

Planning and Zoning Board

Study Session Minutes

Virtual Platform

Date: May 12, 2021 Time: 3:00 p.m.

MEMBERS PRESENT:

Chair Dane Astle
Vice Chair Jessica Sarkissian
Tim Boyle
*Shelly Allen
*Jeffrey Crockett
Deanna Villanueva-Saucedo
*Ben Ayers

MEMBERS ABSENT:

None

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

STAFF PRESENT:

Nana Appiah
Tom Ellsworth
Lesley Davis
Rachel Prelog
Cassidy Welch
Charlotte McDermott
Alexis Jacobs

OTHERS PRESENT:

None

1. Call meeting to order.

Chair Astle declared a quorum present and the meeting was called to order at 3:00 p.m.

2. Review items on the agenda for the May 12, 2021 regular Planning and Zoning Board Hearing.

Staffmember Cassidy Welch presented case ZON19-00832 to the Board. This case was continued from the previous Planning and Zoning hearing on April 28th. The site is located north of Main Street east of Dobson road. I will not go into a lot of the specifics unless the Board prefers a refresher. The request is a modification to the Sycamore Station Smart Growth Community Plan to allow for a mixed use Transit Oriented development. Based off of the comments from the Board at the last session, we did reach out to Mesa Public School District and received a school analysis with the assumption of approximately 450 apartments and 75 townhomes with the exact unit count to be determined at a later date once final site plans have been submitted for the site. The Mesa School Districts have indicated that the elementary, middle school and high school in this district all have the adequate capacity to serve those anticipated number of apartments. We also updated the Citizen Participation to reflect the additional outreach from the applicants based off of the recommendations from last month's meeting. So, the applicant had a meeting with the Mesa Grande Community

Association on May 4, and they will go into further details as to what was discussed at that meeting and the result of those meetings. With that we are still recommending approval with conditions and I would be happy to answer any questions.

Boardmember Boyle stated that I understand that the Mesa Grande group sent a letter to the City of Mesa staff and has this been received. Senior Planner Lesley Davis confirmed staff is in receipt of a comment card. Mr. Boyle confirmed the Board is in receipt of the email as well and Ms. Davis responded the request was that the comment be read into the record and planning to read it into the record at the meeting.

Chair Astle stated I presume from a consent standpoint we anticipate talking about this one during the meeting so we should pull it off consent. Planning Director Nana Appiah confirmed that this case will come off of consent for further discussion at the meeting.

Senior Planner Lesley Davis presented case ZON21-00109, preliminary plat for Woodspring Suites. The property is located on east of Mesa Drive on the north side of Baseline Road. There is an existing Quick Trip on the corner and a Lifted Trucks and there is some vacant land behind, which is the site for the preliminary plat. This is a site that you just saw as a Site Plan back in December. The General Plan for the site is Employment and it allows for a wide range of employment opportunities, including some retail. The zoning on the property is Light Industrial.

The applicant is requesting a preliminary plat and will be dividing the parcel into two lots. One lot would be for the development of the hotel and the other lot would be for the development of future commercial.

The configuration of the plat is long and narrow. The Site Plan that you saw for the hotel was back in December and is on lot 1. Lot 2 that is located on the north side stipulated a future site plan review as part of that previous case.

The request is in compliance with the 2040 General Plan and complies with the subdivision regulations. They are requesting the plat to be able to divide the property for ownership. Staff is recommending approval with conditions.

There was no discussion or questions by the Board.

Principal Planner Rachel Prelog presented the text amendment for Community Residences. As a reminder, on what the purpose and the goals of this Community Residences Ordinance are, some of the goals here are mainly to strengthen the City's current registration process. We are also looking at the requirements, making sure that they comply with all State and Federal Laws, and Fair Housing Laws. And we really do want to make sure that residents with disabilities have the opportunity to live in a family-like setting and to have equal opportunity to housing within our community. But with that, we also want to prevent the overconcentration facilities that may result in a de facto social service district.

