

Mesa Council Chambers Lower Level – 57 E 1st St

Date: July 7, 2022 Time: 5:30 p.m.

MEMBERS PRESENT:

Chair Alexis Wagner Boardmember Chris Jones
Vice Chair Nicole Lynam
Boardmember Adam Gunderson
Boardmember Heath Reed
Boardmember Ethel Hoffman
Boardmember Troy Glover

MEMBERS ABSENT:

(*Boardmembers and staff participated in the meeting through the use of audio conference equipment)

STAFF PRESENT:

Michelle Dahlke
Cassidy Welch
Lesley Davis
Charlotte Bridges
Robert Mansolillo
Josh Grandlienard
Chloe Durfee Daniel
Kwasi Abebrese
Alexis Jacobs

OTHERS PRESENT:

1 Call meeting to order.

Chair Wagner declared a quorum present, and the Public Hearing was called to order at 5:55 p.m.

2 Take action on all Consent Agenda items.

A motion to approve the Consent Agenda was made by Vice Chair Lynam as read by Vice Chair Lynam and seconded by Boardmember Gunderson.

Items on the Consent Agenda

3 Approval of the following minutes from previous meeting:

***3-a Minutes from June 1, 2022 Study Session and Public Hearing.**

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

4 Take action on the following cases:

***4-a Case No.: BOA21-01213 (Approved with Conditions)**
Location: District 1. 2130 E. University Drive
Subject: Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for a place of worship.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA21-01213 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
3. All signage to be reviewed and approved through a separate permit application

The Board's decision is based upon the following Findings of Fact:

- A. The unique architecture and large size of the development limits visibility of what the MZO would allow per the designated zoning districts.
- B. The proposed CSP provides modifications to the attached number of signs, sign area, and allows illumination to adequately advertise the place of worship site establishing a consistent place-making theme within the development.
- C. The CSP specifies the lighting, materials and craftsmanship for the proposed signs, which integrates with the building architecture.
- D. One Life Church is located in the RM-3 and RS-6 zoning districts, within the 2040 General Plan character area designation of Neighborhood.
- E. The proposed CSP advances the goals and objectives of the General Plan and character areas by authorizing an increase to attached signage that will increase visibility to the place of worship that will support the residential surrounding uses.
- F. The proposed CSP will not be injurious or detrimental to the surrounding properties.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-b Case No.: BOA22-00199 (Continued to August 3, 2022)**
Location: District 4. 1144 E. Nielson Avenue.
Subject: Requesting a Special Use Permit (SUP) to allow for the enlargement of a legal nonconforming residential structure that extends into a nonconforming yard within the Single Residence-6 (RS-6) Zoning District.
Decision: Continued to August 3, 2022
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to continue case BOA22-00199 was made by Vice Chair Lynam as read by Vice Chair Lynam and seconded by Boardmember Gunderson.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-c Case No.: BOA22-00401 (Approved with Conditions)**
Location: District 4. 1054 E. Southern Ave
Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for the conversion of a bank with a drive thru into a restaurant with a drive thru in the Limited Commercial (LC) Zoning District.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00401 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the final site plan and landscape plan as submitted.
2. Approval of the Site Plan and Design Review requests, and compliance with those conditions of approval for ZON22-00418 and DRB22-0400.
3. Compliance with all City Development Codes and regulations, except as identified in Table 1 of this report.

The Board's decision is based upon the following Findings of Fact:

- A. The site is zoned LC, and the drive thru use was established in 2010.
- B. The subject site does not meet current MZO development standards and is therefore legal non-conforming.
- C. Full compliance with current MZO would require significant alterations to the site including demolition of portions of the existing building and alterations to the on-site circulation.
- D. Improvements to the existing site include landscape improvements around the perimeter of the site, within the parking field, and the foundation base areas adjacent to the building elevations.
- E. The modifications requested along with the proposed improvements are consistent with the degree of change requested to improve the site and to bring the site into a closer degree of conformance with current MZO standards.
- F. The proposed improvements will not create any new non-conformities.
- G. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-d Case No.: BOA22-00473 (Approved with Conditions)**
Location: District 3. 1117 West Heather Drive.
Subject: Requesting a Special Use Permit (SUP) to allow for the enlargement of a legal nonconforming residence along the existing legal nonconforming setback within the Single Residence-6 (RS-6) Zoning District.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00473 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Issuance of a building permit for the expansion of the legal nonconforming residence.
2. Compliance with all City Development Codes and regulations.

The Board's decision is based upon the following Findings of Fact:

- A. The original home was built in the late 1960s in compliance with all City Building and Zoning Codes.
- B. The existing home does not meet the required minimum or aggregate side yard setbacks for the RS-6 District and is considered legal non-conforming.
- C. The applicants would like to build a 935 square foot addition onto the southwest side of their home.
- D. A Special Use Permit is required to expand a legal nonconforming structure in a non-conforming yard.
- E. The proposed addition will not further increase the non-conformities on the site.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-e Case No.: BOA22-00512 (Approved with Conditions)**
Location: District 2. 2953 East Dolphin Avenue
Subject: Requesting a Variance from the covered parking requirements to allow the conversion of a carport into livable area in the Single Residence-7 (RS-7) Zoning District.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00512 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Issuance of a building permit for the enclosure of the carport.
2. Compliance with all City Development Codes and regulations.

The Board's decision is based upon the following Findings of Fact:

- A. The subject site has had an enclosed carport since before 2007 with no other covered parking on the property.
- B. The MZO changed in 2011 to require covered parking for the single residence zoning districts.
- C. The special circumstance is pre-existing and not created by the property owner.
- D. If the original enclosing of the covered parking had been issued a permit, they would not have to comply with the code today that requires covered parking as it pre-dated that code requirement.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-f Case No.: BOA22-00513 (Approved with Conditions)**
Location: District 6. 10436 East Elliot Road
Subject: Requesting a Major Modification to a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for a commercial and industrial development.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00513 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of BOA22-00003, except as modified by this request.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
4. All signage to be reviewed and approved through a separate permit application.

The Board's decision is based upon the following Findings of Fact:

- A. The proposed CSP complies with Section 11-43-3(D) of the MZO for attached and detached signs in the LI District, with the exception of an increase in height of the detached sign.
- B. The CSP proposes to allow a maximum height of the detached sign to be 13 feet, rather than the 12 feet allowed in the MZO.
- C. The development is unique in that several tenants are not visible from Elliot Road and Signal Butte Road.
- D. The CSP specifies design guidelines for the lighting, materials and craftsmanship of the attached signs to integrate it with the building architecture.
- E. The CSP advances the goals and objectives of the Employment character area by establishing a customized sign plan to help create and maintain a strong and viable commercial and industrial center and identify the tenants within the development to vehicle, transit, and pedestrian users.
- F. The proposed CSP is consistent with the location, size, design and operating characteristics of the LI District and the surrounding area.
- G. The proposed CSP will not be injurious or detrimental to the surrounding properties.
- H. The City of Mesa utilities and public infrastructure are available to serve the approved

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-i Case No.: BOA22-00563 (Approved with Conditions)**

Location: District 2. 4248 East Broadway Road

Subject: Requesting a Special Use Permit (SUP) to allow a Modification to a Comprehensive Sign Plan (CSP).

Decision: Approved with Conditions

Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00563 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of BOA22-00003, except as modified by this request.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
4. All signage to be reviewed and approved through a separate permit application.

The Board's decision is based upon the following Findings of Fact:

- A. The proposed CSP complies with Section 11-43-3(D) of the MZO for attached and detached signs in the LI District, with the exception of an increase in height of the detached sign.
- B. The CSP proposes to allow a maximum height of the detached sign to be 13 feet, rather than the 12 feet allowed in the MZO.
- C. The development is unique in that several tenants are not visible from Elliot Road and Signal Butte Road.
- D. The CSP specifies design guidelines for the lighting, materials and craftsmanship of the attached signs to integrate it with the building architecture.
- E. The CSP advances the goals and objectives of the Employment character area by establishing a customized sign plan to help create and maintain a strong and viable commercial and industrial center and identify the tenants within the development to vehicle, transit, and pedestrian users.
- F. The proposed CSP is consistent with the location, size, design and operating characteristics of the LI District and the surrounding area.
- G. The proposed CSP will not be injurious or detrimental to the surrounding properties.
- H. The City of Mesa utilities and public infrastructure are available to serve the approved

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-j Case No.: BOA22-00570 (Continued to August 3, 2022)**
Location: District 6. 1144 E. Nielson Avenue.
Subject: Requesting a Special Use Permit (SUP) to allow the area of a detached accessory building to exceed the maximum roof area of a dwelling in the Single Residence Zoning District.
Decision: Continued to August 3, 2022
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to continue case BOA22-00570 was made by Vice Chair Lynam as read by Vice Chair Lynam and seconded by Boardmember Gunderson.

