered professional architect has certified that noise attenuation measures have been incorporated into the design and construction of the buildings to achieve a noise level reduction to 45 decibels as specified in Section 11-19-5 of the Mesa Zoning Ordinance.
 - b. Provide written notice to future property owners that the project is within 1 mile(s) of Phoenix-Mesa Gateway Airport.
 - c. Any proposed permanent or temporary structure is subject to an FAA filing for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. An FAA determination notice of no hazard to air navigation shall accompany any building permit application for the property.
 - d. All final subdivision plats and leasing offices shall include a disclosure notice in accordance with Section 11-19-5(C) of the Zoning Ordinance which shall state in part: "This property, due to its proximity to Phoenix- Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."

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Vote: 6-0 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *3-c ZON21-00640 District 6.** Within the 10700 block of east Southern Avenue (south side). Located west of Signal Butte Road on the south side of Southern Avenue. (1.06± acres). Site Plan Review. This request will allow for the development of a retail building. Trish Flower, Upward Architects, applicant; MVM Shopping Center, LLC, owner.

Planner: Kellie Rorex

Staff Recommendation: Withdrawn

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to withdraw case ZON21-00640. The motion was seconded by Vice Chair Villanueva-Saucedo.

Vote: 6-0 Withdrawn (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *3-d ZON21-00653 District 6.** Within the 9800 to 9900 blocks of the East Williams Field Road alignment (south side) and within the 6000 to 6300 blocks of the South Crismon Road alignment (west side). Located on the southwest corner of the Crismon and Williams Field Road alignments. (18.1± acres). This request will approve the Development Unit 3 Development Unit Plan within the Pacific Proving Grounds North Community Plan, also known as the Cadence Community Plan. Susan Demmitt, Gammage and Burnham, PLC PPGN-Williams, LLLP.

Planner: Evan Balmer

Staff Recommendation: Approval with conditions

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to approve case ZON21-00653 with conditions of approval. The motion was seconded by Vice Chair Villanueva-Saucedo.

That: The Board recommends the approval of case ZON20-00653 conditioned upon:

1. Compliance with Ordinance numbers 5115 and 5603 and the adopted Pacific Proving Grounds North Community Plan (Cadence Community Plan).
2. Compliance with Cadence at Gateway Development Unit 3 Development Unit Plan submitted.
3. Owner granting an Avigation Easement and Release to the City, pertaining to Phoenix Mesa Gateway Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map or prior to the issuance of a building permit).
4. Written notice be provided to future property owners, and acknowledgment received that the project is within 1 mile of Phoenix Mesa Gateway Airport.
5. Due to the proximity to Phoenix Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing, for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance
6. Provide a 4-foot x 4-foot sign at the entrance to the sales office for this development, with notice to all prospective buyers that the project is within an Overflight Area for Phoenix Mesa Gateway Airport as specified in Section 11-19-5 of the Zoning Ordinance.
7. Prior to the issuance of a building permit, provide documentation by a registered Professional Engineer or registered Professional Architect has certified that Noise attenuation measures have been incorporated into the design and construction of the buildings to achieve a noise level reduction to 45 db as specified in Section 11-19-5 of the Zoning Ordinance.

Vote: 6-0 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *3-e ZON21-00689 District 6.** Within the 9300 to 9500 blocks of East Elliot Road (north side) and within the 3400 to 3600 blocks of South 94th Place (west side). Located east of Ellsworth Road on the north side of Elliot Road (14± acres). Site Plan Review. This request will allow for an industrial development. Adam Baugh, Withey Morris, applicant; Mesa Growth Properties LLC, owner.

Planner: Charlotte Bridges

Staff Recommendation: Approval with conditions

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to approve case ZON21-00689 with conditions of approval. The motion was seconded by Vice Chair Villanueva-Saucedo.

That: The Board recommends the approval of case ZON20-00689 conditioned upon:

1. Compliance with Ordinance 4803.
2. Compliance with the final site plan and landscape plan submitted.
3. Compliance with all requirements of Design Review.
4. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner shall execute and record the City's standard avigation easement and release for Phoenix-Mesa Gateway Airport prior to the issuance of a building permit.
 - b. Prior to the issuance of a building permit, provide documentation that a registered professional engineer or registered professional architect has certified that noise attenuation measures have been incorporated into the design and construction of the buildings to achieve a noise level reduction to 45 decibels as specified in Section 11-19-5 of the Mesa Zoning Ordinance.
 - c. Provide written notice to future property owners that the project is within 2 miles of the Phoenix-Mesa Gateway Airport.
 - d. Any proposed permanent or temporary structure is subject to an FAA filing for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. An FAA determination notice of no hazard to air navigation shall accompany any building permit application for the property.
5. Compliance with all City development codes and regulations.

Vote: 6-0 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *4-a ZON20-00840 District 1.** Within the 1000 block of East McKellips Road (south side). Located west of Stapley Drive on the south side of McKellips Road. (4.5± acres). Rezone from Single Residence 9 (RS-9) and Multiple Residence 4 (RM-4) to Multiple Residence 2 (RM-2) with a Planned Area Development Overlay (PAD); and Site Plan Review. This request will allow for a multiple residence development. Victoria Snively, United Realty MTA, applicant; Thomas Adhoot, owner. **(Continued from September 22, 2021)**

Planner: Cassidy Welch

Staff Recommendation: Approval with conditions

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Crockett motioned to approve case ZON20-00840 with conditions of approval. The motion was seconded by Vice Chair Villanueva-Saucedo.

That: The Board recommends the approval of case ZON20-00840 conditioned upon:

1. Compliance with the final site plan submitted.
2. Development of the site must, at a minimum, shall include all the common amenities shown on the final site plan including: a swimming pool, fitness building, a playground, and outdoor seating area.
3. Compliance with the requirements of Design Review.
4. Dedicate the right-of-way and easements 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. Prior to submittal of a building permit, record a lot combination for the subject parcels.
6. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with the PAD overlay and shown in the following table:

| MZO Development Standards | Approved |
|--|--|
| <u>Building Separation</u> – <i>MZO Section 11-5-5</i> <i>-Minimum separation between 3-story buildings</i> | 30 feet |
| <u>Access, Circulation and Parking (Attached Garages)</u> – <i>MZO Section 11-5-5.B.4.f</i> <i>-Allowed maximum number of garage doors for multiple garage doors to be located adjacent to one another in one building</i> | 4 garage doors |
| <u>Landscape Yard</u> – <i>MZO Section 11-33-2.A</i> <i>-Required interior landscape yard (east property line)</i> | The three guest parking spaces, as shown on the final site plan, are allowed to encroach into the required landscape yard |

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Vote: 6-0 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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MINUTES OF THE OCTOBER 13, 2021 PLANNING & ZONING MEETING

- *4-b ZON21-00278 District 5.** Within the 1300 to 1500 blocks of North Power Road (east side), within the 6800 block of East Hobart Street (south side), and within the 6800 block of East Halifax Drive (both sides). Located north of Brown Road on the east side of Power Road. (6.13± acres). Rezone from Office Commercial (OC) and Single Residence 35 (RS-35) to Neighborhood Commercial with a Planned Area Development overlay (NC-PAD); and Site Plan Review. This request will allow for the development of a Food Truck Park. Sean Lake, Pew and Lake, PLC, applicant; Power Road Park, LLC, owner.