For current regulations, when we talk about Community Residences, (that's going to be the new terminology to replace what we are calling Group Home for the Handicapped) and the current development standards for that really can be split up into three categories. The first one of those is Group Homes that have less than five residents. These are basically considered equal to a family. They are not required to register with the City, and they do not

have to adhere to any of the City's separation requirements. When you do have to start adhering to the development regulations is when you are up to five to 10 residents. At that point, you have to register with the City as a Group Home for the Handicapped, and then we do have some separation requirements. Those are 1,200 feet from another Group Home for the Handicapped or 1,200 feet from an Assisted Living Facility. So, these are permitted in various Zoning Districts, most of them are residential in nature or downtown residential. When you get above 10 residents, once again, you still have to register the City, you are still having to adhere to those separation requirements., but in this case, the City also requires that you obtain approval of a Special Use Permit. With this they are considered more of a larger kind of institutional use, they have different Zoning Districts in which they are allowed. In this case, we are looking at multiple residence districts, some commercial districts like Neighborhood Commercial, Office Commercial, and then some of the Downtown districts.

What we are proposing with these amendments is to first to modify some of the definitions. We are going to be removing, replacing, adding some definitions, and modifying others. We are removing some definitions such as Group Residential, Group Housing, and the term Group Home for the Handicapped. That is going to be replaced with that new terminology that we are referring to as Community Residences. And within that there are sub-categories for Family Community Residences and Transitional Community Residences. We are replacing Handicapped Person with a definition of Disability, and then having Group Foster Home which was Foster Home Group with a few different requirements there.

With this, we are also adding a definition for Family because previously, the City's Zoning Ordinance did not have a definition of Family. Although in essence, we were treating the homes with the five unrelated individuals or less as a family. We're also including a definition of a Single Housekeeping Unit. Then modifying other definitions, such as Boarding House, and Social Service Facilities.

The big addition, as I was alluding to is this definition of a Family. The definition before you it is, two or more individuals related by blood marriage, or adoption, or a group of no more than four unrelated individuals living together as a single housekeeping unit. As we discussed in our last hearing this also includes couples and domestic relationships, biological and adoptive and foster children of either one of those partners. When we get into the definitive definition of Community Residences, as you can see, this is a very long definition. You are looking at residential living arrangements where you have five to seven individuals with disabilities. And this is a good point, it's excluding the live-in staff, living together as a single dwelling unit, who are in need of mutual support that are furnished by the other residents and staff at that Community Residences. It is not providing rehabilitative services. This is really intended to emulate a biological family and provide normalization of those residents and incorporation into the surrounding community. Any sort of medical treatment is really incidental to the home. Once again, it is trying to have those supportive relationships of the residents and the community.

So, when we get into some of the land use regulations that I eluded to earlier, there's a difference in definitions for Family Community Residences and Transitional Community Residences, and what the distinguishing factor of those is really the tenancy of the people living there. Family Community Residences are generally considered long-term living arrangements, where people are living there for a year or more, where there's no limit on the time that they are living there. Transitional Community Residences would be more of that intermittent housing or people are staying there for months instead of years. How these are

being treated in the Zoning Code is that the Family Community Residence would be treated just like the single residents and all the zoning districts, while Transitional Community Residences are treated more similar to a multifamily type of residence because of their transitional nature.

What that looks like when we actually get into the land use and zoning is that we distinguish that within the residential and agricultural zoning districts, that there might be a need for a little more oversight and review of some of those Transitional Community Residences. In that case, they are required to obtain a Special Use Permit in the residential, the RSL, the single residential in the agricultural zoning districts. When we get into development standards, we are keeping the 1,200-foot separation that was already in the code from other Community Residences and Assisted Living Facilities. We are also adding in that a separation from Correctional Transitional Housing Facilities as well. Those are housing for people that are serving out the remainder of a prison sentence.

