

Mesa Council Chambers Lower Level – 57 E 1st St

Date: August 3, 2022 Time: 5:30 p.m.

MEMBERS PRESENT:

Chair Alexis Wagner
Vice Chair Nicole Lynam
Boardmember Chris Jones
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:

Rachel Prelog
Evan Balmer
Cassidy Welch
Kellie Rorex
Charlotte Bridges
Jennifer Merrill
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 5:30 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 Election of Board of Adjustment Officers

3-a Vice Chair Lynam motioned to appoint Alexis Wagner Chair and was seconded by Boardmember Gunderson.

3-b Boardmember Hoffman motioned to appoint Nicole Lynam Vice Chair and was seconded by Boardmember Reed.

4 Approval of the following minutes from previous meeting:

***4-a Minutes from July 6, 2022 Study Session and Public Hearing.**

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

5 Take action on the following cases:

***5-a Case No.: BOA22-00199 (Approved with Conditions)**

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: Approved with Conditions

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

A motion to approve case BOA22-00199 was made by Boardmember Glover as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Hoffman 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 1950s 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 an 882 square foot addition onto the north side of their home.
- D. A Special Use Permit is required to expand a legal nonconforming structure into a non-conforming yard.
- E. The proposed addition will not further increase the non-conformities on the site.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***5-c Case No.: BOA22-00478 (Approval with Condition)**
Location: District 2. 4151 East Pueblo Avenue
Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards for the redevelopment of an existing place of worship.
Decision: Approval with Conditions
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00478 was made by Boardmember Glover as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Hoffman to approve the following conditions:

1. Compliance with the final site plan, landscape plan, and building elevations submitted.
2. Compliance with all City Development Codes and regulations, except as identified in Table 1 of this report.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

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

- A. The site is zoned RS-43 and is developed with a place of worship.
- 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 and removal of parking spaces and alterations to the on-site circulation.
- D. Improvements to the site include improving Pueblo Avenue to meet current City of Mesa development standards; reconfiguring the parking area to provide parking lot landscape islands and paved parking spaces; planting trees, shrubs, and ground covered in the required perimeter, parking lot islands, and foundation base landscape areas; providing a new trash enclosure; and installing a new parking lot screen wall adjacent to Pueblo Avenue.
- 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: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***5-d Case No.: BOA22-00520 (Denied (existing shop) / Approved with Conditions (existing carport))**
Location: District 3. 740 North Orange Circle
Subject: Requesting a variance to allow an existing shop and carport support beam to encroach into rear and side setbacks within an existing single residence.
Decision: Approved with Conditions (Variance for side yard encroachment) Denied (Variance for rear yard encroachment)
Summary: This item was on the consent agenda and not discussed on an individual basis

A motion to approve case BOA22-00520 was made by Boardmember Glover as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Hoffman to approve the following conditions:

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

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

- A. The existing lot is 15,642 square feet (.36± acre) in area.
- B. The existing carport support beam on the subject site was constructed in 1993 per Maricopa County historical arial photography and can be considered as a legal non-conforming structure. On the other hand, the existing shop was constructed between 2012 and 2013 per Maricopa County historical arial photography.
- C. The existing shop encroaches into the rear yard setback approximately 18 feet for a total provided rear setback of 7 feet. The front post which supports the carport beam encroaches into the required side yard setback and is located on the west property line.
- D. There are no special circumstances that would justify the variance request for the existing shop since it was built after the MZO had come into force and needs to meet the setback requirements for the RS-9 zoning district outlined per Section 11-5-3 of the MZO. Moreover, it is possible to reconstruct or convert the structure into a detached structure to meet the MZO development standards for the RS-9 district without approval of a variance.
- E. The need for the variance is not created by the current property owner's design choices for the placement, orientation and size of the existing structures. This condition was pre-existing before the property owner purchased the property in 2013.
- F. Strict compliance with MZO development standards for the RS-9 district does not deprive the property of privileges enjoyed by other properties in the neighborhood since it is possible to reconstruct or convert the existing shop into a detached structure as well as relocate the post supporting the carport beam 10 feet and meet the MZO development standards for the RS-9 district without the approval of a variance.
- G. Granting of this variance request constitutes a special privilege inconsistent with MZO development standards for the RS-9 district.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***5-e Case No.: BOA22-00570 (Approved with Conditions)**

Location: District 6. 8747 East Winnston Circle

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 and a Variance to allow the same detached accessory building to encroach into the required rear yard in the Single Residence-43 (RS-43) 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 BOA22-00570 was made by Boardmember Glover as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Hoffman to approve the following conditions:

1. Compliance with the final site plan and elevations as submitted.
2. Compliance with all applicable City of Mesa Development Codes and Regulations, except as modified by the SUP request and the variance request listed in Table 1 of this report.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