Planner: Lesley Davis

Staff Recommendation: Continue to October 27, 2021

Summary: This case was on the consent agenda and therefore was not discussed as a separate individual item.

Boardmember Boyle motioned to continue case ZON21-00278 to the October 27, 2021 meeting. The motion was seconded by Boardmember Allen.

Vote: 6-0 Continue to October 27, 2021 (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Vilanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

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- *4-c ZON21-00540 District 6.** Within the 10500 to 10800 blocks of East Elliot Road (north side) and within the 3500 block of South Signal Butte Road (west side). Located on the northwest corner of Signal Butte Road and Elliot Road. (25.7± acres) Rezone from Agriculture (AG) to Light Industrial (LI) with a Planned Area Development overlay (LI-PAD); Site Plan Review and Special Use Permit. This request will allow for a commercial and industrial development. Adam Baugh, Withey Morris, PLC, applicant; Whane of Mesa, LP owner.

Planner: Evan Balmer

Staff Recommendation: Approval with conditions

Summary: Staff member Cassidy Welch presented case ZON21-00540 to the Board. The subject site is located on the north side of Elliott Road and on the west side of Signal Butte Road. The General Plan designation for the property is Employment. The intent behind the Employment Character Area designation is to provide for a wide range of high-quality employment with some supportive commercial. The request before you today is a Rezone from Agricultural to Light Industrial (LI) with a Planned Area Development Overlay, Site Plan Review and Special Use Permit for a service station. This will allow for an industrial and commercial development.

The site is currently vacant. As a part of the Light Industrial (LI) proposed zoning, the intent is to provide areas that serve surrounding residential trade area, industrial uses and commercial uses are permitted within the LI Zoning District. However, there will be a Development Agreement that will prohibit some land uses as a part of this proposed development.

The subject request includes a Planned Area Development (PAD) Overlay. Those deviations include an increase to the maximum building height to allow for planned industrial operations; a modification to the proposed parking ratio consistent with the primary use of warehousing as well as consistent with other industrial developments within the City; and a reduction of the perimeter landscape yard to permit a shared drive.

The proposed Site Plan includes three industrial buildings totaling approximately 250,000 square feet as well as for commercial pads and a service station on the immediate corner. The site will be accessed from Elliott Road and Signal Butte Road. The site did go through Design Review Board at the September 14 hearing. The Board had no major concerns and staff will be working with the applicants to address any outstanding Board comments.

The applicant did conduct a Citizen Participation process which included the required notification letters. They also held a neighborhood meeting in which no surrounding property owners attended and neither staff nor the applicant has received any contact regarding this development.

With that, we find that the proposed development meets the 2040 Mesa General Plan, as well as the Mesa Gateway Strategic Development Plan. It also meets the Criteria for Site Plan Review for Chapter 22 for a PAD Overlay and Chapter 69 for Site Plan Review. Staff is recommending approval with conditions.

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Boardmember Crockett asked for an update of the status of the negotiation of the Development Agreement. Ms. Welch stated that question would be better answered by the Development Services Project Manager Ms. Veronica Gonzalez. Ms. Gonzalez stated the status of the Development Agreement is that it is currently in negotiations. We have not yet finalized the DA and are currently working on finalizing what those prohibited uses will be for this particular property. Mr. Crockett asked is there a timeline for when you expect that Development Agreement would be completed. Ms. Gonzalez responded our intent is for it to be completed prior to this case going to the City Council for consideration.

Mr. Crockett stated I would like to hear from the applicant. Adam Baugh, 2525 E. Arizona Biltmore stated as we know, the Development Agreement is within the purview of the City Council and beyond the request that is related to this hearing today. There is a template for Development Agreement already out there. Trammell Crowe just received the DA that has been presented to us in July and in August we made some adjustments to it and we are looking to finalize it soon with staff. Boardmember Crockett asked when you expect that to happen. Mr. Baugh responded we have a meeting on Monday, and we have expressed our desire to have it complete back in August.

Planning Director Nana Appiah stated because I know the Development Agreement is very critical to the case moving forward and because of the location of this property, it is something that this Board has been careful about making sure the uses that are allowed according to the intent of the area plan. I want to put it on record as this case moves forward to Council, that without coming to some consensus on the Development Agreement, this case will not be scheduled for City Council for consideration. The recommendation could change because if you look at the staff report, one of the conditions of approval is compliance with a Development Agreement. The recommendation very many hinges on the type of agreement that will be reached because it is part of our recommendation. There are two things to consider; one is if we do not reach an agreement, it will not be scheduled for City Council consideration. Or, if it is scheduled, the recommendation could change.

Chair Sarkissian confirmed the case would not go to a Council hearing unless the Development Agreement is agreed upon. Dr. Appiah stated that is something we will recommend but the applicant can still pursue to move the case forward to City Council without the DA. But, at that point, staff recommendation could change because it may not be in compliance with the Development Agreement that we intend to reach. Ms. Sarkissian confirmed the applicant on this site did not opt-in to the plan. Dr. Appiah responded that is correct and there is no requirement to opt-in. Because we have a goal for that area, whenever there is any proposed Rezoning, we work with the applicant to head towards that direction of achieving that goal. Some of the tools we have for this situation is the Development Agreement.

Mr. Crockett asked if the staff were to change its recommendation in this case, after we have already made the recommendation and voted on it, does it then would it come back to us for consideration. How would staff change its recommendation after we voted on it in this meeting. Dr. Appiah responded that is a good question. Staff would add an addendum or summary to the staff report that the recommendation of the Planning and Zoning Board was hinged on the condition of the Development Agreement, because your recommendation is based on the conditions that we have given to you. So, if we are

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unable to reach a consensus on the Development Agreement, we will write section of the report to say that our recommendation changed because what we intended to achieve with a Development Agreement to make this use or intended development compatible with the goals of the Tech Corridor has changed. Mr. Crockett confirmed would this case then come back to this Board at a future board meeting or would it go to City Council. Dr. Appiah responded that will go to City Council and Council could decide to take the case back to Planning and Zoning Board because in that situation, there may be additional information that would require it to be heard at this Board again.