And then for the occupancy. This is changing slightly with that definition of family. So, within the City, group homes used to have to register from six to 10 residents and with the definition of family being four unrelated individuals now, that requirement registers now five or more residents which is dropping slightly. As part of this effort to really strengthen our registration requirements, we are going to be requiring an annual renewal and we have also included a revocation process. So currently, we do keep track of all the Group Homes for the Handicapped or the Community Residences within the city. But without requiring the annual registration, we have no way of telling who is still in operation, and who is not. So, with the separation requirements, a new home can't come in if it's within that 1,200 feet. We might have on our maps homes that are no longer in operation that's kind of limiting opportunities for other new facilities to come in. But this also allows us to make sure that they are obtaining their license with the State. So, we are requiring that they have a license, either through the State or have an Oxford House Charter, or if they do not have either one of those that they obtain certification from another kind of reputable organization that has similar regulations. That's just another way to make sure that they have those enhanced standards for care.

Boardmember Allen asked if there is a lot of those maybe homesteaders out there that are grandfathered in right now. And since they didn't have, I guess years ago the City used to have a map that showed where the homes were at and I am assuming that's still the case. How are you going to get those group homes that are existing now that are still in business to come in and register, so that they so that we can keep track of where they are, and we do not end up with an over concentration in one specific area. Mrs. Prelog responded what we've been doing for the past couple months is we had sent out letters to all of the homes that we had registered within the city showing on those maps, and the letter was to verify their operations. We have received probably three fourths of those back confirming their operations and the ones that were return to us return to sender, we reached out via phone to do a further outreach and see if they are still in operation. So, most of these homes are aware that this is coming, but we will be doing some further outreach. If this ordinance is passed, let them know that we are going to be having an annual registration requirement, and kind of setting up the specifics of that about when it's due, and what fees might be required in association with that.

Vice Chair Sarkissian asked a follow up question to that. When the annual renewal comes up, is that going to be more reactionary from the staff in terms of are you going to be if someone comes in, then you check if they have renewed. Or will it be something like in the Dimes submittal and automatically pop up at the time that the renewal is due. Planning Director Nana

Appiah responded that is something that we are still looking to come up with the administrative review process of administering this. There's even been a discussion as to the process of the annual registration and all that, but we need to verify this. We are going to be working with our GIS center on how to automate this process as much as possible. But definitely, that's something that will still require some human review to look at some of the checks. We cannot just depend on our process to really just get people to go in and just apply, there's going to be some combination of both that we need to look at. So, we definitely will begin to use DIMES for the application intake. But this is not where we get the application like any other electronic submitter, because of some of the complexities we are talking about with nonconforming uses, and I do not think I've seen any planning programs that address this nonconformity. So that will be all the parts that we will have to look at both electronic and human capital to really address the process.

Chair Astle asked while we have already interrupted you going through there, the Special Use Permit that's required with the Transitional Community, there are a lot of those that are functioning without one right now. If it was not required before, is it like Behavioral Health and those types of things are they going to be required to get one now or are they already in place. Mrs. Prelog responded it would be moving forward that that they would be required wouldn't be retroactive to the existing homes.

Mrs. Prelog stated another one of the significant changes here is strengthening our reasonable accommodation request. So, with reasonable accommodations, you are required by Fair Housing to provide equal opportunities for people with disabilities to live in residential settings. Even though we have these different requirements, such as spacing, occupancy and lighting requirements, we have to have a process that allows them to have some leniency on those. With this, what it would be entail is approval of a Special Use Permit. And in those instances, we have specific approval criteria that would be considered for each one of those situations. So, if you are looking at possibly having a home located within 1,200 feet of another home, things that we would consider, once again is, what's the impact on the surrounding community, is it going to be intensifying or creating some sort of de facto social service district. What are the type of people that are being served by this Community Residence, what's the likelihood of them interacting with another home? Some of those things that would be in consideration. So as part of this public outreach, we did have conversations and had the Arizona Recovery Housing Association, their board of directors review the ordinance, and met with them last week to discuss what their findings were on it and our recommendations moving forward. And they were very supportive of all the changes. They did not have any concerns with what's being proposed.