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

- A. The site was annexed into the City of Mesa in 1989.
- B. The Employment Character Area designation, as well as the Logistics and Commerce district were established after the site was annexed and zoned RS-43. Therefore, the zoning is consistent with the General Plan and City's Sub-area plans.
- C. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the RS-43 zoning district and neighborhood.
- D. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City.
- E. There are adequate public services, public facilities, and public infrastructure available to serve the proposed project.
- F. There are special circumstances applicable to the property, not created by the property owner, due to the historical nature of the Queens Park Subdivision.
- G. The strict application of the MZO would deprive the property of privileges enjoyed by other properties in the same zoning district and surrounding area.
- H. The approval of the variances will not constitute a grant of special privileges inconsistent with the surrounding neighborhood.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***5-g Case No.: BOA22-00622 (Approved with Conditions)**
Location: District 6. Within the 8000 to 8100 blocks of East Pecos Road (south side) and within the 7200 to 7300 blocks of South 80th Street (east side).
Subject: Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for an 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 BOA22-00662 was made by Boardmember Glover as read by Vice Chair Lynam, with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Hoffman 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 proposed CSP complies with Section 11-43-3(D) of the MZO for attached and detached signs in the EO District.
- B. The CSP proposes to allow a maximum sign copy horizontal-to-vertical ratio of five to one (5:1).
- C. The development is unique in that several tenants are not visible from Pecos Road and 80th Street.
- D. The proposed detached signage is consistent with the approved architecture for the development.
- 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 industrial park and identify the development to vehicle, transit, and pedestrian users.
- F. The proposed CSP is consistent with the location, size, design and operating characteristics of the EO 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 development.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***4-h Case No.: BOA22-00684 (Withdrawn)**
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 withdraw case BOA22-00684 was made by Boardmember Glover as read by Vice Chair Lynam and seconded by Boardmember Hoffman.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

Items not on the Consent Agenda

5 Act on the following case: None

6 Items from citizens present:

***5-b Case No.: BOA22-00364 (Approved with Conditions)**
Location: District 3. 424 West Rio Salado Parkway
Subject: Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for an office building.
Decision: Approved with Conditions
Summary: Staff member Jennifer Merrill presented case BOA22-00364 to the Board

Staff member Jennifer Merrill: Thank you Chair, members of the board. This is case BOA22-00364. The request is for a Special Use Permit for approval of a Comprehensive Sign Plan for the Arizona Child Crisis Center headquarters building. The location is 424 West Rio Salado Parkway is at the northwest corner of Country Club Drive and Rio Salado Parkway. The General Plan land use designation is Neighborhood. The purpose of the Neighborhood Character Area is to provide safe places for people to live and any nonresidential areas should be designed to not disrupt the fabric and functioning of the neighborhood. They should also be designed to provide a sense of place and a meaningful connection with a larger community. The existing zoning district is Limited Commercial with a Bonus Intensity Zone overlay and offices are permitted uses in that zoning district. This is a photo of the site looking north from Rio Salado Parkway.

The proposed Comprehensive Sign Plan is to allow for a mural. It is designed by a local artist and it is along the south and east elevations of a new building. It was designed to be complimentary to the architecture of the building and it contains a copy. The copy is at least two inches in height and it is visible beyond the

perimeter of the property and per our sign code that does qualify as signage. Attached signage is limited to 50% of the width of a building and this sign exceeds 50%. It is 68% of the building and the sign area is also 3,205 square feet which exceeds the allowable attached sign area. The Comprehensive Sign Plan does include the specifications for the other signage that's proposed for the property. It includes detached and attached signage, and those signs all comply with the sign code. To approve a Comprehensive Sign Plan, it needs to meet the basic criteria from section 11-46-3.D, of the Zoning Ordinance. It doesn't need to meet all three of these criteria, but it needs to meet at least one or two of them. The request does not meet the first criteria. And that criterion is that the site itself is unique or unusual or has new and unique or unusual physical conditions that would limit or restrict normal sign visibility. However, the proposal does meet the other two criteria, and those are that the development exhibits unique architectural style, and it represents a clear variation from conventional development. And the proposed signage incorporates special design features that reinforce or are integrated with the building architecture. The Comprehensive Sign Plan is also a Special Use Permit request and there are four criteria that need to be met to approve a Special Use Permit. The request does meet all four of those criteria, it advances the goals and objectives of the General Plan. The location, size, design, and operating characteristics are consistent with the purposes of the district as well as with the General Plan. The proposal will not be injurious or detrimental to the surrounding properties, neighborhood, or the general welfare of the City. And adequate public services, public facilities and public infrastructure are already available at the site. In summary, the request complies with the 2040 Mesa General Plan. It meets the Comprehensive Sign Plan criteria of section 11-46-3 of the Mesa Zoning Ordinance, and it meets the Special Use Permit findings of section 11-70-5 of the Mesa Zoning Ordinance and Staff recommends approval with conditions. I'm happy to answer your questions. Thank you.

Chair Wagner: Thank you so much. We were asked by Boardmember Gunderson to pull this off. So we'll let you start. Thanks.

Boardmember Gunderson: Yeah, so I kind of hinted at my concerns during the study session. But that wasn't the time to talk about the merits of the case. And so, I wanted to pull it off and just kind of poll the rest of the Board and see your thoughts. My primary concern here is we have a sign ordinance that limits the size of signs for a reason. And I love the Child Crisis Center, I really liked this sign even, I don't have any problem with the design as it's been presented, I think it's going to be fantastic for the neighborhood. I'm just concerned about the ability to make changes to that sign after it's been approved. And for those to be grandfathered in with our decision today, that we might be approving something that we wouldn't have otherwise approved. And the fact that it contains copy, and that copy could potentially be changed to say anything. I'm not sure that that is in line with the intent of the signed statute. And that's my only concern. I want to give everyone else an opportunity to maybe convince me otherwise. Because I'm I really liked this. I don't want this to not happen because of that. But I'm hoping that there's something that I'm overlooking here.