Vice Chair asked if we want to have more discussion. Boardmember Crockett stated I would like to discuss further. I raised this issue in a recent case where we were in the same situation where a case came before us. The Development Agreement had not been finalized yet, but it was referenced in the staff report. And at that time, I made the comment that this is within the Elliott Road Technology Corridor and is so important to the City and the future of the City in terms of job creation, and what we are trying to build here in Mesa. The Development Agreement is sort of central to approving these cases as they come to us. With this applicant I do not necessarily have a problem with what they are proposing to construct but I do know that the Development Agreement is an important piece of this, or the city would not be pursuing that. And so, I would like to know that the Development Agreement is done before we were in a position to have to make a recommendation here. I think it seems a bit like putting the cart before the horse to vote on this before we know that the Development Plan is approved, especially when the planning department may revise its recommendation after this meeting if the development plan does not get signed between the City and the applicant.

Mr. Crockett continued you know, I had come here to the meeting today prepared to make a motion to table this item until the next Board meeting to provide a little extra time to try to get that Development Agreement negotiated. But the Director has indicated that there is still a path forward to keep this potentially from going to the Council if the Development Agreement has not been negotiated and I do not think that is going to happen. I believe the applicant is acting in good faith and I do not have a reason to believe it will not happen. But I am a little uncomfortable voting for this today without knowing that this piece is in place. I am most comfortable with tabling this case to the next meeting.

Vice Chair Villanueva-Saucedo said as an alternative way of looking at this, give that one of the conditions of approval is to execute and comply with the Development Agreement. If that condition is not met, then obviously to me, that voids what we are doing here today. So, I am also worried about overstepping our bounds. The Development Agreement is between City Council and the applicant, and there is no current requirement for property owners to opt into the Tech Corrido. So, I am careful about us being perceived as some sort of de facto veto if a property owner is not required to join in, they're required maybe to have the Development Agreement or encouraged to have a Development Agreement with the City. But again, that is within the City Council purview, not our purview. And again, given that one of the conditions of approval is to execute and comply with the DA. I am perfectly fine supporting it as it is presented this evening.

Boardmember Crockett stated, Madam Chair, I would just respond briefly that in the capacity of a Rezoning case like this, we are acting in the Legislative fashion, we can

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take into account the totality of the facts of the case. And I understand your position on that and I do not know that I disagree with what you have said. I am just uncomfortable voting for this and I would rather have an executed Development Agreement that had been completed at this point.

Chair Sarkissian said, I feel with this case, it has a Site Plan attached to it. So, there's already certain uses that are allowed and when you look at the site, what is allowed to be going there is already limited. The fact that they are required to have a Development Agreement as part of this, they are working in good faith doing this with the City to work through their negotiations. And the Development Agreement is typically heard at the same time as the case. So, you typically you would not have the agreement prior to Council adoption. One is contingent upon the other. It sounds like they are going through the final steps and staff most likely would not schedule the case without that agreement moving forward. We can hear more from staff, but do not review the Development Agreement. This Board does review the PAD and site plan that is before us. As it stands right now, staff has a recommendation of approval with some stipulations, referring to the Development Agreement and the Site Plan is in place. It has a good foundation for which to move forward. If City Council does have an issue with it, or staff has a really big issue they may refer it back to us if they deem it is appropriate.

Dr. Appiah asked to add a few more comments. Typically, we will not schedule the case before City Council if there is no agreement with a Development Agreement. The reason why I wanted to add that sentence to it is typically when cases come before you and we have the condition to comply with a Development Agreement is because we are very close to reaching an agreement and sometimes, we do have it finalized. One perspective is that we can take the request with the regular schedule if the applicant still wants to continue moving forward. The other perspective is that our recommendation is based on the intention that there will be a Development Agreement so it is also within the Board's purview, though because we cannot firmly tell the Board that there is a final Development Agreement, you may feel uncomfortable in either recommending approval to City Council as well so, you have various alternative ways to consider.

Vice Chair Villanueva-Saucedo motioned to approve case ZON21-00540 with conditions of approval. The motion was seconded by Boardmember Peterson.

That: The Board recommends the approval of case ZON21-00540 conditioned upon:

1. Compliance with the final site plan submitted.
2. Compliance with all requirements of Design Review.
3. All off-site improvements and street frontage landscaping to be installed with the first phase of construction.
4. Dedicate the right-of-way and easements 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. Recordation of a cross access easement between the subject property and the parcel to the west.
6. Execute and comply with the Development Agreement.
7. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner shall execute and record the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to the issuance of a building

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- permit.
 - b. Due to the proximity to Phoenix-Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine an effect to navigable airspace and air navigation shall be provided prior to building permit issuance.
 - c. Provide written notice to future property owners that the project is within one mile of Phoenix-Mesa Gateway Airport.
8. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and shown in the following table:

| Development Standards | PAD Approved |
|---|--|
| <u>Maximum Building Height</u> – <i>MZO Section 11-7-3</i> | 45 feet |
| <u>Required Parking Ratio</u> – <i>MZO Section 11-32-3</i> - <i>Shell buildings (no specified use)</i> | 75% at 1 space per 900 square feet of gross floor area plus 25% at 1 space per 375 square feet of gross floor area |
| <u>Required landscape yards</u> – <i>MZO Section 11-33-3(B)</i> - Non-single residence uses adjacent to non-residential districts and/or uses | 0 feet along the western property line only |

Vote: 5-1 Approval with conditions (Boardmember Allen, absent)
 Upon tabulation of vote, it showed:
 AYES – Sarkissian, Villanueva-Saucedo, Boyle, Ayers and Peterson
 NAYS – Crockett

Note: Audio recordings of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “live broadcasted” through the City of Mesa’s website at www.mesaaz.gov

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- *4-d ZON21-00620 District 6.** Within the 7800 to 8100 blocks of East Pecos Road (north side), and within the 6800 to 7000 blocks of South Sossaman Road (east side). Located north of Pecos Road and East of Sossaman Road. (155+ acres). Rezone from Agriculture (AG) to General Industrial with a Planned area Development overlay (GI-PAD), and Site Plan Review. This request will allow for an industrial development. George Pasquel III, Withey Morris PLC, applicant; ARMSTRONG DENNIS L & INGBORG E; TCA DEVELOPMENT L LC; GERMANN INVESTMENTS NO 1; GI 20 LLC; GI 30 LLC; and PR20 LLC, owners.