Our next step after this, hopefully getting your recommendation to approval and going to Council on July 1 for the introduction, and then going to City Council on July 8 for action. But with that, I'd be happy to answer any questions you have on this.

Boardmember Boyle stated, as I am reading through the Ordinance, and we are talking about the de facto social service district, is there a criteria of the number of homes in an area. Or how do we define this, when do you say this is the de facto. What would be the criteria by which, you know, there is an over concentration in one area versus another area and would that be divided by Council district or high school boundary. Some would say there's a lot here in this area and not many in another. City Attorney Charlotte McDermott stated there's not really a definition for creating a de facto social service district. But when the City was looking at revising our ordinance, we hired a national expert, who deals with Community Residences

and the Fair Housing Laws. And he commissioned a study and looked at our ordinance and found that there's a rational basis, we have this 1,200 feet and that's why we have that 1,200 feet. So that way, we make sure in residential neighborhoods that we have that spacing distance from other homes, so that we do not create that concentration and in through that study, and in his research, he has found that that's the appropriate spacing distance to ensure that there isn't a de facto social service area in any residential neighborhood throughout the city.

Mr. Boyle confirmed if there were 500, on the west side of Gilbert, and there were two on the east side of Gilbert, that wouldn't be a de facto social service district. Ms. McDermott responded the spacing requirement applies throughout the city, and what you might be referring to right now is there might be some closer together because maybe the maps aren't up to date. But right now, we have this 1,200-foot spacing requirement. And so, whether you are on the east side of Mesa or the west side of Mesa, you have to maintain that separation from other Community Residences. Mr. Boyle confirmed I am just wondering, if you look at the City as a whole and they all end up in one small pocket of the City that doesn't define that as a de facto social services district, and it is just defined by this 1,200 feet by this spacing. Ms. McDermott said I think you are referring to whether they locate in areas where maybe the housing is more affordable. That's why we have that spacing requirement though is to make sure in a residential area because there is the appropriate distance from another Community Residences not by the number of homes on the west side versus the east side. That is something that the Zoning Ordinance doesn't regulate, it is the spacing distance that is regulated.

City Attorney Charlotte McDermott wanted to just add to my previous comment, because I am not sure if it was fully addressed the comment about creating a de facto social service district. But in the study that the national expert provided to the City, he's found that currently there are no de facto social service districts in Mesa. He realizes it's based on data that's 15 years old. And so, with the recommendations that are in the Zoning Ordinance that we are proposing with the annual registration, we'll be able to keep our maps up to date. And with the spacing distance and requiring the facilities to be annually registered. And if they are not registered, then they are not allowed to exist in the City. By putting those regulations in place, that will help to make sure that we do not create a de facto social service district anywhere in the City. We cannot under Fair Housing laws, though try in certain areas of the City put greater requirements than other parts of the City. So, we have to treat it all of them the same.

Principal Planner Rachel Prelog presented the text amendment for Correctional Transitional Housing Facilities and Administrative Use Permit to the Board. This is very much related to the last ordinance, but it's in a separate ordinance itself. The purpose of this is to provide minor adjustments to Section 11-31-12, which deals with Correctional Transitional Housing Facilities, and then minor adjustments to Section 11-73 for Administrative Use Permits. Correctional Transitional Housing Facilities provides for supervised residential care of individuals who are completing a sentence. They are residing there for a period of time to receive counseling, job placement assistance, and similar services while they integrate into the community. The changes that we are proposing with this is that we are adding a 1,200-foot separation from Community Residences and Assisted Living Facilities for these facilities. We are also adding a registration and renewal requirement to this. They'll be very similar to what you are seeing for the Community Residences and for Assisted Living, making sure that we are able to track the separation of these and that they have all their licensing up to date.