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-k Case No.: BOA22-00571 (Approved with Conditions)**
Location: District 2. 3939 East University Drive
Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards for the conversion of a school into a place of worship in the Multiple Residence 4 (RM-4) District.
Decision: Approved with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00571 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of BOA22-00003, except as modified by this request.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
4. All signage to be reviewed and approved through a separate permit application.

The Board's decision is based upon the following Findings of Fact:

- A. The proposed CSP complies with Section 11-43-3(D) of the MZO for attached and detached signs in the LI District, with the exception of an increase in height of the detached sign.
- B. The CSP proposes to allow a maximum height of the detached sign to be 13 feet, rather than the 12 feet allowed in the MZO.
- C. The development is unique in that several tenants are not visible from Elliot Road and Signal Butte Road.
- D. The CSP specifies design guidelines for the lighting, materials and craftsmanship of the attached signs to integrate it with the building architecture.
- E. The CSP advances the goals and objectives of the Employment character area by establishing a customized sign plan to help create and maintain a strong and viable commercial and industrial center and identify the tenants within the development to vehicle, transit, and pedestrian users.
- F. The proposed CSP is consistent with the location, size, design and operating characteristics of the LI District and the surrounding area.
- G. The proposed CSP will not be injurious or detrimental to the surrounding properties.
- H. The City of Mesa utilities and public infrastructure are available to serve the approved

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

- *4-o Case No.: BOA22-00591 (Approved with Conditions)**
- Location: District 6. Within the 1700 block of South Crismon Road (west side). Located north of Baseline Road on the west side of Crismon Road.
- Subject: Requesting a Special Use Permit (SUP) to allow a height exception for a hotel within the Airfield Overlay District in the Limited Commercial with a Planned Area Development Overlay District – Conditional Use Permit (LC-PAD-CUP).
- Decision: Approved with Conditions
- Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00591 was made by Vice Chair Lynam as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Gunderson to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of BOA22-00003, except as modified by this request.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
4. All signage to be reviewed and approved through a separate permit application.

The Board's decision is based upon the following Findings of Fact:

- A. The proposed CSP complies with Section 11-43-3(D) of the MZO for attached and detached signs in the LI District, with the exception of an increase in height of the detached sign.
- B. The CSP proposes to allow a maximum height of the detached sign to be 13 feet, rather than the 12 feet allowed in the MZO.
- C. The development is unique in that several tenants are not visible from Elliot Road and Signal Butte Road.
- D. The CSP specifies design guidelines for the lighting, materials and craftsmanship of the attached signs to integrate it with the building architecture.
- E. The CSP advances the goals and objectives of the Employment character area by establishing a customized sign plan to help create and maintain a strong and viable commercial and industrial center and identify the tenants within the development to vehicle, transit, and pedestrian users.
- F. The proposed CSP is consistent with the location, size, design and operating characteristics of the LI District and the surrounding area.
- G. The proposed CSP will not be injurious or detrimental to the surrounding properties.
- H. The City of Mesa utilities and public infrastructure are available to serve the approved

Consent Agenda Approved

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Reed-Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

Items not on the Consent Agenda

5 Act on the following case: None

6 Items from citizens present:

***4-h Case No.: BOA22-00520 (Continued to August 3, 2022)**
Location: District 3. 740 North Orange Circle
Subject: Requesting a variance to allow an existing shop and an existing carport support beam to encroach into rear and side setbacks within an existing single residence
Decision: Continued to August 3, 2022
Summary: Staff member Kwasi Abebrese presented case BOA22-00520 to the Board

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers. This is BOA22-00520 and the request is for a variance to encroach 18 feet into the required rear yard, as well as a variance to encroach into the required side yard and the purpose of these variances are to allow an existing shop and carport to remain in a single-family residence. The subject site is located south of West Rio Salado Parkway and west of North Country Club Drive. The General Plan character area designation for the site is neighborhood. The zoning is RS-9 and per the MZO, the subject residence is permitted in this zoning district. These are photos of the site. So, this is the existing carport. Per the Maricopa County Assessor's historical aerial imagery, this carport was constructed in 1993, predating the current MZO regulations. This is the existing shop. Per the Maricopa County Assessor's historical aerial imagery, the structure was constructed between 2012 and 2013 after the current MZO had come into effect. The existing shop encroaches 18 feet into the required rear setback, leaving a total provided setback of seven feet whilst the existing carport encroaches into the required side yard and is located right on the west property line. Per section 11-80-3 of the MZO, there are special circumstances that apply to the site with respect to the existing carport. The subject site has a frontage that is very narrow, and then the rear is very wide. Staff also found out that the existing carport can be considered as a legal non-conforming structure since it was constructed before the introduction of the current MZO. Staff therefore finds it possible that the existing shop can be rebuilt or reconfigured into a detached accessory structure to meet the required rear setback of five feet and a side setback of five feet in the extreme right corner at the back of the existing property. There are special circumstances relating to the existing two structures. In that they were preexisting before the property was purchased by the current property owner. The current property owner purchased the property in 2013. And at that time, these two structures had already been built. The strict application of the MZO does not deprive the property of the privileges with respect to the existing shop and then the approval of this variance will not grant special privileges with respect to the carport. As already indicated, the southern side has a challenge with regards to its dimensions or with regards to its configuration. It is narrower at the frontage and wider in the rear. So, staff saw that relocating the existing pole supporting the carport will not be feasible with regards to the configuration of the lot size, or how the lot had been structured with regards to its narrowness and then increases in width as one goes in further to the rear. With regards to the findings, as already indicated, the existing carport is considered a legal non-conforming structure. The existing shop was built after the MZO had come into effect. The strict application of the MZO will not deprive this property of the privileges enjoyed by others with respect to the existing shop and staff recommends approval of variance requests for the carport with conditions and denial of the variance requests for the existing shop. Staff welcomes any questions.

Chair Wagner: All right, thank you so much. And then do we have the or do we have any questions first? All right, do the homeowner would like to speak on this. On this case? Is the homeowner still here? Oh, there online. All right.

Applicant Scott Willis: Thank you, Chair and board members. Thank you, Mr. Abebrese, for your work on this. This house my wife and I bought in 2013, after the work discussed, had already been done and existed. This was my childhood home built by my father about when I was born. And we bought it from my folks in 2013 after this work had been done. During the study session, one of the issues was whether this is detached or attached, it is actually detached. The whole structure is detached from the main living area. I'm proposing a significant remodel to the property. It's a project that's going to be into the several hundreds of 1000s of dollars. And I'm asking only that you guys will allow me to keep the shop at the rear of the property in its current place. It seems like the semantics here, what I'm missing is if it was only detached it could be in its current position. If it was but if it's attached to the main living area, it can't be in that position. And my argument is a couple of things. It was there and existed when I bought the property. It's actually not attached to the main living area, we're not going to be doing any construction or work to the interior of the walls, we're not going to be going any further into the setbacks or anything like that with this project for that portion of the property, the project is going to mainly focus on the main living area. So, with that, I mean, our request is that we can simply leave the shop where it currently sits. It was brought up during the study session that, you know, we're approving properties in the neighborhood have been allowed to build new structures into the setbacks. I think in the report, as recently as 2019, a property on our street was allowed to build a new structure into the setback. The properties surrounding our home, I have structures that people are living in that are right on our property line. The one immediately behind us includes a there's a barn or red barn structure that apparently someone's living in that's, you know, right up against our wall. So, it's, it's a little hard for us to swallow the need to tear the structure down. Only to reposition it as a detached structure in some other location of our on our lot. With that I welcome any comments from the public or the board.

Chair Wagner: Are there any questions for the homeowner at this time?

Boardmember Gunderson: Thank you again for joining us and commenting on this. You mentioned that the building is actually a detached building, or I think you said it's not attached to the living area. Can you clarify what you mean by that?

Applicant Scott Willis: Yeah, if you look at the picture, on page six, you can see that the structure that the shop is attached to is not attached to the main living area of the house. So that's all that's the point I'm making. It seems like that was an item that we were trying to distinguish. And if we go back to slide six or site photos six. You can see there's a breezeway. And the roofline is not attached, either. So, the structure on the left, which is this built carport has shops attached to the back of it. But as you can see, by looking at that photo that is actually not attached to the main house.