Planner: Jennifer Gniffke

Staff Recommendation: Approval with conditions

Summary: Staff member Jennifer Gniffke presented case ZON21-00620 to the Board. The request is to Rezone from AG to GI-PAD and Site Plan Review for the purpose of constructing four industrial buildings. The site is located on the east side of Sossaman Road on the north side of Pecos Road. The General Plan land use designation is Employment, which is for large scale employment uses typically over 20 acres in size. The uses include manufacturing and warehousing.

The existing zoning for the property is Agricultural and the request is to rezone to General Industrial with a Planned Area Development Overlay. The site plan shows four very large buildings as part of this development. The two northern buildings, buildings A and B have the same footprint and elevations. The two southern buildings, building C and D, are similar to each other with the same footprint and same elevations. The truck docks have a cross-dock design on the long sides of all four of those buildings. The truck traffic is almost completely separate from the regular traffic on the site and have different driveways for the different users of the site.

This case was considered and discussed at yesterday evening's Design Review Board meeting, and they did have a few comments. Staff is working with the applicant to address those comments.

The PAD request is to allow for modifications to our standard code. The first one is that the GI zoning district allows buildings up to a height of 50 feet. This request is for 60-foot-tall buildings. Based on the shell industrial building calculation for parking 75% of the gross floor area of the buildings needs to be parked at one space per 500 square feet and 25% needs to be parked at one space per 375. The request is for one space per 1,350 square feet overall. There is also a requested reduction to the required bicycle parking for the site. There is also a requested reduction to the foundation base width and the request is to reduce that width from 15 feet for walls that have public entrances to 12 feet and the reason for that is to accommodate the firetruck proximity to the face of the building.

The applicant completed a citizen participation process and notified all property owners within 1,000 feet. There are no HOAs or registered neighborhoods in the vicinity. No concerns were communicated to staff from the neighboring property owners. However, we did receive two letters from surrounding business owners. One is from CMC Steel and the other is from Union Pacific Railroad. Those letters were forwarded to you or provided to you today. This site overlaps the anticipated path of the PIRATE Rail Line. And we have representatives here from Economic Development, as well as from CMC

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Steel and Union Pacific to speak.

In summary, the request complies with the Mesa 2040 General Plan. It meets the review criteria for a Planned Area Development Overlay outlined in Section 11-22 of the MZO, and it meets the review criteria for Site Plan Review outlined in Section 11-69-5. Staff recommendation is approval with conditions, and I am happy to answer any questions.

Applicant Adam Baugh, 2525 E. Arizona Biltmore Circle, presented the request to the Board. Mr. Baugh was thankful for the chance to be here tonight. When you have an opportunity to develop land south of the airport runway, it tells you what there should be there so is a limitation on the types of things you can put near an airport. This is one of those things that fits perfectly with the type of land next to a runway. And in this case, what we are proposing are the uses that the City has long envisioned in this area consistent with the General Plan. Also, it is consistent with the surrounding zoning pattern for the airport, as well as the Mesa Strategic Development Plan which recommends heavy industrial uses.

Our request is for a PAD that allows general industrial uses. The proposal is not just only consistent with the General Plan, but the Mesa Strategic Development Plan and the zoning map, with the long-term vision for this area, and includes an opportunity for some class A buildings that can be used for multi or single tenant use. And more importantly it provides the type of large scale uses that you would expect to see near a freeway. We have requested deviations, but they are relatively minor compared to the 155 acres that are requested for this site and I believe this is why staff is able to recommend approval.

We believe we comply with those guiding documents provided by staff. And for that reason, we are here asking for your support today. I think there is a question or comment regarding the rail line and I would like to hear what will be said on this subject.

Shelly Hurfeldt, Union Pacific Railway, stated, she is with Union Pacific Railroad and is with their Economic and Industrial Development team and gave a brief presentation. In this region, the project is known as the PIRATE project and is an acronym for The Pecos Industrial Rail and Train Extension. It is a project that commenced in early 2019 that consists of, obviously, Union Pacific Railroad working with many of the heavy industrial users and the East Pecos advanced manufacturing zone that had a vested interest in looking at using a rail solution for their transportation needs. It would connect off of our Phoenix Main Line branch, which aligns with Rittenhouse. So, it would come off of Power Road between Power and Sossaman. It would then extend east along the entire corridor into that eastern area where you have the likes of CMC, Fuji, and a lot of those heavy industrial users.

We also have the support of the City and the Economic Development team. They graciously applied for a grant for the project last year for a BUILD grant. And at that time, that is when Union Pacific agreed to take the lead and as far as looking and securing right-of-way and design efforts. We were not successful in getting that grant last year, but we are now in the process of also seeking what is known as "RAISE," with the City support as well. We are waiting for that information and guidance if we will be successful in securing a grant for the project later this year. The notifications are due by the third week in November. The catalysts that accelerated Union Pacific's interest specifically in this project is the announcement of AZ2 by CMC Steel. As you know that they will be a

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huge economic generator to the community, and they will have a lot of products coming out of what is now one mill but soon be two mills.

Our interest is to be a transportation solution and provider for that, with the benefits that the rail supply or bring to the table, reduce greenhouse emissions, and also a lot less trucks on your roads. That is the ultimate goal of our project. We have, again, initiated the engineering and track design process. And we have been actively working on the property acquisitions and are in the process for the right-of-way. We have already initiated the construction authority process this year with any particular regulator and agencies that we may have to work through. And again, we applied for a grant to help with funding of this six-mile line which we will hopefully hear about later this year. If we are successful, I think it is worth noting that it was a highly supported effort. We had the entire US Congressional delegation sign a support letter behind the project with the Governor, the Arizona Commerce Authority, many of the Economic Development communities. as well as Mayor Giles who also sent a support letter for that particular RAISE Grant.

We are excited that if we continue to move this project forward, and can secure the necessary right-of-way, and have it fully funded. We could be looking at constructing and starting this project as early as late 2022 which is coming upon us, and it would probably take us about six to eight months to construct.

The rail line would go up and then is on the southern boundary of the airport, and then just goes back down and follows the Pecos alignment. And the majority of why the alignment is where it is, is based on landowner feedback that we got early on and were essentially where they wanted it. It would be much simpler if we would have been able just to go straight across, but it does not always work that way. And obviously, this line would go through a proposed project that this Board is reviewing, and it is part of the process of the grant. The consultants did conduct an economic impact assessment for the project and the assessment shows that should this project be successful and be built, would generate a modest success, approximately 16,415 jobs, generating a \$16.2 billion economic output to the community, which obviously shows significant tax revenues to the region as well.