Boardmember Jones: My issue is the size of it. I'm not as concerned, obviously love the organization love what they do in our community. If I'm understanding this appropriately, the requirements are 160 square feet, we're going up to 2,562. I mean, it's a significant difference here. And although this may be great right now, I do share some of those concerns that you have but mine is the overall size.

Chair Wagner: I do have a question really fast for staff. This was originally presented as a mural correct. So, a mural this size would have been approved, but because it has copy that's why it's coming to us.

Staff member Jennifer Merrill: Chair Wagner. Yes, that's correct. If I may add also that the Design Review Board has already reviewed and commented on this and though that approval is not complete, they were in support of it. And the Planning and Zoning Board has also already reviewed this.

Boardmember Gunderson: I'm not sure it matters. But were both of those votes unanimous. Do you know?

Staff member Jennifer Merrill: The Design Review Board didn't vote on it; they don't actually vote on this particular case. The Planning and Zoning Board recommendation, I don't recall if it was unanimous. Yes, it was because it was on consent. And then the City Council approved it on consent as well.

Boardmember Glover: Let's play out a scenario 10 years down the road Child Crisis Center, which, again, I'm also a big fan. They sell this property to a private party, who decides they want to put ABC Company in huge letters on this sign it would that be permissible with our action today?

Staff member Jennifer Merrill: Chair, Boardmember Glover, the design of the building includes the mural, and that would receive Design Review Approval. So, if they're going to modify the design, they would need to come back in through some sort of approval process and administrative review, at least an administrative review to modify the building elevations. This is not just a sign like a regular material sign, this is a perforated metal sign and it matches the perforated metal that is on other building elements. The perforations in the metal are just different sizes to depict the copy. So, it's not a printed sign. So, in order to change the mural, they would actually need to remove a piece of the building itself, get rid of a piece of the canopy.

Boardmember Glover: So, it's not structural, but it's just that on the surface? Am I understanding that right?

Staff member Jennifer Merrill: Chair Boardmember Glover, that's correct.

Assistant Planning Direct Rachel Prelog: Chair and Boardmembers, I would just like to make a suggestion too, if this helps your comfort level with it. But you can add additional conditions of approval to this request. If you wanted to limit the size of the individual copy, if you wanted to require any changes to the design to come back to the Board. We just can't regulate the content of it. But if it is a change to the design, it could be required to be a major modification that would be before the Board again.

Vice Chair Lynam: Now if we were to make a condition for it to have to come back for approval if they want to change the design of it. I know it's perforated but in theory, somebody could still take and paint whatever picture they wanted on it or whatever. And why would that still be something that it would be copy on this sign so they really could paint and do whatever they wanted on this 2,500 square foot sign.

And we can't control what they were to try and paint or put onto that. I understand that's unlikely to happen. And you still would see the perforation through it or whatever. But I'm just thinking like worst case scenario.

Assistant Planning Director Rachel Prelog: If you added a condition, they would need to come back in if you were specific enough with your condition.

Chair Wagner: Are we allowed to put an extra condition on there? Because I thought in our last meeting, we were explained, we were told that we weren't able to decide what was on a sign. So, I think that's where this concern is coming from is that because of legislation, we're not able to determine what's on a sign.

Boardmember Jones: We can't regulate the content, just the content, but we can recommend signage like square footage changes, etc.

Chair Wagner: Okay, sounds good. All right. Thank you.

Vice Chair Lynam: Can we reduce the size of it? Because we don't like what the content that they're putting out?

Boardmember Gunderson: Right? I don't think we could do that. Yeah, I don't think we could go back to so the conditions of approval right now include compliance or follow and see if I can pull the staff report back.

Vice Chair Lynam: I've got it here. For me the conditions of approval are compliance with the final site plan, landscape plan and building elevations submitted compliance with all city development codes and regulations except as identified in table one of this report and compliance with all requirements of the development services department regarding the issuance of building permits.

Boardmember Gunderson: Not the right one. It's on page six, not the right one.

Chair Wagner: So, 1. Compliance with the sign plan documents submitted. 2. Compliance with all requirements of the development services department regarding the issuance of building permits, and 3. All signage to be reviewed and approved through a separate permit application.

Boardmember Gunderson: I guess the only unanswered question in my mind is what type of change would make this out of compliance with our conditions of approval? And that seems unclear to me. That's my only real hesitation.

Assistant Planning Director Rachel Prelog: Chair, Boardmember Gunderson. Can you explain a little bit more maybe I can help.

Boardmember Gunderson: Yeah. So, we've proposed a couple hypotheticals. So, the compliance with the same plan documents submitted. So, if it's the case that if they tried to modify the sign in any way that was

different from the plan that they submitted, then they'd be out of compliance and have to come back for another CSP than I have would have no issues. But I kind of doubt that that's the case. It seems like if they took some of the panels down and changed elements of design that they would be allowed to do that.