And then the second change here the Administrative Use Permit. We are adding approval criteria that's consistent with the other Conditional Use Permit. Currently, in the code, there is not very straightforward criteria for Administrative Use Permits, and we want to make sure this is well defined. Like I said, they are very consistent with the other Conditional Use Permit criteria. The first criteria is that it's advancing the goals and objectives of the General Plan or other City plans and policies, we want to make sure that the location, size, design and operational characteristics are consistent with the purpose of the districts and we want to make sure that these projects are not detrimental to adjacent or surrounding properties, and then ensuring that adequate public facilities are available to the project. So, those are pretty straightforward changes. This is on the same schedule to go before City council July 1, and then July 8, for their action.

There were no questions or discussion by the Board.

Mrs. Prelog presented the final text amendment that has to do with the Recreational Marijuana that we've discussed with you just a month or so ago. So just as a recap, this has to do with Proposition 207 that was passed by voters November of last year. The Department of Health started issuing approvals to operate these recreational facilities in late January. As a City, we adopted amendments to our Police Ordinance on December 8. And what that did was it limited recreational marijuana establishments to dual licensee facilities. And that's just very simplistic explanation of what those changes were. What we are proposing now is to come back and to amend our Zoning Ordinance to actually address this new use as well.

So, what we'll be doing here is we are modifying definitions and modifying Section 11-31-34 that used to be just specific to medical marijuana to make it all encompassing to marijuana facilities and to include the dual licensee facilities. But outside of that, the hours of operation are going to be remaining the same as they were in the ordinance. We are keeping the permitted zoning districts the same which is the Limited Industrial and General Industrial and then the size limitations of those facilities is also going to remain the same as it was in the zoning ordinance.

Vice Chair Sarkissian stated I was not at the study session when we discussed this. I do have a question regarding why the size limitations remain the same being the fact that it is now include recreational. I actually do pass a facility at least two or three times a week and it constantly has people standing outside, in line, it's not like they are just loitering. But just in terms of adding more space for the dual use and all the other facility things that could be occurring. And it seems to be a hardship because then they had to subdivide existing buildings, and it becomes kind of a waste of space. So, it's underutilized and I know other jurisdictions have increased their size of the buildings, so I was wondering why when we have the opportunity, why you chose to leave it at 2,500 square feet.

Dr. Appiah responded that we had the discussion with City Council, because the recreational marijuana is kind of a new introduction, and we saw it doesn't have enough study and analysis in the City and having been able to fully determine potential impact, the Council was more comfortable with at least introducing recreational marijuana as part of already existing establishment. Then, seeing how that panned out in the coming months or years before we actually open up the size. As you guys know, it brings more traffic, it brings clients or there could be other impacts. So Council was not comfortable with increasing the size until we are able to assess and evaluate the impact of this use for a period of time.

Mrs. Prelog continued that the specifics of the Ordinance includes definitions that were

affected by the text amendments. We are removing Medical Marijuana Designated Caregivers and Medical Marijuana Qualifying Patients. That's because the Ordinance used to contain specifics about individual cultivation. We decided to leave that up to the State regulations and not address them in the codes themselves and remove those definitions. And we are adding the definition for Dual Licensee Facilities of Marijuana Concentrate, Marijuana Establishments, Marijuana Manufacturing, Marijuana Processing and Marijuana Products to the ordinance. And then modifying some other definitions that were specific to Medical Marijuana to make them more general. So, we are just removing the medical designation in front of Marijuana Cultivation Facilities and Infusion Facilities. As far as the development standards, as I mentioned earlier, the only permissible districts will remain Light Industrial and General Industrial for the permitted zoning districts. The hours of operation are proposed to stay the same at 8 am to 9 pm and then the size limitations would remain the same as well.

As we were discussing for the dispensary use or dual licensed facilities, its size limit is 2,500 square feet. For cultivation facilities it is 25,000 square feet and for infusion facilities, it's 10,000 square feet. The separation or spacing requirements from other facilities would also remain the same. So, you can see that between actual dispensaries or dual licensee facilities, there's a required mile spacing in between those. There's a 2,400-foot separation from Community Residences, Correctional Transitional Housing and Social Service Facilities. A 1,200-foot separation from church libraries, schools, and public and private parks but those are specific to the LI and GIS Zoning Districts. And then a 500-foot separation from daycare centers, preschools, public parks that are in all other zoning districts and privately owned open space that's maintained by an HOA.