We really think this is a great project for the region and as a real developer, I can tell you that this is very unique and does not exist in a lot of places in the West. Union Pacific serves 23 states in the western part of the US and there is just not a lot of areas like this. And especially considering that your Economic Development team just won an honor at the IDC, I think that this would be something that would continue to make you incredibly competitive, especially in the industrial sector moving forward, as industries continue to look at Arizona. I am happy to answer any questions that you have.

Vice Chair Villanueva-Saucedo inquired if they actually have a right-of-way secured along this project. Ms. Hurfeldt responded, they have some but not the entire property.

Boardmember Peterson asked if the project would live or die based on whether or not you get the grant. Ms. Hurfeldt stated, it is our intention to receive the grant. And I think that based on a lot of the support from some of the industries, we have every intention of moving forward with the project. Mr. Peterson asked if Union Pacific's prepared to move forward with or without the grant and Union Pacific's intention is to move forward with the

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project and is financing in place to do what part of the project right now without the grant. Shelly Hurfeldt responded, yes, it is the intention to move forward with or without the grant. We would obviously have to be prepared to fully fund the project if we do not receive the grant. The grant is something that is paid back to us, and we would need to front fund the project and would do so through our capital budget.

Mr. Peterson said, you mentioned the property acquisition is in process, what is your schedule to complete this project. And what is the percentage of properties that you have acquired. Ms. Hurfeldt said, I believe my real estate team, whether we have options, have agreements or actually have closed on some land is about 70% locked in or under contract. Mr. Peterson confirmed that the 70% has some sort of binding agreement and does that equate to 70% of the length of the railway. Ms. Hurfeldt responded, I would have to check on that, but I do not believe so.

She was then asked by Boardmember Peterson, could you give us a summary of your past or current property discussions with the owner of the property that is in question that we are discussing. Ms. Hurfeldt said, I have not been the one directly engaged in those conversations; our Real Estate Acquisition Team has been, and I know that the dialogue started some time ago when we started talking actively with everyone, including with some of the previous landowners before this particular development changed hands. We did speak to them as recently as a couple weeks ago is what Stephanie told us. We have continued to have a willingness to work to come to a mutual agreement. The doors are open from our perspective, I do not think that we just haven't really been able to get there yet. Does that mean there is progress in the discussions at this point, I would say there has not been a lot of progress. One last question by Boardmember Peterson, are you able to speak to the eminent domain rights of the railroad for acquiring property. Shelly Hurfeldt said, yes, we have eminent domain rights.

Chair Sarkissian stated I have a question for Ms. Hurfeldt. You mentioned the timelines and it seemed like some of them were overlapping. As far as the design alignment in terms of freeways and all that go into place, is your alignment finite like the of the width of right-of-way. Or is it still being final engineered. Because I noticed you also mentioned here that you are entering the construction phase, so I am wondering, are there certain pieces that have been final engineered and where are you in your construction process for those. Ms. Hurfeldt responded we have the alignment, where we believe it makes the most sense. The alignment is there and knowing exactly how big we need that right-of-way has been determined. For clarification, we would not put any steel or true construction activities would not start until late 2022 or early 2023. There would not be any dirt or steel in the ground till then. But we can continue to work towards finalizing and moving towards a higher level of design. Ms. Sarkissian asked do you know when in November you would find out if you were awarded the grant. Ms. Hurfeldt responded if memory serves me correct, the actual notification would be November 22 for us to officially hear if we were awarded the grant.

Boardmember Crockett asked, in terms of the funding, is this funded as a part of a Union Pacific budget. Whether the grant comes through or not, will the project move forward and a part of the budget. Ms. Hurfeldt responded, yes, it is in our 2022-23 Capital Budget. Mr. Crockett inquired in terms of acquiring property, is acquiring these properties through negotiations with the landowners or a part of eminent domain. She responded, yes, it is through mutual agreements.

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Mr. Crockett asked in terms of where things stand with the applicant, if you know, are there any meetings scheduled with the applicant right now to talk about this that you know of and is this applicant agreeable to meet with the railroad on this project. Ms. Hurfeldt stated, no, not that I am aware of.

Mr. Peterson stated, this grant has been talked about quite a bit but from your previous answers, the schedule for this process is independent of whether or not you get a grant, is that correct. Ms. Hurfeldt responded, yes, that is correct. Mr. Peterson responded so the timing of the grant really has no bearing on your schedule for moving forward and Ms. Hurfeldt responded that is correct.

Director of Operations for CMC Steel, Andy Sarat, 11444 E. Germann Road, spoke to the Board. Mr. Sarat stated, Shelley (Ms. Hurfeldt) mentioned that CMC, along with a number of the southeast Mesa businesses have been working on this project for well over three years now. We have submitted this will be the second year that we've submitted for the builder RAISE grant. So, we would like to see this PIRATE project go through. As Shelly had mentioned, last fall, CMC announced that we were going to build a new state of the art steel mill here in Arizona, adjacent to the existing mill. A major consideration for us building here or selecting Mesa as the location for this new mill was the PIRATE project itself.

The PIRATE project, as Shelley also mentioned, the Rounds Consulting Group that have submitted a financial or economic analysis of what this would look like, shows it will definitely enhance economic development as well as reduce an awful lot of truck congestion on the roadway itself. As mentioned in my letter, when both of our mills are up to speed and operating, we are looking to reduce over 1,000 truck travels per month on the Mesa roads, so we are just requesting that the Planning and Zoning Board and City of Mesa encourage the applicant to work together to realize this PIRATE vision moving forward. And we ask that this case continue on so that the project can happen.

Boardmember Peterson said, you had mentioned the grant again and it sounds like your company has been involved in this as a high-level stakeholder in this process. I want to be clear that whether or not the railroad gets the grant, it sounds like from the railroad representative that it will not impact whether the project goes forward. So, to your understanding, is there a reason that the project has not begun or at least moved along further since it is not contingent upon receiving the grant.

Mr. Sarat responded, I can give a little history because I have been part of this process for over three years now. It was last January that the Union Pacific got involved and actually committed to leading the effort to acquire the land. Our first six months was really getting together with the local businesses and the UP (Union Pacific) in Mesa to put together the grant, not necessarily focusing on the land acquisition. And I know that since then, the UP has been involved with those discussions with the landowners.