Assistant Planning Director Rachel Prelog: Yeah. So, Chair, Boardmember Gunderson. As we discussed earlier, they'd be able to change the actual content of the copy without needing any sort of approval, we also do have some provisions for minor changes versus major changes. So, if it was less than 10% of a dimensional change, and in the sign copy that could be reviewed and considered by planning staff. If it's greater than that, then they would have to come back to the Board.

Boardmember Gunderson: Yeah. I mean, I think I'm with those with that level of change, you know, compliance, they would have to go through I think I'm comfortable. Thanks for walking me through this, everybody. Sorry, if that was too long of a delay, but I think I'm okay.

Vice Chair Lynam: So, for that major, minor, 10%, or whatever, is that something we would have to put in as a condition that if it's more than 10%, it would have to come back? Or is that already standard?

Assistant Planning Director Rachel Prelog: Chair, Vice Chair that's already a standard process within the Planning Division. But you could always add a condition for your own comfort doesn't hurt.

Boardmember Jones: I have a question. Miss Merrill, why the size? Why the significant overage, over what's allowed?

Staff member Jennifer Merrill: Chair, Boardmember Jones, the way it was explained to staff was that this is the way the building was designed. And this was the look that they're going for. I think, if the applicant is online, they'd be able to explain that a little better. But that was the information that was conveyed to staff.

Boardmember Jones: My recommendation Boardmember Gunderson is we do put that verbiage as a condition, which is if any changes over 10% or whatever, just to reiterate that as a condition.

Chair Wagner: I think that that would be my recommendation too

Boardmember Reed: Is that not included already in the standard? Do we really need to know if we go over 10%? You still have to go through the city process. Right? So, do we need to add that?

Vice Chair Lynam: Putting it as a condition leaves it here that if that zoning or their policy changes. It still would have to come back.

Boardmember Reed: Okay, I see what you're saying. I wanted to see what your angle was.

Boardmember Jones: My angles is put it on paper as a safeguard.

Assistant Planning Director Rachel Prelog: And chair and board members, I would suggest being specific to the individual sign copy and words because there's the overall you know, sign backing in dimension versus the copy.

Boardmember Gunderson: So, if we added as a condition for approval condition number for any modification to the signage, equal to or greater than 10% of the total surface area of the sign will require a new comprehensive sign permit. So that's right.

Assistant Planning Director Rachel Prelog: I'm so sorry. I was reading a message.

Boardmember Gunderson: No, you're fine. So, I think the proposal on the table right now is adding a condition number four, that says any modification to this sign constituting 10% or greater of the surface area will require a new comprehensive sign permit.

Vice Chair Lynam: Specifically for the mural on the south elevation and the mural on the east elevation? We're not including the other signs in that 10%.

Assistant Planning Director Rachel Prelog: Yes, I would suggest being specific about the sign area and also the sign copy. Because the sign areas that complete backing of the sign, so for instance, kind of that green facade would be the sign area versus individual copy. So, I would add those specifics and then say it would require review and approval by the Board of Adjustment.

Boardmember Gunderson: So, any modification to the portion of the mural that contains copy, any modification to that portion equal to or greater than 10% of the total surface area requires approval of a new comprehensive sign permit. Any suggestions on that change?

Chair Wagner: We would like to add a new condition of approval, stating that any modification to the mural signage on the south and east elevation, including the sign area and or sign copy equal to or greater than 10% requires a new Special Use Permit to allow a Comprehensive Sign Plan for an office building in the limited commercial zoning district with a bonus intensity zone overlay?

Boardmember Gunderson: Yes, so I move approval of item BOA22-00364 subject to all the findings of fact and conditions of approval contained in the staff report and including the additional condition of approval read into the record by Chair.

Boardmember Jones

I second that motion.

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

***5-f Case No.: BOA22-00572 (Approved)**

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 to modify a Planned Area Development. The purpose is to allow for the addition of a garage onto an existing casita. To give a brief history of this PAD, in 1984, the preliminary plat for Alta Mesa Parcel 3 was approved. And before the approval of this plan staff raised a number of concerns concerning the garage dominance, the narrow front yard setbacks provided as well as the narrow street width provided. Staff indicated that this has the potential to generate traffic problems on the site with regards to the maneuverability of both large vehicles and smaller vehicles on the site.