Boardmember Gunderson: How far is the enclosed building the shop from the house?

Applicant Scott Willis: I don't know in terms of feet, but in turn, but if you measure at its closest point, it is at least 25 feet from the house at its closest point. I think that's probably a good estimate.

Boardmember Gunderson: So, it's attached to the carport but not to the house. Correct? Yeah. Okay.

Chair Wagner: In that photo, on this slide, are the roof lines connected? Is that where you're saying? It's connected to the house.

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers. So, the site plan submitted shows that the that there are two shops. There's one shop that is attached to the existing carport and this appears to be

in conformance with the zoning ordinance because it meets the required setbacks. And then just behind this existing shop is also another shop which is the shop in question. So, there are two existing shops, one immediately attached to the carport and then there's another one behind the existing shop which is the existing shop that is encroaching into the required setbacks. The site plan submitted shows that the existing carport and the shop are attached to the building. There are pictures submitted but when you look at the aerial photo, it shows that these structures are attached. The roof lines are attached together so it's one attached structure.

Applicant Scott Willis: They're not actually attached, I realized the overhead appears like they're attached the roof lines, actually, there's an overlap and an overhang there. So that mean, they're not technically attached.

Chair Wagner: Thank you for that clarification. So, because it's not attached to the home, does that change the zoning requirements on that?

Staff Planner Kwasi Abebrese: Thank you Chair board members. So, if it is not attached, looking at the size of the structure, it still requires meeting the setbacks. But this is something that staff would consider looking into and then get back to you with our feedback on.

Chair Wagner: Is there any other comments from the homeowner before I closed the public hearing portion of this for us to discuss further?

Applicant Scott Willis: No other comments?

Vice Chair Lynam: I have a question for planning on it. If so, part of the issue with this is that that structure was built after the zoning and it appears that was not permitted and things like that, if the variance were approved as part of his work, would he be required to go through and get that inspected and make sure it meets the current code looking at the plan looks like possibly moving the electric panel onto that shed or that shop building? Is that something that would happen? Or is it not something that would happen?

Staff Planner Kwasi Abebrese: Thank you Chair board members. Yeah, this is something that we need to still look into. That is why I said we need to look into it because the structure itself is not permitted as you rightly said and then looking at the size of it, although it does not exceed that 30% requirement for accessory dwelling unit for the MZO accessory dwelling unit, the roof area of the accessory dwelling unit is not supposed to exceed 30% of the roof area of the primary structure. So, looking at how it appears in the aerial photo, it meets this requirement. But then the first question was whether it is attached, or it is not attached because if it attached to the existing building the requirements are different. But if it's a detached structure, the requirements are also different, because in a way it will meet the required setbacks but the other issue is that it's not permitted so, we still need to look into it.

Principal Planner Michelle Dahlke: Madam Chair and Boardmembers if I just might add on to what Kwasi was saying. So, we still consider this as attached to the building. It's not separated by six feet, which is what's required from a detached structure to the main structure. And also, building code requirements also would consider is attached with the breezeway. And that's one reason why people attach detached structures to the main residence, because the breezeway makes it one structure. So regardless, we still would consider it attached to that main structure.

Chair Wagner: Okay, so even though it's technically not attached, it's considered an attach because of that breezeway.

Principal Planner Michelle Dahlke: And maybe other reasons. Yeah, maybe other reasons. Besides that, we would have to go out to the property to confirm, but as of now, and we consider it part of the main structure.

Boardmember Gunderson: I would just point out that, I think it would make sense to me, at least for the staff to take a closer look and give us recommendations one way or the other of whether or not to find that it's attached or detached, because I think that's maybe I'm overstepping. But I think that's our role, right is to interpret the code. And so, if there if that's in question, and it seems like it is, and maybe it's not, maybe staff is laughing at me, because this is not really a question at all, but I would be interested in in an explanation a little bit more, you know, thought out and addressing the concerns that the applicant has raised today.

Principal Planner Michelle Dahlke: And Madam Chair, members of the Board, we'd be happy to go out to the site, take another look, and you might consider continuing this to the next meeting.

Chair Wagner: Absolutely. Thank you so much. So, I'm going to close the public hearing portion of that so that we can discuss moving forward with this and asking for further clarification from staff to verify those different requirements and now that we have more clarification from the homeowner and our questions if we can get a little bit more clarification on the detached or attached and the requirements for that.

Vice Chair Lynam: Yeah, also clarification on whether that structure will need to be permitted if it stays existing, because I don't think we want to give a variance on a building that would have no oversight and whether it's actually a safe structure.

Chair Wagner: Yeah. Are there any other comments from the Board? Or are we all in agreement on that? Okay, so let's, let's move to a vote then to continue this to since July so August's. August 3. I'm going to motion to continue this to August thirds meeting for further clarification from staff. Would anyone like to second that?

Boardmember Gunderson: I'll second that.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Jones-Reed- Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-1 Case No.: BOA22-00572 (Continued to August 3, 2022)**
Location: District 5. 1235 North Sunnyvale Unit 52
Subject: Requesting a Modification of a Planned Area Development (PAD) to allow for the addition of a garage on an existing casita.
Decision: Continued to August 3, 2022
Summary: Staff member Kwasi Abebrese presented case BOA22-00572 to the Board

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers. This is BOA22-00572 and the request is for a modification to a Planned Area Development to allow for the addition of a garage onto an existing casita. The subject site is located north of East Brown Road and east of North Higley Road and it's also located within the Mission Square Planned Area Development. The General Plan character area designation is neighborhood and then the zoning on the property is multi residence with a Planned Area Development overlay. This is a picture of the site looking north from North Sunnyvale. The existing building coverage on the property is 39.9%. And then the proposed garage is 357 square feet. Although the proposed building coverage will amount to 43.8%, this meets the current building coverage requirements by the zoning ordinance. With regards to the findings, staff found out that the existing attached single residence was constructed in 1985 and it complies with the RM-2 PAD district development standards. The subject site has an existing garage which is 483 square feet in area and in 1999 a request was approved for the addition of a casita on the subject site. Per section 11-22-5E of the Mesa Zoning Ordinance, any alteration or modification to a PAD requires an evaluation by the Board to examine the consistency or conformance of the proposed modification to the existing plan. The proposed site has a garage already in place, which spans or takes 40% of the total frontage of the subject area. And as you can see from the picture of the existing site, there is no allowance in between the existing garage and then the adjacent property. Adding the proposed garage to the site will increase the total Parking Area frontage on the subject site to over 90 percent, making the whole area visible from the street visually dominant by garages, leaving no allowance between the property and then the adjacent property. Staff found out that this is not in conformance with section 11-5-5 of the MZO, which highlights the development standards required in multi residence districts. This particular section of the code states that not more than 30 percent of the total frontage of any existing building shall exceed 30 percent. Already, the subject site has a total garage frontage of 40 percent. And the addition of this proposed garage will increase this frontage percentage to over 90 percent making it visually dominated by garages. The site also has peculiar characteristics compared to the other developments in the area. The site is located on negotiating a curve on North Sunnyvale. The location positions it at a vantage point in that, there is a lot of allowance in the rear yard where this garage can be planned or relocated to other than the front, which is narrower with regards to visibility from the street. Staff evaluating this particular proposal in relation to the existing PAD found that it's not consistent with the intent of the approved plan. Siting another garage in that particular location will not be in the best interests of the site and then it's not consistent with the approved plan in general. In view of this staff is recommending a denial of this proposal based on the aforementioned reasons.

Chair Wagner: Are there any questions for staff?

Boardmember Gunderson: One? So, with the materials, we've got some site photos that were presented. And I just want to clarify. So those I think this was brought up in the study session. And I just wanted to clarify, again, here, the photos that were presented with the materials are photos of a different unit within the same development.

Staff member Kwasi Abebrese: Yes. So, the applicant submitted site photos of numerous developments with double or extra garages constructed

Boardmember Gunderson: So, each photo is a different property, or are all those photos different angles of the same property?

Staff member Kwasi Abebrese: Chair, Boardmembers yes, please. Each is a different site. So different properties with different garage, new additions made to it.

Chair Wagner: In the photos, it looks like they're all unit 31.

Staff member Kwasi Abebrese: Yes, particularly Referencing Unit 31

Boardmember Gunderson: Yeah. Okay, so each of those photos are different angles of Unit 31. And Unit 31 is the one that the applicant mentioned was approved for a variance back in I don't think he cited a date, but I found that it looks like it was February 7 of 2018. Is there any way we can pull up the staff report and the minutes from that meeting? On the screen here?