For the cultivation and infusion facilities, they have different separation requirements. There's a 2,400-foot separation from Medical Marijuana Dispensaries or Dual Licensee Facilities. If an infusion facility or cultivation facility is servicing a specific dispensary, that separation requirement does not apply. And then they are 1,200 feet from churches, library, schools and public and private parks and then the 500 feet once again from daycares, preschools, public parks and privately owned open space.

This text amendment is also supposed to be on the same agenda for City Council, going on July 1 for introduction and July 8 for adoption.

Vice Chair Sarkissian confirmed the original "chas" are still not active which would help regulate the distances. The original chas for people that came in early are really not around anymore, so you could have multiple people multiple in an area. City Attorney Charlotte McDermott responded it is my understanding that the chas are still around. But when they first opened up there was only allowed one facility in each cha and then after a couple years, it was opened up where you could have more than one dispensary in an area.

Boardmember Boyle stated in my research, with the medical marijuana and the elections were going on and everything the science seems to suggest that for adults, it's fairly benign. For children, it can have a strong effect on their brain development and stuff like that. If we were to discover that there is a rise in marijuana use amongst the youth in Mesa, are there zoning restrictions that we can do based on that or would that be a national thing. It is something that we could look at the City and say, we are seeing a negative effect here, that we can do something about that. Or these are these sorts of things that are a larger State or national element. Dr. Appiah responded it is more of a social policy. I think planning has a certain part of it, but we talk about more of the land uses part of it. And this is not really a social policy, that

will be something that will be handled in a different way, probably by the State and Federal Government. This is getting out of the context of this actually.

Ms. McDermott stated the State statute regulates what the cities can regulate from a Zoning perspective. So, we are limited in what we can regulate. We can have reasonable zoning regulations that limit the use of the land, we can regulate time, place and manner. So, we have to regulate within our, the what the State has allowed us to do. Mr. Boyle responded, I'm always interested in what we can and can't do to help the residents of Mesa specifically, and are allowed to do on this board.

Boardmember Villanueva-Saucedo commented to the point that was brought up earlier about the size of square footage, I hope that at some point that gets addressed. This is a legal business, whether people have personal opinions or not. I happen to drive by one facility where there is a constant line of very calm people just waiting in line to access a legitimately allowable business in the State of Arizona. I just think it's a missed opportunity from an Economic Development standpoint. So, I'm hoping that someone comes back to that sooner rather than later. It is fine moving forward, but just wanted to make that point.

3. Planning Director's Updates.

- Decisions of the City Council's May 3, 2021 land use hearings.

Planning Director Nana Appiah stated we had one major rezoning case at the May 3 City Council meeting. If you will recall this was a rezoning case that had a resident asking the City to work with the applicant to make sure that we accommodated trees in the right-of-way. The development was by Hermosa and Gilbert Road and Council voted to approve it. It is my understanding that there has been some consensus with the City and the applicant and SRP so the request can be accommodated.

4. Adjournment.

Boardmember Boyle motioned to adjourn the meeting at 3:45 pm. The motion was seconded by Boardmember Villanueva-Saucedo.

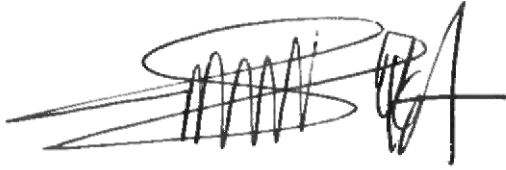
Vote: 7-0 Approved

Upon tabulation of vote, it showed:

AYES – Astle, Boyle, Crockett, and Villanueva-Saucedo

NAYS – None

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a final vertical stroke.

Nana K. Appiah, AICP, Secretary
Planning Director

Note: Audio recordings of the Planning & Zoning Board study sessions are available in the Planning Division Office for review. The regular Planning & Zoning Board meeting is “live broadcasted” through the City of Mesa’s website at www.mesaaz.gov.