The subject site is located north of East Brown Road, east of North Higley Road and is within the Mission Square PAD. This is a picture of the site looking north from North Sunnyvale. The General Plan character area designation on the site is Neighborhood and then the focus of the neighborhood area is to provide safe places for people to live, making them feel secured as well as enjoy the surrounding community. The zoning is RM-2 with a Planned Area Development overlay. The use is consistent with the existing zoning district. From the proposal, the existing single-family home has a double car garage of 438 square feet in area. The size of the proposed addition is 357 square feet and then this proposed garage is proposed to encroach four feet into the required side yard. The approved setbacks for this zoning district and per the PAD include a front yard setback of six feet, a rear yard setback of five feet, and the side yards are zero feet on one side and seven feet on the other. So, there is a zero feet setback and then there is a seven feet required setback, but this proposal is seeking to encroach four feet into the seven feet required side setback. This is a picture of the site showing the existing garage and then the proposed site the garage is supposed to be constructed. This is another photo of the existing garage. This is a picture of the garage from north Sunnyvale Road. Per section 11-22-5.E of the Mesa Zoning Ordinance, when a project has been completed, modification or alteration of any buildings within the development is required to remain in conformance with the approved plan. Going by this criterion, and after staff analysis of the current proposal, staff realize that the addition of the proposed garage will increase the visual dominance of garages on the subject site. This does not conform to the development standards required in multiple residence zoning districts specified in the Mesa Zoning Ordinance, specifically per section 11-5-5. Per this Section of the MZO, the total parking and garage frontage of any particular site shall not exceed 30% of the lot frontage within the multiple residence zoning district. The garage dominance on the subject site is already 40% and the addition of this proposed garage will amount to over 90% of total garage frontage on the existing property. This does not conform to the current zoning regulations required in RM-2 zoning district per section 11-5-5 of the MZO. Also, from the background of the PAD regarding the concern of staff about the proposed plan, Staff raised concerns on the garage dominance coupled with the narrow front yard setbacks, as well as the narrow street widths that were proposed at the time. And this they indicated and as believed at the time had the potential of limiting the maneuverability space available on the site for trucks and other vehicles. The current Mesa Zoning

Ordinance specifies that there should be at least a 50 feet maneuverability distance for trucks to safely maneuver to gain access to trash enclosures on existing multiple residents zoning districts and looking at the proposal coupled with the available setbacks and the street width, there is a potential problem anticipated in the future. Staff evaluating this criterion in addition to the requirements per the Zoning Ordinance found out that that request is not consistent with the purpose and the intent of the Mission Square approved PAD. With regards to the findings, the subject site was constructed in 1985. The subject site has an existing garage, which is 483 square feet in area. The addition of the proposed garage does not conform to the design standards in multiple residence districts per Section 11-5-5 of the MZO and staff recommends denial of this request to modify the approved PAD of the Mission Square community. Staff is ready to answer any questions you may have at this time. Thank you.

Chair Wagner: Thank you for the presentation tonight. Does anyone on the board have any questions as of right now?

Vice Chair Lynam: I was looking back at the meeting minutes from our last session and kind of looking at some of the comments we had on that. And I know one of the other questions we had, there was another property within that subdivision that had been approved as a variance and 2021. That was also adding on to the garage. And one of our questions was why that one was a variance and not a PAD modification. And what's the differences between those? Why that one would get approved as a variance and this one seems to be going through a different process. Yeah,

Assistant Planning Director Rachel Prelog: Chair and Vice Chair, we looked at that and we think it was just done an error it should have been a PAD modification versus a variance sometimes it's kind of an overlap. When you look at these, it can go kind of multiple ways. But that one was a little bit different where it was the expansion into that side yard where this is also going to be encroaching into the side yard but it's moving forward into the front yard more. And so that's where staff is concerned about the garage dominance and the lack of driveway there for parking and the effects that it will have on the on the subdivision.

Chair Wagner: So, I was looking at the pictures that were presented in the staff report. And I guess it wasn't the staff report. It's the site photos. And it's showing the site number 52 that we're discussing today and how it has 18 feet of open area. So, they have the three feet on the one side, six feet between the two garages and the nine feet for their front entryway. So, they have an 18 feet entryway or open space in their front yard versus that number 31 that we were just discussing. I think that's the same site that was discussed. Is that the same? Okay. So, number 31, which is the one that we discussed last month, that one only has nine feet of open space, two feet on one side and then the seven feet for their front entryway. And just looking at the two even with this garage added there's a lot of space and I don't see this as like a huge dominance, per se. I guess it gets rid of like just a few feet where that, I guess it's 17 feet, where that garage is going but there's currently a house there anyway. So, all it's doing is moving that encroachment up closer to the front entryway, and if I remember correctly as well. They aren't allowed to park in their driveways, and they aren't allowed to park on the road. So, I don't see how having a drive I don't know how far the garage is going to be away from the road does it show 21 feet from the road garage? Okay, so it's even further from a garage. Um, I don't see how that's going to cause any driving issues with garbage trucks or

anyone on the road because they're not allowed to be parking there anyways. So, it's just going to be moving in and out. Are they going to be changing the level of the driveway entering it's the same, right? They're just sharing it with Okay, so they're not even changing the, the walkway where the rocks are or how it's maneuvering the entryway into their property from the road. So, this is not changing anything on the road. So, I don't see how I guess I just disagree with how it was perceived, I guess, is what I'm saying.

Vice Chair Lynam: The things that I'm seeing on this, as far as the traffic concerns, this seems to actually help relieve some of those. But my bigger concern on it is, seems to be that the conditions with the PAD with the garage dominance, and even the streets and frontages, and things like that, this seems every house in the entire subdivision is not in compliance with that. So, I'm not sure how we can hold the garage dominance as a standard for this one case when the entire subdivision doesn't comply with that. And I don't know why that would have been in the PAD regulations to begin with if they approved everything to be non-compliant with it. So that's kind of my thing on this is, I see this where the concerns that were there about traffic, it's not doing anything that actually is going to increase traffic issues on the street, it's further back. And that actually would probably relieve some of those because the garage is further back. And it still has more open area than most of the houses in here. But yeah, trying to my concern seems to be with trying to deny it based on the conditions of the PAD that nobody else is in compliance with those same conditions. So, I see this as being denying this almost be unfair, because everybody else is already further out of compliance than what this one would be.