Chair Sarkissian stated, so far this year you are expanding and building the new facility, how does that work as a business owner with the rail lines for your facility. Are you dedicating them to the UP through negotiations and have you already gone through that process with them and negotiate right-of-way. Mr. Sarat responded we will negotiate with them a right-of-way and then take it over at some point and have our own internal

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tracks so it will be a private track on our land.

JD Beatty, Senior Project Manager in the Office of Economic Development spoke to the Board. Mr. Beatty stated, I can echo a lot of what Shelly and Andy (Mr. Sarat) have talked about here. It has been a public and private partnership, if you will. The City of Mesa is the applicant for those federal grants, as it is easiest to be a government entity making those submittals. So, the City has been helping to coordinate with a lot of the property owners and a lot of the public and private stakeholders as a kind of a central coordinator for this project for quite a few years now.

And to answer that piece of the project, it is a complicated project as there are a lot of property owners, and some property has changed hands. The market is exploding out there, which is why this project is being proposed and looking to develop industrial and that is what we see to be the vision for this area. But we also see rail being a part of that vision and part of the vision has been something Economic Development has worked on for quite a few years. I would even say, the initial stages four or five years as kind of the grassroots level. But it certainly got more complicated with new property owners coming in with new interests, new development, and that is something that we are trying to help with as best we can.

Union Pacific is obviously the private entity that is negotiating with private property owners and trying to make something work and we are supportive of their efforts. But we are waiting on the RAISE Grant, which we feel is, would be a huge boon for the project. And we've had a lot of stakeholders participating in this as well. The economic impact study that was conducted was actually funded by SRP and Pinal County, who were stakeholders for the project. And then we had the funding for the consultants that help with our grant applications, which we included the economic impact analysis and was funded by I think, SRP and CMC Steel as well. There has been a lot of stakeholder engagement on this for a long time, and we are trying to see it move forward.

Chair Sarkissian said, I am just wondering, a big component of this line goes through this piece, and it impacts them quite a bit because it cuts right through the property, almost in half. How have those discussions gone forward if you have not had agreements, or since it has changed hands many times, what were the discussions with the previous owners? And does it change the way you can function on that north portion?

JD Beatty responded I will certainly say that this was not our preferred path either, and the route for PIRATE has changed more times than I can count. As Shelley mentioned, a lot of it was due to discussions with the property owners. The biggest change that I think affected this particular property was originally the rail was going to cross a bit further to the west. And we found out that that piece of property is actually owned by the Air Force. So, this property was where the line originally for quite some time was anticipated to run through and we found out later that that property was owned by the Air Force, and is part of the BRAC Air Force closure and is actually promised to the Gila River Indian community. That relationship with that property obviously became very difficult as it was part of a superfund site, and it actually requires the Air Force to conduct cleanup before anything can happen on that property.

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So unfortunately, we ended up having to avoid that parcel, which then resulted in the alignment that has been presented. We are very aware that that curve is very detrimental to this project and the way that it functions essentially. I will certainly let Andy and Union Pacific speak to the specifics of their individual discussions. At one point the alignment moved further north and Union Pacific has certainly tried to accommodate property owners interests and needs. I think they have done their best to move the route as best they can. And I wish they did not have to move that line as well. But that is kind of where we got to.

Boardmember Peterson asked, Mr. Beatty, for CMC and their expansion plans what level of guarantee was made that this rail line would be in order for them to expand. Mr. Beatty responded, I am not sure that something I can comment on as much as Union Pacific would be able to as they are the ones building the line but I can say that at the time, we were certainly very optimistic about the rail line being successful. As I mentioned, literally this area of Mesa is expanding rapidly, and there is new developers and new owners changing hands every day, I can say certainly when we were discussing with CMC Steel originally, I do not think this project or this developer was looking at the site at the time. We were fairly confident, but it was really Union Pacific to make the acquisitions and it is a Union Pacific rail line, not a City of Mesa rail line.

Mr. Peterson asked, is this alignment locked in. It sounds like there is still potential for it to be moved and a lot of uncertainty. JD Beatty responded, I would have to defer to Union Pacific a little bit on that. But I know that we are certainly looking for opportunities to work with each property owner, and I think they were trying to find a path that could work. Each piece has to fall in line and if one piece isn't working, that affected the whole project.

Mr. Peterson said, I have one more question. As the Planning and Zoning Board are reviewing specific site cases that have gone through the City process, which includes being routed to Economic Development for input and then it goes through Planning staff. The Planning staff has made a recommendation for approval for this request. I think that is a big, at least in my mind, a big quandary of how we do not to be the skeptic in the room. I have seen a lot of things like this over the years that just never happen. It is hard to deal with multiple property owners and to line it up and everything else. If it is the real deal, and if this is crucial to the economic development of this area, how do we get to a point where we are hearing it is before us today and with recommendation for approval yet, what is Economic Development asking today? Are you asking the Board not to approve this request?

JD responded, it is a good question. The big thing here, I think, and the reason it is approved is certainly Unbound Development is proposing a large industrial project. It would certainly be a different thing, if they were coming through trying to propose a bunch of multi-family or something that wasn't conducive to the area. We are appreciative of what Andy's (property owner) looking to develop here with industrial and bringing employment and jobs, which is really what the Pecos Road Employment Opportunity Zone was set up to do, and it was not pursuing opting-in to that due to some land uses. But the use is okay, I think we are hoping that there is still an opportunity to work with the railroad. We obviously understand, though, that there is a lot of different interests and factors at play here. I think our main goal is to make sure you have all the relevant information with the rail and where it is at and taking that into consideration with

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your decision.

Mr. Peterson said, with that, is there a time frame where this might happen sometime down the road. We cannot tell a private property owner, hey, this might happen sometime down the road. This project brings economic development to the area. Mr. Beatty responded, it is completely understood that you need to operate within the purview and the scope of what you are able to do here. Again, I think we are here to just present the information that we have on the PIRATE program. In terms of, can we give you a certain date when we know it is going to happen or not going to happen. It is kind of also a cart before the horse a little bit because of the needs to be acquired before that decision can really be made. And Union Pacific is out actively negotiating as best as they can with the property owners in this area. It is still a work in progress.

Chair Sarkissian stated, this question is just for staff, it sounds like the big issue is Economic Development is in support of the project for the use, and the PAD and it is really coming down to the site plan and what they are submitting. Dr. Appiah responded that is correct. Also, as part of the review, Economic Development did provide comments to the applicant. So, this issue is not something that is new, that has been brought up just during this hearing, as well.

