

## MINUTES OF THE JUNE 23, 2021 PLANNING & ZONING MEETING

- \*4-b ZON21-00224 District 6.** Within the 8800 to 9100 blocks of East Elliot Road (north side) and within the 8900 to 9100 blocks of East Peterson Avenue (south side). Located west of Ellsworth Road on the north side of Elliot Road (41± acres). Rezone from Limited Commercial (LC) with a Planned Area Development Overlay (PAD) and Planned Employment Park (PEP)-PAD to Light Industrial (LI)-PAD and Site Plan Review. This request will allow for an industrial development. Taylor Earl, Earl & Curley, PLC, applicant; EL DORADO ELLIOT 128, LLC, owner.

**Planner: Cassidy Welch**

**Staff Recommendation: Approval with Conditions**

**Summary:** Staffmember Cassidy Welch presented case ZON21-00224 to the Board. Ms. Welch stated this case is ZON21-00244 for the site is located north of Elliott Road and west of Ellsworth Road on the east side of the Loop 202 Freeway. The General Plan designation for the property is Mixed Use Activity District and Employment. The intention behind the Employment character area designation is to provide for a regional activity area with a wide range of employment opportunities, which may include some supportive commercial. The proposed site is currently vacant.

The request before you today is a rezone from Limited Commercial (LC) with a Planned Area Development Overlay (PAD) and Planned Employment Park (PEP)-PAD to Light Industrial (LI)-PAD and Site Plan Review. This request will allow for an industrial development. As a part of the request, there is a PAD Overlay, which includes reductions to the minimum site area from 1 acre to 0.75 acres; increase to the maximum building height from 40 feet to 60 feet and 150 feet for ancillary facilities. Ancillary facilities are defined as non-building structures, such as mechanical equipment systems and structural systems needed to support operations on the property. As well as a revision to the minimum parking ratio and a reduction in the required landscaping on the west side due to an SRP easement. The subject request includes a Development Agreement that will be processed in coordination with the case going to City Council. The development agreement does include some prohibited land uses consistent with the Elliott Road Technology Corridor PAD.

The site plan is for large scale industrial buildings totaling approximately 500,000 square feet. The truck docks for each building will be located internally and screened from public view. There will be future commercial pad sites located along Elliott Road. The site went to Design Review in June and the Design Review Board did not have any major comments. The applicant did conduct a Citizen Participation process which included property owners within 1,000 feet. No response was received by the applicant or staff.

With that, we find that the proposed request meets the intent for the 2040 Mesa General Plan designation of Employment, complies with the intent of the Gateway Strategic Development Plan and meets the criteria for Chapters 22 for PAD Overlay and Chapter 69 for site plan review. And staff is recommending approval with conditions. And I'd be happy to answer any questions.

Vice Chair Sarkissian stated thank you Cassidy. This item was pulled by a member of the board. Do we want to have the applicant and are they available online?

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Members of the board this is Taylor Earl, and our address is 3101 North Central Avenue. I am here on behalf of Trammell Crowe. I think a couple of things we wanted to say here, and we are happy to go through a presentation, but we thought maybe we would just jump to some of the questions that were asked, starting with the landscaping on the west side. In our conversations with SRP, we were specifically told to that they have not done construction in that area yet. We were asked to not put in landscaping that would simply have to be removed and torn up in the process. And again, you have a remaining easement there where they do not want to see trees as was stated so that request is merely a function of the situation that we are in and the proximity to that easement area. We have done the best we can by relocating all that landscaping to the site so that we are still having that same amount of landscaping material.

Also, as noted, by having that building rotated you are not only having that front of the building facing the 202, we have done quite a bit of architecture so you can see that the building has a lot of movement. When we went to the Design Review Board, they were very complimentary of our building design and elevations. We could talk more about the design, but we were very happy with the warm embrace that we got from the Design Review Board. As mentioned, there were only a few minor tweaks that they suggested we do. Also, I think it's really important that we are in conformance with the General Plan, and I think that's really key for our request. When we approached the City, it was noted that we would be consistent with the General Plan if we simply rezone the property to Light Industrial (LI) zoning.

We understand there were certain uses that the City did not want to see on the property. And so what we did was do a PAD with an accompanying Development Agreement, in which we can remove uses from LI even though that would be consistent with the General Plan. We will work with the City to remove uses that we also do not feel that we need. And so, that's the process that we went through and working with staff to remove uses. There were several uses that we would have preferred to retain, but staff came back and really wanted us to remove them. We then went back to our team and said okay we can remove those. We did the very best we could to eliminate those uses and work with the City on this and we were able to retain the compliance with the General Plan.