Boardmember Gunderson: Just this is more of a question. Another question for staff. I think so often in the staff report, we have a list of the criteria that we need to meet in order to approve, and I'm looking, I know the staff report cited to and I'm wondering if we can pull it up on the screen in the in the zoning code 11-22-5.E conformance with an approved plan. So here, I think lays out and maybe there's more to it than this. But if I just want to make sure that this is the standard we should be looking at. When a project has been completed, the use of the land on the construction modification or alteration of any buildings or structure within the development shall remain in conformance with the approved development plan. Except I think that's what we're dealing with today, that a minor extension, alteration or modification of existing buildings or structures may be reviewed and approved by the zoning administrator hearing officer or the board of adjustment and according with in accordance with Chapter 67 common procedures of this ordinance. And then as far as I can tell, the only standard is if the request is found to be consistent with the purpose and intent of the approved development plan. So, is that the standard we're supposed to be applying? Or is there any other place that we're supposed to be looking for guidance on whether to approve this? Because if that's the standard, if whether or not adding this garage is consistent with the purpose and intent of the approved development plan? I don't see a problem. But I want to make sure that there's not another standard we should be applying.

Assistant Planning Director Rachel Prelog: No Chair, Boardmember Gunnarsson. That's the correct section to apply.

Boardmember Gunderson: Okay. I don't think there's anything that in this request that's inconsistent with the purpose or intent of the approved development plans as they were originally approved for this specific location. So, I think I'm in favor granting but

Chair Wagner: Before we move to do anything, I would like to invite Mike Wagner up for his comments tonight.

Applicant Mike Wagner: Thank you, Board. I appreciate it. This is my third trip down here from Minnesota for this thing, I sent all these pictures I don't know if you've seen them? This is my nine-foot entry on the east side of my house. Okay. And then I have the garage right here. And this one here. Can you bring that picture up that shows the new garage? This is what the architect drew up right here is what it's going to look like. It's not going to be like he had with the garage blocking everything off. And this right here the 40%, I actually I have the biggest lot in the 115 houses. I have actually 40 feet on this side from my neighbors to my house over here, to my other garage, I have 40 feet there, and then I have nine feet on the other side. So most of these houses, this is when you're talking about unit 31. You know, if you look if you look down this wall that he did you know that's a property line right there, he's only two feet from it that the City gave him a permit on his garage. For this one right here I took a picture down the wall, he's two feet off and his driveways actually on the line. Mine would be completely off the line, the one that I'm doing this one here, the one he drove, I won't have to disturb the curb cut or anything. And as far as fire trucks and all that garbage trucks coming in, most driveways in this unit are only six foot and you couldn't even park your car in it. This one here is 24 feet, and this will be close to 30 feet from the curb my new garage. So, I won't affect any cars or garbage or anything. You know I got a car, it's an 06, it's only got 50,000 miles and the ordinance says you have to park it, you can't park in the street or in the driveway. So, and one other thing I just wanted to bring up is these are all the other houses in the area, which you were saying that you had to be less 30% less on the garage, and then 90% or less. These are all the buildings there. This is number 50. It's 25 feet of garages with seven-foot opening. So, it's 78% garage and 22% opening is what they are. This is number 49, 78% garage and 22% opening. If I'm talking a lot, I apologize, I always do. But this Ordinance that you have that says the garage can't exceed 30%; two-thirds of the houses in here are over 30%. So, I talked to Jeff Rogers. And he's he built most of these houses in there, because he's been in construction for so long. So, he said they actually wanted it to look like all garages in the front. And that's why a lot of these garages are in the front. They shoved the entryways up and he put these wing walls, two foot of wing wall, just so it looked like all garages because they wanted to focus out on the golf course the backside of the house. So, I don't know, hey, all the letters got sent out. There's another thing in the letter that the last letter I got from you. You said that nobody complained. But you'd never said anyone was positive either. I have all these letters got sent out. And six other people called wondering why we haven't started yet. Because it was three months ago, I tried to get this permit. And six have called so what's going on? How come you haven't started? Well, because I said we're going through a few things here. Well, and then the other thing, you said nobody was positive. Here's 115 houses. These are all the homes right around my area. There's 22 signatures that say, yes, we want it. We want you to follow the ordinance get your power and it'd be great. So, I guess I don't know what else to say. We had the architectural committee approved it. The golf course approved it. The big association approved it. Everybody's approved it. So, I haven't had one negative anybody that lives in the area. So, I don't know what else to say to you guys.