Applicant Adam Baugh spoke to the Board. He said what really works next to a rail line is General Industrial zoned land. That is precisely what we are bringing for you today, precisely what your General Plan recommends. And there is nothing in this proposal today that can stop the rail from doing what they want to do, if that is the choice they want to make. For more than a year, my client and the seller have had discussions with the railroad and yet zero offers to purchase our property. So, if they have an intent to move forward, which I believe they do, they should present an offer. But I think to your point there, I do not know if this is real or not. I know that they have statements I've heard, they do not have a grant they have applied for, and they have been denied. They have applied again, they do not have the right-of-way, although at some point, I think I heard it maybe a little bit. And honestly, I would love to see this Board ask them a question, what right-of-way do you actually have. Up until now I am not sure they have any. And the beauty of this case is we can go forward and approve it, and Council can approve it, and they can purchase the property. And they can submit a site plan amendment, and they can still do the rail line. We can have buildings, hopefully we can benefit from that rail line, hopefully our buildings can be served by that rail line on the backside. And there is a process for that, it is a site plan amendment. And so simply, if they have a choice, and they have a desire to go forward, make an offer, purchase the property, go through the site plan amendment process, and build the rail line.

But preventing this case from going forward is basically saying, I am going to put you on an indefinite abeyance until you sort that thing out. We cannot control how fast they go through a process or their budgets or their grants. So, we are just stuck here waiting. And if they are able to put together an offer and present it to us and provide fair market value, it makes no difference to us who buys the back buildings, it could be the rail line for all we care about. But we want to move forward and have a project that we can actually develop and move forward with. And if they choose, they can run a site plan case and do that. But up until now we have zero offers. And that is the frustration for us is to sit here and wait and wait and wait and then find out that maybe our case could not go forward because they are still trying to make some decisions. And at the end of the

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day, even if you can't come to a conclusion, or an agreement on price, and I do not want to say there has been negotiations because we've been asked and asked and asked for an offer and zero offers. So, I do not know if that is really a negotiation that they are describing or not.

If a negotiation fails, eminent domain is a tool that they can use as a public utility to acquire this property, if it truly is needed. And if that timing takes longer than we can wait for, they can eminent domain the property and have that process. There are multiple ways and tools for them to utilize the site. But as a developer and as an applicant, I just do not feel like we should be held up waiting for some indefinite things. But when you look at that line, the way it bends across the corner, it cuts off a significant portion of property. This isn't just a casual decision that gets made. But if they choose eminent domain, and they can do and utilize the balance of that property however they decide. For that reason, I hope you make a land use decision here. And a land use decision that is consistent to General Plan, the zoning pattern, the expectations for this area, and none of them in this case prevents them from doing what they want to do whenever the time is right for them do that thing.

Chair Sarkissian asked, regarding the comment you made about they can take it at any time, or we can purchase it. Even when that does happen that would require your property owner to come in through a site plan. It is not only a site plan process but a PAD as well. Are you aware of that requirement that you would need to come back with a new site plan at a later time even though it sounds like it could be as soon as the end of 2022? Mr. Baugh responded, we are aware of that process. We are aware major amendments that come back through this body. But what if the rail line does not get built, then what happens? We have lost the opportunity to move forward with a case and deals fall apart. And it is not just us, there is many other property owners in that line, who all are waiting for offers. So, I know that there has been words shared, mutual agreements, but I do not know if there any properties under contract along that rail line. And none of that really matters. In our case, we do not have an offer. What should we do just hang around? At some point sellers do not let you extend contracts, deals fall apart, investors and capital disappear. So those are real things. And if they do not work on this, I think quoted here quite a few years, quite a few years is enough time to put together an offer to purchase property, but nothing has happened.

Boardmember Peterson asked, Mr. Baugh, who is your client, the landowner or the potential purchaser of the land. Mr. Baugh responded my client is the escrow to close on the property at the end of the year. Mr. Peterson asked, can you represent to what degree either your client or the underlying landowner has had input into the alignment of the railway. The property owner (Andy) responded, as JD mentioned, the first site plans had the rail on the north property line. Back in January of this year I started talking to the railroad and they have never given me an offer. And then mid-March, they said by the way, here is the new alignment. As you can tell, that pretty much changes that 36 acres on Sossaman Road. I told the Union Pacific several times we filed for a pre-application in March and if they wanted to purchase the land, they should buy it now and they still have made no offer. It is a significant investment on my end, and I have also told JD to make an offer. I can no longer sit around as I have some big users that want to come to this property.

Boardmember Crockett asked Adam Baugh or the landowner, what is the timeline for

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construction on this project. Andy responded, let me clarify, I own 18 acres on Sossaman, we are from the Armstrong's and we have five other parcels that we are going to buy. So, my plan was to start my CDs (construction documents) tomorrow and hopefully break ground in mid-December and at the least start grading mid-January 2022. I have ordered steel and my other products, and dependent on the supply chain when the supply gets here, I can deliver buildings by Christmas next year.

Shelly Hurfeldt stated, I just would like to say I would respectfully disagree, that we have not tried to engage in dialogue on cost. I am just going to leave it at that, because I could give examples of things that our acquisition team has talked through. And again, we are here because we want to come to a mutual agreement. We intend on building this line, we have a history of building railroads. That is what we do. This is a great opportunity for the region, especially with a lot of the growth that is occurring. And, if the landowner or applicant is ready to talk, we are prepared. Boardmember Peterson asked, Ms. Hurfeldt, has the Union Pacific made an offer for the right-of-way, relevant to the property we are discussing today. She responded, informally, yes; there have been discussions and we've asked for what would be necessary to move it forward. My understanding is even on the 36 acres that we bisect that even our Director of Acquisitions had said, if that is what it would take for the entirety of those two parcels, let's talk about it. But nothing happened after the those exchanges and dialogues.

Mr. Peterson asked, has a specific dollar amount been offered for the right-of-way that effects this parcel. She asked, total, per square foot? I believe yes, according to our Director of Acquisitions, they have talked about a dollar amount. Troy Peterson responded, so, an offer had been made.

Ms. Hurfeldt said, we are here today because we also would like to ask the Planning Committee to consider this being delayed and talking about it again and allowing us to have time to talk with the applicant and reach a mutually beneficial arrangement. Boardmember Peterson asked, if you are speaking time, what is that amount of time to get this resolved. Just because time is critical in this process, and that needs to be a finite amount of time and what is a period of time that this gets resolved in. Ms. Hurfeldt responded, I would ask the applicant. If he is prepared to come to an agreement and we have closed on property, it is public record. You can see that we own some of the property now. We have funding to close, and we are prepared to talk. Mr. Peterson asked, to answer my question what specific period of time, are you asking that we continue this case. Chair Sarkissian clarified, this Board needs to have a specific time in order to continue a case. Ms. Hurfeldt stated, thank you for clarifying. We are not the decision maker here today.