One thing also to note is that existing on the property today is Limited Commercial (LC) zoning with a PAD on about 65% of the site. And that would allow large retail and so by rezoning the property, we have essentially retained a small retail component on the corner to be supportive of the purpose of the Employment that we are proposing. And frankly, the hospital to be able to have some type of use of a restaurant where people can grab food on the way to work or during their lunch break.

The other question was about our neighborhood outreach. We had multiple conversations with the hospital and with other adjacent property owners in the area. Not only did we just simply do the standard outreach, we had proactive conversations in that regard. There was a question of about the transportation facilities and other similar things and as was noted, we did agree to remove the two uses that fall underneath that umbrella, which is the freight warehouse and the truck and passenger terminal. Those are the two uses that were recently added to the prohibited list. What the applicant looked at was to have a successful employment corridor that they have been bringing successful employment uses all over the valley. And they have done so very well. So, as

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they chose this site and selected the uses, they felt they absolutely needed to have in order to make sure that they could be successful that they could bring in the employment uses so that they could have a successful operation here and so we essentially gave up all those that we felt that we could give up and frankly even a little bit more than that.

So again, happy to certainly answer any questions. Hopefully, I provided some answers but happy to answer any additional questions. Thank you very much.

Boardmember Crockett stated thank you for the response to the discussion we had during the study session and also appreciate the applicant's willingness to work with the City to try to address some of the City's concerns. I do still have some concerns. The City of Mesa has a major investment in this Elliot Road Technology Corridor. There is a hospital facility located adjacent to the property and I still have some concerns about whether this use is the best use or consistent use with what is already there in light of the investment that's been made. And I guess my other concern is around the Development Agreement as we do not have the Development Agreement. I do not think it's been completed, and we haven't seen a draft of it. So as far as the commitment to exclude certain uses, I again, appreciate that but without having that document to review, I am just still concerned about the use there.

Taylor Earl responded it is important that the uses that we are referring to within the PAD document, we do have a prohibited use list. And so, we have incorporated that into the PAD. And we have actually added additional prohibitions in the Development Agreement. But in most jurisdictions the Development Agreement is designed to be absolutely not necessary, as you would simply prohibit them within the PAD document. Mesa is the only jurisdiction I am aware of, where you have to provide that additional prohibition in a parallel Development Agreement. And so again, there are prohibitions that prohibit uses that were put into the PAD, and then the Development Agreement came which is effectively designed to serve as sort of a legal codification of what is already placed in the PAD.

The other thing I would also note, too, is that while we are showing a site plan, and there are potential for dock doors, that that's not absolutely required. Of course, we understand that there are manufacturing uses that are in the areas. We spoke with the Economic Development Department and they think there's a strong market for that. And so certainly, we think that those types of users generally pay a higher rate and are great tenants that we absolutely want to have. We have some flexibility that we felt was needed and so that's why we did not opt into the six-week process, and as Dr. Appiah has said, the City has not made it a policy to force every single development to opt into the Technology Corridor or PAD. This request will allow for an industrial development and is certainly an option and an incentive that is provided that if you are willing to accept all of these prohibitions, then you can go through a faster rezoning process.

At the beginning of the process, we very much understood that we could actually seek an LI zoning that would be consistent with the General Plan. But we said, well, we do not necessarily need the whole thing so why not go to this PAD route. And again, manufacturing those types of uses would be great and we hope that if their tenants are there, and Mr. Jabjiniak and his staff can help us, and as we do our own work to bring those types of tenants, we would be delighted to have all of those uses. We just have to have some flexibility in uses in order that if those users go to adjacent facilities, or

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there's competition in the market, as more users come in, we just have to have the flexibility in order to make sure that our facility can be full that we can have tenants. We think that what we are proposing here is consistent with the City's vision for the employment character area and we will be bringing a lot of employment uses, as Trammell Crowe has always done with their facilities.

Planning Director Nana Appiah stated I am looking at the restrictions that are basically restricted in the Elliot Road Technology Corridor and the prohibited uses to be approved with the DA is very similar to the Elliot Road Tech Corridor restrictions. Veronica Gonzalez is here to read the list of prohibited uses. As Boardmember Crockett mentioned that he has not seen the Development Agreement. Typically, the Development Agreement is approved by City Council and so recommendation for approval for this case is absolutely tied to the Development Agreement. Without a Development Agreement, staff will not be recommending approval. If you want that to be read into the record, Veronica has an extensive list that we can read into the record to provide the info of what is being prohibited. In addition to that, I would just add that whenever we review such a project, we look at the criteria in the General Plan, we do not have that mandate to basically force any development to opt-in to either the Form Based Code or the Technology Corridor. Part of what we do is make sure that whatever uses that are allowed, they are compatible to the goals of the Tech Corridor. So those are the things that we look at and that is why you actually have the DA prohibiting certain uses. In our discussion with certain members of Economic Development, we basically centered around those limited uses to get us to where we are with the project. So, Veronica will read into the record the prohibited uses.