Boardmember Glover: Mr. Wagner had a question for you. So well, just for the board. The garage dominance issue is a non-issue for me. I look down on the street and all the aerials and everything that I see garage dominance is a non-issue for me. I guess the biggest impact that I would see from this proposed

garage would be to the adjacent neighbor to the I believe it's going to be the west where it's going to actually kind of side next to their property. Have you had any you know,

Applicant Mike Wagner: It's funny you say that. Because can you bring up that overhead shot of our buildings? Do you have that on here? The overhead of the community because Bill Roddy, that's my neighbor to the right of me, he's actually on the architectural board. He's the one that actually told me to put this garage on to my car get inside. So, four years ago, the City of Mesa gave him a permit. Wish you'd find that overhead shot. I have it here. But right here is the overhead shot is, this one here, you got an overhead view of the place. I know you have it because you had in the presentation. I am not a computer guy. I'm a construction guy. But if you look at that, you can see that little that little brown building right here, right next to my property. That's a casita in a garage work area that he built four years ago, the City of Mesa gave him a permit. That's what this is right here, that brown roof. And the other thing he had trouble for, he's supposed to put a raw red roof on, but he put brown on, but the City gave him a permit four years ago. That's my neighbor. He's on the architectural board. He approved it. He's one of the he's one of the signatures I have here. That signed out of the 21 signatures. He's on this one too.

Boardmember Glover: So, my general thought is, pending verification that that's an accurate statement with the adjoining neighbor, I'm generally in favor of approval. Just my general thoughts.

Chair Wagner: Yeah, we appreciate that you came down and clarified all of our questions. Again, we appreciate it.

Applicant Mike Wagner: I'd rather look at somebody to talk to him.

Chair Wagner: And we appreciate that. I don't think there's any further questions from the board.

Vice Chair Lynam: Mine is a question for staff. Okay, do we have, or is there the approved development plan? Do we have a site plan because I don't think we've actually seen what that approved development plan was, I would imagine that it matches what was built with it. It's for with, with them being that close together.

Assistant Planning Director Rachel Prelog: Chair, Vice Chair Lynam, so we do have it is just it's the plat for the subdivision. So, it doesn't show the actual buildings on the plans.

Vice Chair Lynam: So, the approved development plan does not show the building layouts?

Assistant Planning Director Rachel Prelog: No, it specifies the setbacks. And then it has some conditions of approval that were that were approved with the zoning. So those steps to compliance with let me pull them up here. All right, bear with me. It's just steps to the development plans that were submitted. So basically, that subdivision plat.

Chair Wagner: Are there any further questions?

Vice Chair Lynam: Another point of additional clarification, do we have any other details of when those site plans were approved? Were they all approved individually after that they're not being in conformance with the approved development plan then.

Assistant Planning Director Rachel Prelog: With this approval, they provided the plat they had elevations that showed the design that's consistent with this and they had the PAD which approved the deviations from the setbacks or established different setbacks for it. So typically, whenever you have a subdivision that comes in for permits for an individual house, they submit a plot plan and elevations that should comply with all the development standards that are you know, applicable to it so. So, it complied with those standards these homes do when staff's recommendation is based off of the criteria for compliance with the intent of, of the PAD in also looking back through this case file, it's very minimal. It doesn't have the original narrative from the subdivision from the applicant, but it does have a lot of documentation about staff concerns about garage dominance, about maneuverability about the reduce driveway lengths. So that's what staff's recommendation is based on the case history and what we saw as kind of the intent and the concerns in the subdivision and not exasperating those or making those worse.

Boardmember Reed: So, question for staff to going back to the vehicles and maneuvering spaces. What is what exactly are the concerns, because looking at the site plan, and where they're putting the garage, you know, it's set back further. So, it's not encroaching into the setback or into the roadway. I imagine there's no fire trucks or anything that's going to be pulling up onto their personal property to maneuver around. So, we're looking at a PAD that was approved in 84, right. And it doesn't necessarily, you know, fit into the MZO. It's kind of similar to the first case where, you know, it's a non-conforming house non-conforming lot. We approve it because of X,Y and Z where a lot of things don't fit here. But going back to maneuverability, what are the issues that staff saw? Because I'm, I'm not seeing it, I'm not following it. So, I want to be able to peek in there.

Assistant Planning Director Rachel Prelog: Yeah, Chair, Boardmembers. I don't think that's it's not changing any of the conditions of the existing roads. So, I wouldn't say that it's a concern that the garage is going to make maneuverability of fire trucks and things coming in, it doesn't it doesn't alter those conditions. But it was going back to those original concerns about parking and the driveways and the garage dominance and such.

Chair Wagner: Alright, thank you. Are there any other questions?

Boardmember Reed: I mean, we're going to have a discussion.

Chair Wagner: Yeah. Thank you again, for your comments tonight, I am going to close the public portion of this hearing and open up for discussion. As I stated earlier, I don't see the perceived garage dominance issues it being an issue. I do think that the way that it's planned with it, being a separate building, and still having 18 feet of open space still allows for more open space and other sites in the community. And I do not see an issue with this. But I would like to hear what other people's thoughts are as well.