William Wright, 343 West Vinedo Lane in Tempe spoke to the Board. Along with my partners we are the property owners immediately to east of Andy's site. I wasn't intending on speaking but I wanted to add to what he had just said. We have had a brief conversation with the railroad, but we've never received a general or specific offer of any kind from them to acquire right-of-way.

Chair Sarkissian closed the public hearing for Board discussion.

Vice Chair Villanueva-Saucedo stated, I just think it is a good reminder about our function. We are not a Court of Arbitration, we are not here to negotiate Economic

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Development conditions, we are not here to negotiate property sales. That is simply not our function. So frankly, I am just really uncomfortable with a lot of the testimony that has been provided. We have a case in front of us regarding land use. And while we may consider Economic Development conditions, we are not the Economic Development Advisory Board. We are here to discuss land use options; we have a viable project in front of us with a landowner with proposed use that matches every other document that the City has regarding this area. To set that aside in favor of something that is an if that is anticipated that is a perhaps, I am completely uncomfortable with. We are not the Economic Development Board; we are here as the land use board. And as much as I want to see a robust economic development project in Mesa anywhere that it is appropriate, I find it unacceptable to trample on private property rights in order to do that. So, I am in favor of the project in front of us today.

Boardmember Peterson said, that is very well said. I lean heavily on all the work that staff has put into this, and that staff is sending forward recommendation for approval with full awareness throughout the entire process of the potential for this to occur. The other factor is that our action today, things that are outside of our purview does not stop the railway from proceeding forward. If anything, maybe it creates a motivation to quickly get things done if that is the true intent and the true desire to get it done. And that is where I am to delay this for something unknown, that might not happen when we have an Economic Development already stated. The current case in and of itself provides significant amount of development to the city independent of the railroad situation.

Boardmember Crockett said, thank you, Madam Chair. I do not see it quite the way my fellow board members do. I think that this is a unique case and think the economic development opportunity to this here is extensive. And I think a lot of the economic development in that area will greatly be enhanced as a result of having this rail line. I hear the applicant today state that they have been waiting for an offer and haven't received one. I've heard the representative from the railroad say we thought we made an offer or at least we thought we were having those discussions. So, I do not feel comfortable moving forward today. I would like to make an alternative motion that we table this for perhaps a period of 30 days to allow one more opportunity to let these two parties get together and see if they can get something done. I think that a short continuance of this matter would allow them to do that. I am sympathetic that their private property rights are involved here. But you know, we've continued cases before and this is an important case for the City of Mesa. And so, I guess I would make that motion that we table this item for 30 days.

Boardmember Boyle stated I see this more along the lines of how Deanna and Troy have been saying. I think for what we are supposed to do, currently as the Planning and Zoning Board, this should be a vote on the project and not the larger things going through.

Dr. Appiah stated, the schedule that staffmember gave is kind of a general schedule. There is no requirement or specific date as to when items get scheduled on City Council, there is several circumstances and things that we look for. So, I just want to make it clear. It doesn't really become permanent, it doesn't really convey to the applicant that this will be scheduled. on that specific day, there are so many other things and we have to consider so you could be scheduled at a later date or not.

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Chair Sarkissian stated, I think the rail PIRATE alignment is an amazing project for Mesa. It has so much opportunity, it has people already invested looking for growth. It is going to be fabulous. I just do not know when, how much or who but it is still very fluid. Even though it is probably going to go around there, it might change a little bit over one parcel or over another parcel. The issue I have is that this is what is in front of us, not the PIRATE project. This is the project that is in front of us, and the PIRATE rail may potentially go in. Moving forward on this case doesn't prohibit the rail line from coming in and negotiation. The applicant having to do an amendment and all these other things. It doesn't say we do not want the rail line. I know every one of our Board members here fully supports this project. And you know, any projects that come in along this rail line will be super excited for and want to encourage. There are loads of recommendation for getting these grants. But as far as what we have in front of us right now, this is what is in front of us and not the PIRATE project. And so that is my issue with holding something back. I do not like the term, but this is basically holding a site and waiting to see what happens. But it feels very similar to some of the processes, when you hear about right-of-way is for a lot of other alignments and freeways and they realigned things and things change, and you do not know what is going to be. But at this point, if things change, it is not on the railroad. It is not that the railroad hasn't impacted a property owner. It is on the applicant, the owner of the property to jump through hoops to amend that for that change. I do not think it changes anything in that way moving forward. Hope you guys get it in November. But as of right now, this is what I have in front of me. I am ready for a motion if someone wants to make one.

Vice Chair Villanueva-Saucedo motioned to approve case ZON21-00620 with conditions of approval. The motion was seconded by Boardmember Ayers.

That: The Board recommends the approval of case ZON20-00620 conditioned upon:

1. Compliance with the final site plan submitted.
2. Compliance with all requirements of Design Review.
3. All off-site improvements and street frontage landscaping to be installed with the first phase of construction.
4. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner shall execute and record the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to the issuance of a building permit.
 - b. Due to the proximity to the Phoenix-Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing, for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.
 - c. Provide written notice to future property owners that the project is within one mile of the Phoenix-Mesa Gateway Airport.
5. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and shown

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on the following table:

| Development Standards | PAD Approved |
|--|---|
| <u>Maximum Building Height</u> – <i>MZO Section 11-7-3</i> | 60 feet |
| <u>Parking Spaces Required</u> – <i>MZO Section 11-32-3</i> | 1 parking space per 1,350 square feet of gross floor area |
| <u>Required Bicycle Parking</u> – <i>MZO Section 11-32-8(A)</i> | 1 bike space for every 100 vehicle spaces provided on site. |
| <u>Foundation Base along Exterior Walls</u> – <i>Exterior Walls with Public Entrances MZO Section 11-33-5(A)(1)</i> | 12 feet wide along the entire length of the exterior wall. For buildings with corner entries, both adjacent walls require a 14-foot-wide foundation base. |

Vote: 5-1 Approval with conditions (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Ayers and Peterson

NAYS – Crockett

Note: Audio recordings of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “live broadcasted” through the City of Mesa’s website at www.mesaaz.gov

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5. **Adjournment.**

Vice Chair Villanueva-Saucedo motioned to adjourn the meeting at 5:32 p.m. The motion was seconded by Boardmember Ayers.

Vote: 6-0 Approved (Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Villanueva-Saucedo, Boyle, Crockett, Ayers and Peterson

NAYS – None

Respectfully submitted,



Nana K. Appiah, AICP, Secretary
Planning Director