Principal Planner Michelle Dahlke: I'll see if I can find it.

Boardmember Gunderson: Yeah, I've got them. I just I printed the staff report in the minutes it was the February 7, 2018, meeting. I was able to access it through the city website the Mesa dot ledger start February 7, 2018.

Chair Wagner: While we find that would the owner Mike Wagner like to take a minute to speak.

Applicant Mike Wagner: Hello, I'm Mike Wagner. 1235 North Sunnyvale where I live in Mission Square down here in Mesa. I guess we have ordinances in Mission Square that you cannot leave a vehicle outside at night and you can't park in new driveways that everything has they keep everything neat and clean. We have a beautiful area, there's only 115 houses in that area. So, my neighbors actually come up to me and said, Mike, why don't you just put an addition on the garage like John Parkman did 31 He says, then you put your car in at night, because I don't like it sitting outside in the heat anyway, when it gets really hot out. So, I went to the architectural board for Mission Square. And I run it by them, I went to two three of their meetings, and they said, Mike, it's a great idea, we approve it 100%. So, they all signed on that and approved it. So, then they sent it off to Alta Mesa, the big Alta Mesa, and they, we just got a letter back from them probably a month ago that they approved it, that it's all perfect to go. So, I guess I'm really confused. He keeps saying all these garages. But when you drive into mission square, we got a hidden little treasure there. That I mean, it's that's all you see people come in, they go, oh, God, I never expected this when they walk into our homes, because that's all it is, is garages. I mean, the garages all face the street. And there's about six of them, eight of them that are like mine, that are in the corner, lots that have more room, you know, so we have potential to do more things. But a lot of them are just garage, garage, garage and then their homes are all behind them' you know. So, if you look at that picture of my neighbors on 31, mine will be pretty much identical to that. I'm not, I'm not disturbing the curb cut, or Nothing, I'm just going to come off the side and put it right off the end of my casita. 17 by 22. You know, because right now, you know, when they built these garages years ago, they built them too small. You know, and I'm not a guy that drives a little tiny car, you don't so and if you parked that car in the garage, you can't even get out of your house into the garage, because you got to pull right up tight to the door, you know, so I'm just asking permission, so I can follow the ordinances and, and I'm going to blend it in. I got a great contractor, Jeff doing the work. I'm going to blend it in just like my neighbor, John Padma did. So, it'll all blend in and we'll have the clay tile out of the blend right in. You only want to tell the difference. And if you look at that picture, his he's got a little side gate, right next to his actually approaches probably within two feet of the boundary there. That

corner does where his side gate is. But I mean, it looks great. Everybody complimented. So, then I went around with a petition, which I don't know how much is stuff that did you send them all that stuff? I did. Because I said I went around to everybody a few months ago, and everybody that was, and they all signed a petition that I have not heard one complaint. They all said, Mike, it's a great idea. So, I guess I'm at your mercy.

Chair Wagner: Well, thank you for sharing that today. I appreciate your comments. And we are we are appreciating that you're going through the process and like you talk to your HOA, you got it all approved there. You talk to your neighbors or getting it approved there. This other house that you're mentioning number 31 Is this that the minutes from there, and then the findings that they had, and what was done there.

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers. So, from the minutes of the approved variance with case number BOA17-00541. The request was on a variance to allow an encroachment for a garage addition into the required yard setback for an attached single residence in an RM-2-PAD district and the decision was approved with conditions.

Chair Wagner: I have a quick question on that. So, this is saying that it's a variance for encroachment on garage. How is that different than the modification of a PAD.

Staff member Kwasi Abebrese: So, this is quite different from the variance to encroach into the required side setback. The modification to a PAD means there is a plan in existence, and you are seeking to modify it by adding an additional garage to it.

Chair Wagner: And they didn't have to do that with unit 31?

Staff member Kwasi Abebrese: No, this is a different thing. It's a different process, there is a different BOA process so, the circumstances are different.

Chair Wagner: Did they add a garage in this one?

Staff member Kwasi Abebrese: Yes, so this they added a garage, but it was to require it to encroach into the required side yard setback, and the same subject property received a variance for an approval of a Casita, which is also a different case scenario all together. So, this is an addition to the garage, but it's not for a variance, but it's to modify the existing Planned Area Development overlay.

Principal Planner Michelle Dahlke: Madam Chair, Boardmembers, if I may add on to what Kwasi is saying, so not only was the Mission Square PAD approved, but what he's emphasizing on is our Zoning Ordinance section, which talks about location of parking areas, and if I could, is really short, I'll just read it to you what it says straight from the code that parking areas shall primarily be located to the side or rear of buildings with the exception of visitor parking, which may be located between the building and the adjacent street. The total frontage of parking areas visible from the street, including open parking, carports, and garages, but excluding underground parking and parking locating behind buildings shall not exceed 30% of the lot frontage. And as Kwasi was talking about, with this proposal, if it were to be approved that total frontage would exceed 90%. So that's where our emphasis is.

Boardmember Gunderson: Do we know what the percentage is for the other lots in this particular development?

Principal Planner Michelle Dahlke: We would have to go back and look at each of the lots to come up with that.

Boardmember Gunderson: Because I think that goes to what the applicant was saying is that in this particular development, that 30% rule is not there's not the standard. And from the pictures that we're seeing, it looks like it's not the standard, so. Okay. But I see, I see that the what the applicant had in back in February of 2018, what they were requesting is different from the action that's in front of us today so that the end result would be similar. If we approve, we would be adding a garage in either case, we would be adding garage frontage in either case. So, if that's the primary issue, I'm not sure I see an important distinction, but I understand that in this case, we're not seeking a variance we're seeking a modification to the to the Planned Area Development,

Chair Wagner: With the casita there is that why we can't do a variance?

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers, the existence of the casita does not inhibit this proposed addition. As the principal planner rightly said, it is with regards to the MZO requirements for total parking areas that are visible from the street and so, as specified in the MZO, chapter 11-5-5, the total frontage of parking areas encompassing carports and garages shall not exceed 30%.

Applicant Mike Wagner: Yes, I wish I'd taken pictures more before it come. Because if you drive down our streets, it's only there's 115 houses, that's one big loop and a couple of cross streets. And if you drive down there, you say more now more than 30%. But all the way down every side is garage with a little entry inside a garage with a little entry on the side. Everyone in our unit is over 30% of garages that they only have probably they got a probably 24 feet of garage wide. And then there's maybe a 10 or 12 foot where their entry is to get around to get into their house. So, I mean, it's solid. When you drive into it. That's all you see. That's why people come into our house and say I never realized you guys have the cars you drive in. It just looks like a bunch of little garages, you know, you don't really see, you know, and mine would blend in just like John Parkman does in 31. It wouldn't. And I did, too, I sent out all the letters to all my neighbors and never heard one response back negative. They're all for it. I've talked to everybody that lives in our community. So, and then John Parkman, you know, I'm putting a little 17 by 22 on I think if I remember right, his goes back 30 feet, he added on a garage. It's like a 20 by 30, wasn't it? And if you look at if you look at his what he's got now, if you look at that picture, there's only I mean, he's got a three-stall garage with a little three-foot gate on the one side that you guys have proved three, four years ago. I mean, it's all you see is garages when you come in our community, I guess it's not like they're beautiful homes. And you're putting a garage in front of one, you know,

Chair Wagner: Vice Chair Lynam has actually pulled up a picture of the aerial photo. I don't know if we obviously can't put it up there.

Applicant Mike Wagner: But the only thing I'm really getting rid of by putting that garage is the garbage block a little containment with a door and all that, and then I planted an orange tree in front of that Casita, it's the only thing I got to do is take that out, and I'm going to get rid of that whole block containment area and just come out, and I'm only coming through that little wall, probably five, six feet is all it is. So, it's not I mean, that 90, probably two thirds of it will actually be inside up against the Casita, I would put it I originally was going to do like John Parkman did and put it up against my garage. So, I'd have a three-stall garage identical to his. But the problem with doing that is my meters, my electric meter comes in on that side, and so does my main water. So, it would be so much more money to do that, to move all that electric and all where this has just come off. It's easier. But I mean, if that's what you're saying, I got to do to do it.

I'll do it. I mean, I can make it identical to his. But I'd rather not. Because I think the way I have it designed, I think it looks really nice.

Chair Wagner: Thank you. Are there any other questions?

Boardmember Reed: I do you have a question? For staff back in, I believe in the 99. The procedure was approved by the zoning administrator, was there any conditions that were stipulated? With that approval for anything that would point towards a garage or detached garage or anything like that.