Boardmember Reed: I think Staff has a difficult job, sometimes looking at older projects and trying to you know, you have an updated code. And every time you rewrite the code, and remember I was in their seat, it just there's always issues that always come up. It's never a perfect code. And I appreciate I actually liked that they're addressing garage dominance, because I'm not a fan garage dominance. So, a place like this, you know, when you look at all those garages, I don't like it from design perspective. But the intent of that PAD, and of that development was not to be on the street, it was the focus was eyes were supposed to be on the golf course on the open space. So, understanding what the intent is. And looking at this more of like not a private or public street, it's more of an alleyway just you know, get in and get out. I don't really see any issue with what the applicant is requesting here. I mean, obviously I'm happy that Boardmember Glover asked the question about the neighbor because that would be really was my only concern, you're three feet off. And now you're looking at probably a large wall where before you can probably look out and see even more visibility but I you know, there's a lot of things here I appreciate what staff has done on this on this application, but I don't fully agree and I you know, I'm in favor of the applicant.

Staff member Kwasi Abebrese: Thank you Chair, Boardmembers but before a final decision is made, I would like to bring to the Board what I said last week. What continues to go through my mind is whether we are maintaining the status quo, or we are in a position to be in a position to turn the situation around with regards to the garage dominance in the area. This is something Staff raised concerns about, although it might seem not pertinent to the current situation. Do we still anticipate a time where we would be in a position to address this in case a resident gets up to add on to his existing property in addition to what is already available within the same subdivision. In case anybody gets up and say, we have additional space on our lot and that we are seeking to add onto it? Will that also be allowed? Are we in a position to change the situation or maintain the status quo? That is one thing which goes through my mind with regards to the planning of the of the entire area? Yes, this lot has additional space, and so it can accommodate this proposed development. In future, if another resident also comes up and say he has additional space close to his garage, and wants to expand the garage, would we approve it? Because, that person will also come up and say, a previous variance request was approved. So, when I was reviewing this case, this is one major issue I was battling with as a planner with regards to how the site has been planned and what we anticipate being okay and what will happen in the future.

Boardmember Jones: I know we're closed session. With just the board members right now, I appreciate your comments. Obviously, we always value what the City does and everything about it. My comment was precedent, right? You always can be a little bit concerned about that. And this one, it's unique, because it's the precedent would only be in this little neighborhood. And when I did some research, I wasn't here the last meeting, but as I've prepped for the meeting today, I could only see a couple of other lots that would even have that. I'm not as concerned on this on this particular one. And I would err, to approve this and to not follow what the City recommended, which is denial on this one, although I understand and I appreciate and respect everything that's there. I just believe that the nature of the subdivision the nature of the lot, specifically, the uniqueness of the slot, I would be in favor of it.

Boardmember Reed: Yeah, I think you're addressing exactly what my concerns are, or what my thought process was. There's precedent, where in the past where we had other like special, lots larger, lots more that just fit the regular zoning code in RS-35, or 43, or anything like that. And they were trying to encroach

into the setbacks. And we said, well, half of us unknown other said, yes, and it failed. But this is, you know, a PAD, it's very unique, you know, the ramifications would be only really, you know, unless we're wrong, and Staff tells us, we're wrong, would be only really specific to that PAD.

Boardmember Glover: So, I, I'm pretty much on the same page with the comments that have been made. And I think some of the real determining factors for me is the lack of neighborhood opposition, you have the architectural committee has given their thumbs up to this, the next-door neighbor, who would be the most affected by this IS also in favor. And so, for all of the reasons discussed I'm also on board for approval.

Boardmember Reed: The casita was approved, right, we discussed that last time. I just wanted to double check. It was approved beforehand.

Vice Chair Lynam: Yeah, like everybody else. I think that just is definitely unique neighborhood. I think that what's proposed does meet the intent of what we see there at the neighborhood of what that characteristics are of this neighborhood. And, yeah, there's very few lots on here that could have a project like this going on. We've already seen one of them that had gotten approved and even with this, it still has more open space open frontage than most of the lots in the neighborhood. Even with it this addition on to it so and I because it's not going out into the street, it's not exasperating any of the safety issues. It's not going to affect any of the street or traffic patterns. It might actually help some of them because it is taking some of those cars off of the street and giving them another parking space for it. So, I'm in favor of this, I think that what's proposed does meet the intent of what was designed for this neighborhood. I will go ahead and make a motion to approve, um, this case with the with, including the facts and findings and conditions. Well, I guess it's not included in the conditions we don't we don't have any of that.

Boardmember Gunderson: I'm looking at the findings in the staff report, there's three of them A, B and C I think A and B are fine. They're just findings about the size everything C is the one that I would suggest we replace and say the addition so right now it says the addition of the proposed garage will increase the visual dominance of garages on the subject site, this does not conform. I would strike that whole finding C and say the addition of the proposed garage is consistent with the purpose and intent of the approved development plan per section 11-22-5.E.

Chair Wagner: So, is that a motion?

Boardmember Gunderson: Yes, that's my motion.

Chair Wagner: I would like to second that motion.

Vote: 7-0

Upon tabulation of vote, it showed:

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

NAYS – None

ABSENT – None

ABSTAINED – None

7 Adjournment.

Boardmember Jones moved to adjourn the Public Hearing and was seconded by Boardmember Reed. Without objection, the Public Hearing was adjourned at 6:45 p.m.

Respectfully submitted,

Evan Balmer

Evan Balmer,
On behalf of Zoning Administrator (Dr. Nana Appiah)