Veronica Gonzalez stated the Development Agreement we have been working with the applicant includes, as Dr. Appiah had noted, has quite an extensive list of prohibited uses. Many in fact are actually very similar to what you'll find in the prohibited uses list for the Development Agreement related to a property that would opt-in to the Elliott Road Technology Corridor. So the list begins with correctional transitional housing facilities; clubs and lodges; cultural institutions; daycare centers as a standalone use but are allowed as a component of a service to onsite business and industry; places of worship; schools, public or private; animal sales and services which includes kennels, pet stores; artist's studios; automobile rentals; major vehicle repair are prohibited as a primary use but they are allowed as a secondary or an accessory use to another permitted use; minor vehicle repair again prohibited as a primary use but allowed as an accessory to a permitted use; automobile vehicle washing not as a primary use but again as an accessory use to permitted use; large vehicle and equipment sales service and rental service stations, limited to a maximum of one facility; towing and impound; building materials and services; commercial recreation, small scale and large scale; eating and drinking establishments with drive thru facilities limited to a maximum of two; farmers markets; funeral parlors and mortuaries; live work units; medical marijuana uses including recreational dispensaries, medical dispensaries and cultivation facilities; commercial parking; personal services; plant nurseries and garden centers; swap meets and flea markets; tattoo and body piercing parlors; recycling facilities, this includes reverse vending machines, small indoor collection facilities, large collection facilities; airport land use classifications, including airport refueling stations, aircraft light maintenance, airport transit stations, airport related long term parking lots, heliports; transportation facilities; outdoor entertainment or outdoor activities; and, finally outdoor display. Thank you.

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City Attorney Charlotte McDermott stated I also just wanted to add under that section of the Development Agreement, if there is a question about any of the land uses and whether they are prohibited or not and whether it is a use that is prohibited, it would be a determination by the Zoning Administrator. But it is subject to our appeal section in our Zoning Ordinance.

Vice Chair Sarkissian stated I'll put it to the Board. But also, I feel that as staff has mentioned, this is an employment category and this is the Elliot Road Technology Corridor area. If you were just looking at it from the PAD standpoint, without a site plan, you would see the Light Industrial and the PAD portion of it. I think the concern might have come with the site plan but, they are still looking for uses. So, we'll see what comes to be in the site plan and ultimately could change and depending on a user when it gets decided upon. I'll close the public meeting and open up for a motion.

Boardmember Villanueva-Saucedo motioned to approve case ZON21-00224 with conditions of approval. The motion was seconded by Boardmember Boyle.

**That: The Board recommends the approval of case ZON21-00224 conditioned upon:**

1. Compliance with the final site plan submitted.
2. Compliance with all requirements of Design Review.
3. All off-site improvements and street frontage landscaping to be installed with the first phase of construction.
4. Site Plan Review per Section 11-69-4 of the MZO and Design Review per Chapter 71 of the MZO are required prior to development of the commercial development parcels.
5. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
  - a. Owner shall execute and record the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to the issuance of a building permit.
  - b. Due to the proximity to the Phoenix-Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing, for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.
  - c. Provide written notice to future property owners that the project is within 2 miles of the Phoenix-Mesa Gateway Airport.
6. Execute and comply with the Development Agreement.
7. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and shown on the following table:

Development Standards	PAD Approved
<u>Minimum Site Area (acre)</u> <u>for LI –</u> <i>MZO Section 11-7-3</i>	<b>0.75 acres each for parcels 1-3 shown as future retail on the conceptual plan.</b>

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<u>Maximum Building Height</u> – MZO Section 11-7-3	<b>60 feet for all buildings,  150 feet for ancillary facilities. Ancillary facilities are non-building structures such as mechanical equipment systems and structural systems needed to support operations on the property.</b>
<u>Required Parking Ratio</u> – MZO Section 11-32-3 - Warehousing and Storage  - Industrial	<b>1 space per 1,200 sf for warehouse and industrial uses for all development on the property.</b>
<u>Required Landscape Yards</u> – MZO Section 11-33-3.B.2.C - Minimum number of trees required on the perimeter (West property line)	<b>No trees required within the landscape yard along the west property line. All trees shown on the landscape plan shall be required unless modified by the Design Review Board.</b>

Vote: 4-1 Approval with conditions (Chair Astle and Boardmember Allen, absent)

Upon tabulation of vote, it showed:

AYES – Sarkissian, Boyle, Villanueva-Saucedo and Ayers

NAYS – Crockett

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**Note:** Audio recordings of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “Live broadcasted” through the City of Mesa’s website at [www.mesaaz.gov](http://www.mesaaz.gov)