Staff member Kwasi Abebrese: Thank you Chair and Boardmembers. So, there were conditions with regards to its compliance with a site plan and then its compliance with requirements of the development services department. These are the two conditions that were stipulated.

Boardmember Gunderson: So, I think my question is more for city staff. I'm just having a hard time understanding why this 11-5-5B4(c) is applicable in this case? If that's where, if that's the source of the rule that parking can't exceed 30%, but parking in this entire development exceeds 30%? I'm wondering if we're just applying the wrong law to the facts of this case. And maybe I'm missing something. But can I get some clarification on why we're looking at that standard for this development?

Principal Planner Michelle Dahlke: Madam Chair and members of the board, that was just one of the arguments Kwasi looked at that development plan, or the PAD rather for Mission Square, and just made the determination that he just felt that this wasn't in compliance with the plan.

Staff member Kwasi Abebrese: Thank you, Chair, Boardmembers. So yeah, as my principal planner rightly said, the PAD has its defined standards. So, as I did mention that each of these houses were initially constructed with a double car garage and the intent of this plan was to maintain that design. This is a unique design developed specifically for that area. And so that was the initial concept with regards to the development of that PAD. There were some variances that were requested. For instance, with the in the RM-2 we don't usually require a 0 feet side setback, but with this plan, this was among some of the deviations sought as part of the planned area development. There were a lot of conditions that were granted with regards to the design of this concept behind the PAD and looking at the MZO, which the section which is purported not to be applicable in this particular instance, I mean, it applied because the whole the entire development is saddled with visibility from the garage from the street. So, there is a visual dominance of garages in the vicinity. And that is part of the initial concept with regards to the planning of this particular site, if we look at the lot sizes, and then how the buildings have been designed, pushed to the front to make them visible from the street, adding an additional garage to it, for want of a better word, will deviate from the plan as it was purported to be. And this is buttressed by the MZO requirement, I did mention as an addendum to buttress this particular plan that was in the RM-2 zoning district, the garage frontage, as specified, and as required by the zoning ordinance is 30% with regards to the parking areas, visibility from the street, so this is buttressing the PAD of the Mission Square area. I mean, the two combined together, does not project something that we should be in support of. And the one question that runs in my mind is, each variance or each approval, whether modification to a PAD depends on special circumstances pertaining to the site. The question that runs through my mind are we well poised to change the status quo or maintain the situation as it is and allow different garages to be put up, in addition to the already existing ones, which is already enough for the community.

Chair Wagner: Thank you, I'm still stuck on the other one was a variance even though they added a garage. And this one's being applied as the MZO. And they're not allowed to add the garage. I'm still confused on the difference there. And I would just like, I'd like to further understand that in order to make a more

educated decision. Because if they're adding a garage, then the MZO would have applied there as well. And they would have been denied. And this one's being applied. So, it's recommended to deny was it not applied in the past and why wasn't it?

Staff member Kwasi Abebrese: So, thank you Chair, Boardmembers. So, as I rightly said this request was a variance to allow an encroachment into a required side yard. It is different from this being requested. This request is seeking to modify the Planned Area Development by adding another garage.

Chair Wagner: Right, I understand that. I'm just saying their request for variance also allowed them a garage.

Staff member Kwasi Abebrese: Come again with the question?

Chair Wagner: Didn't their request for a variance to encroach on the side yard setback allow them to add the garage and a driveway.

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers. This particular instance is different because the addition to the garage was directly attached to the existing one. So, there is no allowance or there is no space between the two, but this particular instance is different because it's added on to the existing casita and which I mean it's a different location, so it's not directly attached to the existing one. So, they are two garages fronting one property.

Chair Wagner: So, if he were to attach it to the garage like he had mentioned earlier as an option, even though.

Staff member Kwasi Abebrese: That will also not be required per that section of the code, which talks about the total street frontage not being more than 30%. I mean, each variance is granted based on the peculiar circumstances. The Board at that time, had their own reasoning for allowing it but looking at the situation as it is now, it does not meet that section of the code.

Chair Wagner: Understandable, I just want to make sure because we don't want to go against what has been done in the past. And I just want to make sure I understand both cases separately, so that I can make sure that we treat him appropriately and make our decision based off of what was done in the past. What's done now, looking at this now and also being like, oh, this was done? Is it treating him differently than we have done in the past? So that's just why I'm asking those clarification questions.

Vice Chair Lynam: When so would that other case not have been held to the 30% of the street frontage for the garage? Or what did that was that something that should have been a variance? Also, at that time?

Principal Planner Michelle Dahlke: It seems that not having been here at the time that this was approved, and we've we're all just looking at this right now, it seems that it probably should have been processed as a modification to the PAD, that one. I can't speak to why it was done that way in 2017.

Boardmember Gunderson: I mean, I don't remember that specifically. I was on the board at the time, but it was a long time ago. But I guess my question is still, what exactly are we modifying? So, my concern is that we're citing to the MZO 11-5-5B-4(C), as the reason for denying this. But to me, it doesn't make sense to apply that section of the code to this neighborhood, because no single property in this neighborhood meets that criterion. So, I'm not quite sure why we're applying that rule. And I'm not I maybe I'm not even sure what the PAD is for this area. And what it is that we're being asked to modify? I'm not sure I've been

involved in a request to modify a planned development case, at least not one that's been contested. And we've got, you know, that wasn't on the consent agenda. So, would it be possible to just explain what it is? Is there a written document that says these are the rules for this property? And we're modifying those rules to say something else? And if so, what are the original rules that we're modifying? Is that being that written somewhere? Can we take a look at that?

Staff Planner Kwasi Abebrese: Thank you, Chair, Boardmembers. So, there is an approved plan. It shows the subject site is part of the subdivision Alta Mesa, parcel three, and then the requirements that were approved at that time with regards to the setbacks, and then the how the area was purported to be, and then the comments made by the Planning Division at that time. So, there is a plan in existence, I can pull it up.

Boardmember Gunderson: Yeah. What are those standards?

Applicant Mike Wagner: I guess I guess I'm really confused the board. Can I do you have you ever actually went out and looked at it? Or have you have you been out to my house? If I'm driving and you stopped? And look, because you didn't you thought it looked better to have a come on the side of the garage than to come off that can see that? And do you think though that, like we're talking this 30% rule, every one of them garages going down the line or right take to each other? How do they all have 30%? There's three quarters, at least two thirds of the houses that aren't in compliance if you're going to use that 30% rule.

Principal Planner Michelle Dahlke: Madam Chair, if I may, Boardmembers, although it might not be what the applicant wants, I might suggest a continuance so that we can come back before you with all of the details of the PAD. We did do a similar case a couple of months ago with the PAD modification. It was one of Charlotte's I can't remember. And I know that's probably not desirable for you, sir. Continuing just to give us some more an opportunity to present to the Board of Adjustment.

Applicant Mike Wagner: What confuses me is the planning. The architectural board in our community approved at all and that's what they do. If you're going to hang anything on the black wall that faces a golf course, they have to approve it. If you're going to put her awning on or anything they have to approve it, and they approved this. So, then they took it to Alta Mesa, the head of the whole Alta Mesa board and they approved it. So, I guess I'm really, really confused why this isn't yet. I don't know I'm.

Vice Chair Lynam: The HOA also have a different set of rules than what the city looks at. So, they're looking at their guidelines. They're not looking at the city's zoning code. But so, it has different standards that they look at versus what the city looks at. Yeah, my biggest confusion on that is on this one is that I would like clarification on is, yeah, the 30%. Garage? How does that apply in a PAD where none of the residences comply with that? Yeah.

Principal Planner Michelle Dahlke: And maybe in our research, we find that there, it's not quite as widespread as we think it is. But it would be beneficial if we have time to look into that more carefully.

Boardmember Reed: I think it's due to timing, like, you know, the MZO came into effect, what 10 plus years ago, give or take 2011. So, this property, and this development was mid-80s. And development codes, designs and everything was a lot different where you know, the garage was a dominant feature, you look at the aerial maps, it's I mean, from my estimation, looks like 70-80% of the wall of the face is garage. And it's almost it looks like the intent. I know this, we're not design review. But you got to think about the design side. And it almost looks like there, the intent was to create more of like an alleyway where you have garages come in with a few simple lots. And the focus was to look out the back backdoor, onto the golf

course of the lake and stuff like that. And PAD, hopefully, we're looking at almost 40 years ago, they might not have gone into as much depth as what we're trying to seek, give us guidance to decide here. So, it's hard the way I look at it, we're, we're trying to apply a code that doesn't really affect it doesn't really fit with a 40-year-old PAD. And buy and that's not fault at staff because that is the ordinance. That's what you have to look at measure. It's not entirely fair. But I think that's why the board comes into effect. Have we look at that and say, well, it's not a fair thing because of this, or it is. So, I, I want to see a little bit more from the PAD. I know, the applicant went on like that, but I want to make a good decision for him. And for the City of Mesa.

Chair Wagner: thank you. Before I close the public hearing for us to discuss this further. Do you have any other comments you'd like to make? Thank you so much for coming out here today and being able to clarify certain things for us. Um, so with that I'll close public hearing on this case. And I am going to, it sounds like it's already kind of been discussed. But two, motion to, again, move this to August 3 meeting for further clarification on the percentages of the front edges of the homes. And if this zoning ordinance necessarily applies in this or needs to be strictly applied in this case.

Boardmember Hoffman: I will second that motion.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Jones-Reed- Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-m Case No.: BOA22-00575 (Approved with Conditions)**

Location: District 3. Within the 1800 block of West Main Street (north side). Located east of North Dobson Road on the north side of West Main Street.

Subject: Requesting Variances from the Form-Based Code, Building Type Standards, to allow for a mixed-use development in the T5MS and T5MSF Transects.
Decision: Approved with Conditions
Summary: Staff member Cassidy Welch presented case BOA22-00574 to the Board

Staff member Cassidy Welch: Thank you Chair members of the Board. So just to quickly reiterate, this is for BOA22-00574, this is a request for two variances from the form base code standards. So, the transects on the site are currently transect five main street T five MS and transect five main street flex T five MSF so per the form base code, the requirements there are limitations on the maximum footprint depth. For floors one and two at 150 feet, the applicant is proposing 426 feet. And then for floors three through five, it's a 65-foot maximum, the X applicant is proposing 401 feet. Again, when you take it in consideration with a lot depth, the proposed building is consistent with the intent behind the form base code to have high intensity development. You can see based off of the building footprint in that s formation that it won't have a large building massing of 100 or 400 feet, it will be broken up. And then the second variance is for the footprint width for the floors one and two from 200 feet maximum to 213 feet. And again, that is due to the existing law with which ranges from 314 to 368 feet. reviewing it against the approval criteria, we find that the proposed development is consistent with those approval criteria for a variance, and we are therefore recommending approval with conditions.

Chair Wagner: All right, thank you so much. Are there any questions before I open to public? All right, so we did have a public comment card on this. I have Margie Schlechty. All right, would you like to speak just make sure you say your name and address please. Okay.

Margie Schlechty, 1666 W Pepper Place: This complex or these apartments that are being built are right by an elementary school. And the city of Mesa had created an activity center right up against this complex that's coming in. I was just wondering if they're accommodating for all that. Transportation that's coming in, especially from the elementary schools during the day. And when they have event nights. They use that parking lot right there for the overflow of the people. And then you also have a school, a college at the over there off of Dobson and I don't know if they're accommodating for that entrance on those different accesses.

Chair Wagner: Has there been any studies on this?

Staff Planner Cassidy Welch: Chair Wagner so there hasn't been any parking studies that have been conducted on the site, the school and reference is located to the north on that RS-6. So, there is the existing Park and Ride facility that is between the school and the proposed development that Park and Ride facility has no plans to be removed. So, it is currently will remain. And the school would be accessed through Sycamore, the proposed development would be primarily access through a primary drive off of Main Street. And same with the development the other school is located up here on the northwest corner in the LC. And again, that would be accessed through Dobson.

Chair Wagner: Awesome, thank you for that clarification. And I appreciate your comment today and your concerns there. With it being where it is there is that low to no parking requirement to promote the walkability. And with it being in really close vicinity to that park and ride.

Margie Schlechty, 1666 W Pepper Place: I was concerned about how close it is to the schools, the two schools. And then you've got those little kids coming into a lot of those is a low-income title one area. And so, a lot of the families are walking there. It's not just one little kid, it's like a little family walking to it. And so, I'm concerned about you've got all these other buildings coming up in that area. And for them to be able

to still get to the facilities that they need to it is close to the light rail and is close to the bus transit. And that's a good thing too, but that's what my concern is I want pepper place. So, I get some of those transits and I see you go through, and I know my neighbors and so I was concerned about that.

Chair Wagner: Where is Pepper Place in relation?

Margie Schlechty, 1666 W Pepper Place: Pepper Place is the street right off Main. Okay, and so there's there is just on the opposite side where I live. So, you have the shopping center, Safeway, and then this complex, or this building is being built right behind that. And so, I was I came to find out where it was, I got this little paper I couldn't even read to figure out where where's this is coming from? Because I didn't know where it was. And I just wanted to know what was going up in our neighborhood? Because we need to keep it safe. Yes. And

Chair Wagner: Thank you so much for coming out and expressing that today. Were there any other comments from public today? I don't have any other comments ours. Is the applicant here. Would you like to make any comments or rebuttals?

Applicant Peter (Need Last Name Spelling): Thank you chair and board members. My name is Peter I am with Circle West Architects we are the architects and planners for the residential development. And I reside at 3130, North Hayden Road in Scottsdale. So well, we're super happy to be here super happy to be in Mesa. We think the overall idea of the Transit District and overlay what the city is doing is super fabulous with respect to promoting the transit, the trains and the buses and really promoting pedestrian. So, I just want to address a little bit what was said earlier, we're very conscious of our neighborhoods, our neighborhood and where we are in context, within the site, and we are off of Main Street, so a majority of our residences, vehicularly would be driving in on Main Street, most of our parking is covered as well. And we are a self-parked site. In other words, all our residences will park on our site, obviously, we want them to use the buses and trains as much as possible, as well as other mobility. But the overall planning of the site is self-contained, as well as most of the parking will be covered. That's partly why some of the things have come up. That's why partly we're here as far as seeking some of the variances. But also from a pedestrian standpoint, we think that the improvements on a 360-degree basis, in and around the site are going to be positively significant for the City of Mesa, the neighbors, and from a from a landscape standpoint, lighting standpoint, from an improvement of hardscape, bike parking, etc. So, all the amenities to promote a healthy neighborhood, sustainable neighborhood. We believe we're; we're following.

Chair Wagner: Awesome, thank you for your comments. Okay. We'll now move to close the public hearing portion of this case. And would anyone like to motion make a motion on this or have further discussion on this?

Boardmember Gunderson: I was going to make a motion to approve but if anyone has any comments before, okay, so I move approval BOA22-00574. Consistent with the recommendations and conditions for approval and the staff report.

VC Lynam: I will second that motion.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Jones-Reed- Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

***4-n Case No.: BOA22-00574 (Approved with Conditions)**
Location: District 3. 2337 West Pampa Avenue. Located north of the Western Canal and west of South Dobson Road.
Subject: Requesting a Variance from the required side yard setback for an existing attached carport and existing detached accessory building.
Decision: Approved with Conditions
Summary: Staff member Charlotte Bridges presented case BOA22-00575 to the Board

Staff member Charlotte Bridges: Thank you Chair and board members, this is Board of Adjustment case 22-00575 and it's a request for a variance to allow an existing carport and an existing detached accessory building within the required side yard. The site is located at 2337 West Pampa Avenue, and Pampa Avenue is west of Dobson Road and north of the Western Canal. The Western Canal is the City of Mesa boundary in this area. The General Plan designation for this area is Neighborhood and the property is zoned Single Residence-Six. In the RS-6 zoning district, the minimum side yard is five feet and both sides yards together are required to total 15 feet. Detached accessory buildings are permitted, as long as they comply with Section 11-30-17 of the Mesa Zoning Ordinance. This is a picture of the subject site just looking from across the street. The van is parked underneath the carport that is in question with this request. The detached accessory building is behind the carport. The site plan shows the location of the existing attached carport, and the detached accessory building in red. And you can see that in both cases, those structures are just a little bit more than three feet away from the side property line. Please note, for the detached accessory building, it is allowed to encroach within the side and rear yards if the structure is less than 10 feet in height totally located in the rear quarter of the property. In this case, the detached accessory building is outside of the rear quarter of the property but it's still encroaching into that side yard. The home was built in about 1976. If I remember correctly, the detached accessory building shows up on the historical aerial photos in 1979. And then the carport shows up in the 1986 historical aerial photo. So, both structures have been there for decades. In this elevation, you can see where the carports located. And then as you know, in the information provided by the applicant, they surveyed the neighborhood and provided many examples of similar situations in the area. So, these are just two of the photos that were provided by the applicant. And these two examples are similar to the applicant's request in the sense that there's an attached carport that appears to be encroaching into the required side yard. This is a map that shows the various locations of the examples provided by the applicant. I want to point out the green lots, which have structures very similar to what the applicant is proposing. Also, I reviewed building permit data and I was not able to find building permits for the particular improvements that we're discussing at those locations. Then, I'll also point out the blue lot, where a variance was approved to allow the carport to encroach as close as two feet to the side property line. In summary, staff finds that special circumstances apply to the property in the sense that these existing structures were constructed a number of years ago prior to the ownership of the property by the applicant, and that the special circumstances were pre-existing and not created by the owner. And that strict application to the Mesa Zoning Ordinance standards would deprive the property owner of privileges that are being enjoyed by other properties in the area. And the granting of a variance would not grant special privileges inconsistent with properties in the vicinity or zone in the area. So, staff finds that because the existing home was constructed in 1976 with a single carport and the carport addition and detached accessory building were constructed prior to 1986 and before the applicant purchased the property in 2008, that the special circumstances are preexisting and not created by the property owner. And that a similar variance request was granted for 2213 West Peralta Avenue. Staff is recommending approval with conditions, and I'd be happy to answer any questions you might have about this project.

Chair Wagner: Thank you so much. Are there any questions before I open it for public? We have the property owner that would like to speak today. When you come up, please state your name and address into the microphone.

Applicant Kelly Topczewski: I'm one of the owners at 2337 West Pampa Avenue. It seems a little silly to do this because it was already approved. But I wanted to give you some background on the situation. And I wanted to voice my concerns about the recommended approval with conditions. So, my house was built in 1976. We bought it in 2008 from the government, it was a HUD house. So straight from the government, we actually had to have a special loan that rolled in special repairs that make the house livable, like our roof, our pool, that sort of thing. In April, my family and I decided to begin the process to change our carport to a livable space. In that process, we found out that my one car carport to the west, the metal awning, which has been there since 1986, per the historical aerial photos, encroaches into the side setback. Then we found out the detached accessory building that was built prior to 1979 was also encroaching on side setback. My concern is that in 1988, this house also had a permit that issued by the City of Mesa for an extra bathroom, on the east side of the home. That's what cut down the side's setback on the other side, and a pool. And on the plans for these permits, we actually have copies of those two permits, the detached accessory building and the medal awning aren't even on there. So, when those permits got approved, or somebody came to inspect them, nobody noticed that those items were actually on the parcel. The conditions for this approval require me to get a permit for the metal awning and the detached accessory building. And I understand wanting to have it up to code. I don't have anything against that. It's a lot of work, but I'm not against it. My concern is actually the cost. I'm a single parent, I have two children. I'm a low-income family. I've been in Mesa for 14 years, and I am a former teacher. It's going to be a lot. It's extra work. But I'm also concerned about the extra inspections, if that's part of it, and the permit valuation. It's going to raise the cost of my project, my project was only to enclose my carport, it was only two walls. And there were already marks in the ground where some previous owner must have done something there that was unpermitted and took it down. The structures are older than me. So, it's really sucks to be held accountable for things that I literally had nothing to do with. So, it's kind of holding my project hostage. While I deal with getting the permits for these two structures. I can roll it all into the current permit I have, I'm concerned about it raising the cost of that permit. I'm also concerned because the shed is already built, I had nothing to do with it. So, I have no idea what's in those walls. And if it goes over three submissions for permits, then there's another fee. Right? So, there's like a lot of things rolled into this. It's hard because as you saw, I'd say about half of the list of the properties I provided didn't have permits. And so, we're trying to do it the right way and kind of getting screwed because other owners didn't do it the right way. So, I would just like if you guys could look over the conditions and modify them. That's really my biggest concern. Thank you.

Chair Wagner: Thank you for bringing this up and for your comments today. Is there a way to pull up the conditions on the on the screen, for us to look at them together? So, you're asking about condition of approval number two, the issuance of a building permit for the existing carport and detached accessory building?

Applicant Kelly Topczewski: Yes, and number three for the compliance of city development codes and regulations because they've already been there for almost 40 years. So, I don't know if there's a shortcut around those conditions or any options.

Boardmember Glover: Is that even in our purview to be able to comment on conditions?

Principal Planner Michelle Dahlke: Yes. I was just going to comment on that. So first of all, these are standard conditions that we always apply. Second of all, building permits are a different division. It's not in the purview of the Board of Adjustment. It's our building official that I would have to speak to, but I don't

see him waving any requirements for a building permit. I don't know about bringing the existing structures up to code. I don't know if you've gotten comments already from them. But again, it's outside of the purview of the Board of Adjustment, unfortunately.

Chair Wagner: I would be worried about overstepping our bounds of what we're able to do.

Boardmember Reed: And a question for staff. Can the applicant not agree to the conditions?

Principal Planner Michelle Dahlke: They can, but ultimately, it's up to you to make that decision. I wouldn't advise the Board to remove a condition that a building permit is required because of building code issues.

Boardmember Reed: Yeah, that's health and safety issues. I get it. I understand her concern about permit costs, the processes; sometimes it can become very daunting.

Boardmember Glover: It is a challenge because you're trying to do the right thing and go through the right process. I'm, sympathetic to that, for sure.

Applicant Kelly Topczewski: I just had one more thing, I know that I have heard before of trying to bring older buildings up to code by having an inspector come look at the building and then issue a permit or something like that. Is that possible? I'm still getting the permit.

Michelle Dahlke: I might be putting Josh on the spot, but he's nodding. And he has a lot of contact with our building official. Maybe he has some news that I am not aware.

Staff member Josh Grandlienard: All right. I will try to be a building official, but I am not. So, with building permits, this would not fall under the standard ICC, which is the International Code Council building code. This would fall under the existing structure. Again, I'm not building official I'm not inspector, but most likely they'll just ask you to look into a wall so they can verify that studs meet life-safety issues, things of that nature. I will say the 2018 Mesa Fire Code with our city amendments are a bit stricter, but when it comes to the existing building code, it is a little more lenient and is understanding of situations like this.

Chair Wagner: Thank you for that clarification. Did you have any further questions or clarifications?

Applicant Kelly Topczewski: For my understanding, I need to put drawings together for the carport and the detached accessory building and submit them. I know Charlotte mentioned I need to write a narrative and when they review that they will put it under that previous code. Do you know what impact it will have on my permit costs because of permit valuation, because I don't know how much that shed was worth?

Staff member Josh Grandlienard: So, this is non-livable space. I read this section of the fee schedule today. So, that's 50% of the ICC current valuation. But that's if it's a standard permit. Overall, I think with this one, I would recommend reaching out to Heather Basford with City of Mesa Permit Services, we'll give you her contact info, for an estimate. Depending on the Board decision, which sounds like approval conditions, but I don't speak for them. If the Board approves this request, you'll get a letter from Alexis. Then you'll be able to submit that letter with your building permit along with information to make it clear that the carport and detached accessory building are existing and you're meeting the conditions of approval and usually, since you're going through the right process, we'd be rather supportive of it. But I don't have an estimation on those costs.

Vice Chair Lynam: Is the fee schedule for the permits based on project costs, like construction valuation? So those existing structures would not have a construction cost?

Staff member Josh Grandlienard: It's one of those things, depending on how it's specifically written. Since you're not making any changes to the building, it could just be a simple inspection, and you'd have to pay for those fees. But I think ultimately, Heather would be your contact for that. And she could explain the fees better than Planning.

Principal Planner Michelle Dahlke: Yeah, that's exactly right. I can speak with Heather and then Charlotte will let her know the situation. Maybe you two can talk and she can let you know the fee requirements.

Boardmember Gunderson: Okay, thank you. Is there any basis for determining that the detached unit is a legal non-conforming?

Staff member Charlotte Bridges: My opinion is that's what we're doing here with this variance request. If the variance is approved, then it is a legal non-conforming structure. I would characterize it right now as a non-conforming structure.

Chair Wagner: Thank you, everyone for your clarifications there. Are there any further questions? All right, then I'm going to close the public hearing portion of this. And I would motion to approve BOA22-00574 in District 3, with all of the findings of fact and conditions of approval as stated here in the application.

Boardmember Glover: I second.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Jones-Reed- Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

4-p Case No.: BOA22-00595 (Approved with Conditions)
Location: District 4. 14 North Robson. Located west of North Robson and north of West Main Street.
Subject: Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) for a commercial development in the Downtown Core (DC) and Downtown Events Overlay (DE) Zoning Districts.
Decision: Approved with Conditions
Summary: Staff member Josh Grandlienard presented case BOA22-00595 to the Board

Staff member Josh Grandlienard: This is for case BOA22-00595 and this is for a special use permit for a Comprehensive Sign Plan for 14 North Robson for Chupacabra Taproom. As you can see here, these are the two proposed signs. Again, this is located on a 0.02-acre site that has alleys on three sides as well as frontage on Robson on the east side. And then per of the general plan is downtown transit corridor. zoning is downtown core where this use is allowed use. Again, here's the site photo. And as you can see the sign location for the flag, the front side will also have the main lettering. And overall, this because of the existing mural, they're having to come through for this request more signage allowed, because of that existing historic mural, which we'll get to in a moment. So certainly, here's, again, the two signs that are being proposed, you had the flag on the existing wing wall, and then the channel lettering replacing the existing sign. Here's the existing historical sign. Again, this was when the structure was originally built, decided to go for a painted mural, we deemed this as a historical sign for our Historic Preservation Office. So, you know, it was full intent of the city to try to preserve something that's unique that we don't have elsewhere in the city. And just to reiterate, the current user of this business is not the business that the sign is painted for. So, it is not actively helping their sign presentation, because realistically, you're not going to be able to get a mortgage loan from a bar. So certainly, as you can see, per the approval requirements site is unique because of the size and location, the existing development exhibits unique characters. Because of that size of the lot. The existing pro signage incorporates a design feature, it reinforces that wing wall, as well as it advances the goals of the general plan, location size, and the operating characteristics are consistent with the general plan, the project will not be interest or detrimental to surrounding areas, and adequate public services are in the area, I will just like to add that, let me get to the aerial just so you get some context, I did receive letters from the businesses from 218 to 202 E Main Street, which is all businesses south of this building, all in support. So overall, it'd be consistent with the neon signage that is currently going on those buildings as well, as well as the overall intent for the downtown area. So based off that staff is recommending approval with conditions and I'm happy to answer any more additional questions.

Chair Wagner: All right, thank you. Are there any questions? Okay. And then we had a comment card from the public. It was by Sophia Fire.

Sophia Fire, 225 W 1st Street: And before I begin, I didn't the during the information review portion of the meeting, I didn't think that there were really any good close-up photos of the proposed sign. So, I just took these two from the notification letter. And I wondered if I could just put you might pass because those were those were a little bit clearer of the sign. Well, by its very definition Chupacabra is a grotesque creature that sucks the blood dry out of livestock. And the idea of such a repulsive predator has been, I will say well captured in the bar's logo. I doubt there's an uglier, scarier logo and all of the city. Of course, bars and beer labels are rife with such images of devils and monsters and skeletons, anything having to do with death and health. We just walked down the beer aisle and you can see of your grocery store. You can see the ubiquity of that theme. So, I get that. And it's fine for a beer label. And we don't have to buy the beer. We don't have to walk down the aisle. And actually, for those who find the Chupacabra repugnant on this tavern existing flat wall sign, and it can be ignored, you can you don't have to stare at it while you're driving by or walking by. But a 16 square foot neon sign of a blood sucking demonic creature in a neighborhood across from a

wedding venue, kitty corner to a children's museum that can't be ignored. It would be glaringly obtrusive and does not fit with the surrounding area. And speaking of glaring, neon signs are a special part of Mesa's history. But this proposed sign location is not on Main Street where all of those you know those signs are it's actually between commercial and residential. It's in fact right next to 150 windows of future residents who will inhabit 22 North Robson and I don't think anyone appreciates their bedroom lighting up at night while they're trying to sleep. future residents will care about the ambiance of their living rooms and their bedrooms. That ought to be taken into consideration. I do believe in the promotion of small business and would like to suggest a compromise. I propose that the sign be redesigned only with the words Chupacabra tap room without the logo of the, you know, the sign of the Chupacabra. Creature. And for the sake of the future residents, I would propose that the sign be placed on the southeast corner of the bar so that it's not lighting up their windows at night. And that's all.

Chair Wagner: Thank you for your comments. Would the applicant like to respond to the public comment?

Staff member Josh Grandlienard: And I'll just like to add a comment per Reed versus City of Gilbert per the Supreme Court; We, The City, are not allowed to dictate content on signs. So, we do not have the ability for them to change that per federal law.

Chair Wagner: Correct. Thank you so much.

Sophia Fire, 225 W 1st Street: But according to what I saw on the on the rules that you posted, that it did mention the design fitting well with the neighborhood.

Staff member Josh Grandlienard: I still cannot overrule federal law.

Sophia Fire, 225 W 1st Street: Yeah. But the design does matter. According to the if it doesn't fit, according to your own rules. I think that was part of that.

Chair Wagner: Thank you. Yeah, I'm with the applicant like to speak now.

Boardmember Reed: Question for staff really quick. Yeah, they come up. Just make sure we're without the historic signage, everything that the applicant is proposing is within code.

Staff member Josh Grandlienard: Correct sign within our person code seven for the location because of okay, interference with public safety, which was part of the requirements of a comprehensive site plan.

Boardmember Reed: Okay. Thank you,

Boardmember Glover: One more quick question, they'll have to get a separate sign permit?

Staff member Josh Grandlienard: That is correct. This is just for the allowance for that sign permit to be pulled. Okay.

Applicant Trent Smith: Chupacabra, it was just the name that we thought was cool. It has no demonic meaning. It is a mythical creature just like the Yeti or the Bigfoot. Chupacabra means bloodsucker, and from what I understand, it originated in Latin America, and it was a fictional thing that would suck blood out of goats. Chupa means suck. Cabra means goat. That's all it was. We thought we had a cool design we had a guy make 15 logos for us. This is the one we chose. It's nothing demonic. We bring a great value to downtown Mesa, where we are using the grant available. The small grant that we got to build a sign. I think

we were awarded two grand this is going to cost me for both signs. \$30,000. So, I am trying to build something in downtown Mesa with the neon sign program that everyone's trying to promote. So, it's that means a little insane. But besides that, we are a reputable business. Look at my reviews were five-star business. I have 1000 reviews. We've been doing great downtown. We have a great following, and we just want to put a sign out. That's it. I mean, it's pretty simple.

Staff Planner Angelica Guevara: Hi Angelica Guevara with the City of Mesa, I work in the downtown Transformation Office. And our office did request applications for sign grants to support businesses downtown. We have some grants that we have received to help improve the facades of our downtown small businesses. Chupacabra is one of the businesses that submitted and requested a grant they have been awarded that grant and they're therefore going forward with this application process. But he does have rights under the US Supreme Court law. The city is not allowed to regulate his sign copy. We are allowed to as a city to write and through our sign ordinance to regulate the area of his signage. When there's reference to design, it specifically addresses materials and colors and things like that. But based on that 2015 US Supreme Court decision against the Town of Gilbert, the city is not allowed to tell him what or how that signage should be. The only thing that we're allowed to do is regulate the placement, the materials, and the area of it. In addition to that to address the comments about illumination, his site is located stated within the downtown events area where the lighting requirements from the sign code did not apply to his specific location, because it's anticipated that it is a downtown urban environment where there will be a lot of activity. And that is specifically why the city requested applications for signage. We're specifically seeking proposals that provide and that incorporate neon like illumination to help illuminate and provide an active environment and support the businesses down and the nighttime activity and life. So, I'd be happy to answer any questions if you have any.

Chair Wagner: Thank you so much for both of your clarifying comments tonight. And for the knowledge of what we can and cannot do in this case. We're now going to close the public hearing portion of this case for our discussion. I would state that since it's with that it's not within our regulation to decide on what's on their side. We can't do anything about that. Do you have any other comments or concerns here?

Vice Chair Lynam: I don't have any comments, but I'll go ahead and make a motion to approve it because it does seem to be pretty much in compliance with what the regulations are. So, Vice Chair Lyneham and I will make a motion to approve with the facts and findings and conditions as approved and contained in the staff reports.

Boardmember Gunderson: I'll second.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Wagner-Lynam-Gunderson-Jones-Reed- Glover-Hoffman

NAYS – None

ABSENT – Jones

ABSTAINED – None

7 Adjournment.

Vice Chair Lynam moved to adjourn the Public Hearing and was seconded by Boardmember Reed. Without objection, the Public Hearing was adjourned at 7:49 p.m.

Respectfully submitted,

Michelle Dahlke,
On behalf of Zoning Administrator (Dr. Nana Appiah)