

**City Council Chambers – Lower Level
57 East 1st Street Mesa, AZ 85201
Study Session 4:30 p.m. and Public Hearing 5:30 p.m.
Wednesday, September 2, 2020**

Boardmembers Present Via Virtual Connection:

Chair Adam Gunderson
Vice Chair Ken Rembold
Boardmember Kathy Tolman
Boardmember Nicole Lynam
Boardmember Steven Curran
Boardmember Alexis Wagner

Boardmembers Absent:

Boardmember Chris Jones

City Staff Present Via Virtual Connection:

Margaret Robertson, City Attorney
Rachel Prelog, Senior Planner
Heather Omta, Planning Assistant
Evan Balmer, Planner II
Charlotte Bridges, Planner I
Jennifer Gniffke, Planner I
Kellie Rorex, Planner I

Other City Staff Present:

The Study Session began at 4:30 p.m. and concluded at 5:34 p.m. The Public Hearing began at 5:35 p.m., before adjournment at 5:45 p.m., the following items were considered and recorded.

Board of Adjustment Study Session

1. Call meeting to order.

Study Session began at 4:30 p.m.

2. Election of Chair and Vice Chair.

Adam Gunderson offered to fulfill one of the open officer positions.

Boardmember Rembold motioned to elect Adam Gunderson as Chair, Boardmember Lynam seconded the motion.

Boardmember Rembold offered to fulfill the Vice Chair role if no other volunteers.

Boardmember Curran motioned to elect Ken Rembold as Vice Chair, Boardmember Gunderson seconded the motion.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

3. Staff update.

(a) Senior Planner, Rachel Prelog, updated the Board on the General Plan and Zoning Ordinance Amendment Open House held on August 18, 2020.

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4. Open Meeting Laws Presentation.

(a) City Attorney, Margaret Robertson, provided the Board a presentation on Arizona open meeting laws.

5. Review and discuss items listed on the Public Hearing agenda for September 2, 2020.

The items scheduled for the Board's Public Hearing were discussed.

- Planner Evan Balmer presented case BOA19-00979
- Planner Kellie Rorex presented case BOA20-00367
- Planner Kellie Rorex presented case BOA20-00453
- Planner Charlotte Bridges presented case BOA20-00226
- Planner Charlotte Bridges presented case BOA20-00471
- Planner Jennifer Gniffke presented case BOA20-00497
- Planner Kellie Rorex presented case BOA20-00525
- Planner Charlotte Bridges presented case BOA20-00529

6. Adjournment.

Without objection, the Study Session was adjourned at 5:34 p.m.

Board of Adjustment Public Hearing

1. Call meeting to order.

Public Hearing began at 5:35 p.m.

2. Take action on all consent agenda items.

Items on the Consent Agenda

3. Approval of the June 9, 2020 minutes.

A motion to approve the minutes on the consent agenda as read by Vice Chair Rembold was made by Boardmember Curran and seconded by Boardmember Wagner.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

4. Take action on the following cases:

A motion to approve the following cases on the consent agenda as read by Vice Chair Rembold was made by Boardmember Curran and seconded by Boardmember Wagner.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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***4-a Case No.: BOA19-00979 (Approved with Conditions)**

Location: Within the 5600 to 6000 blocks of East Thomas Road (north side) and within the 3600 to 4000 blocks of North Recker Road (west side)
Subject: Requesting a Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for a single-residence subdivision. (Continued from June 3, 2020)
Decision: Approved with Conditions.
Summary: This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA19-00979 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the site plan and sign plan details.
2. Compliance with all requirements of the Development Services Department in the issuance of sign permits.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. The aesthetic character of the monument signs is intended to complement the natural environment of the subject site.
- B. The sign criteria within the proposed CSP will enhance the development of the property and its sense of place.
- C. The proposed CSP conforms to the criteria outlined in Section 11-46-3(D) of the MZO for approval of a CSP.
- D. The proposed CSP conforms to the criteria outlined in Section 11-70-5(E) of the MZO for approval of a SUP.
- E. The request is consistent with the goals of the General Plan, the use complies with the RS-6-PAD and RS-7-PAD zoning districts, the CSP will not be injurious or detrimental to adjacent or surrounding properties and there are adequate public services to support the use of the site as a residential subdivision.

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***4-b Case No.: BOA20-00367 (Approved with Conditions)**

Location: 103 South Olive

Subject: Requesting a Special Use Permit (SUP) to allow for the enlargement of a non-conforming structure to encroach into a side yard in the RM-2 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 BOA20-00367 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the final site plan and elevations submitted.
2. Compliance with all applicable City of Mesa Development Codes and regulations.
3. All unpermitted detached structures must be removed or permitted prior to the issuance of a building permit for the reconstruction of the primary structure.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. The subject house was built in the 1950s when the minimum street side setback for residential development was ten feet (10').
- B. Current MZO standards require a minimum street side setback of twenty feet (20') in the RM-2 zoning district.
- C. The existing home is considered legal non-conforming because the street side setback is thirteen feet ten inches (13'10").
- D. A fire in April of 2020 destroyed the roof and left fire and water damage in every room of the home.
- E. Portions of the house were not built on a permanent foundation. The applicants wanted to use the reconstruction of the home as an opportunity to place the entire home on a permanent foundation and add a partial second story.
- F. Alterations and enlargements to non-conforming structures that extend into a non-conforming yard may be approved through a SUP when meeting the requirements of MZO Section 11-36-7(B).
- G. The subject request meets all requirements of Section 11-36-7(B) and conforms with the criteria for the granting of a SUP as outlined in Section 11-70-5(E) of the Mesa Zoning Ordinance.

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***4-c Case No.: BOA20-00453 (Approved with Conditions)**
Location: 1837 West Guadalupe Road
Subject: Requesting a Special Use Permit (SUP) to allow a kennel in the LC 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 BOA20-00453 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the final floor plan and narrative submitted.
2. Compliance with all applicable City of Mesa Development Codes and regulations.
3. Provision of noise attenuation measures for the suite occupied by the kennel use.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. A kennel is an allowed use in the LC zoning district with approval of a SUP if the use is confined to a completely enclosed, sound-attenuated facility.
- B. A café is an allowed use in the LC zoning district.
- C. All modifications to the building will be internal.
- D. The cat café and lounge will be appropriately insulated to reduce sound from escaping to nearby suites.
- E. Kitty Pause Cat Café received approval from the Maricopa County Environmental Services Department for their business and floor plans.
- F. This request conforms with the criteria for the granting of a SUP as outlined in Section 11-70-5(E) of the Mesa Zoning Ordinance.

***4-d Case No.: BOA20-00226 (Approved with Conditions)**

Location: Within the 9200 to 9400 blocks of East Ray Road (south side); the 5200 to 5400 blocks of South Ellsworth Road (east side); and within the 9200 to 9400 blocks of East Cadence Parkway (both sides)

Subject: Requesting a Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for large commercial development located in the PC 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 BOA20-00226 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the sign plan documents submitted, except as modified by the conditions listed below;
2. All signs shall comply with Section 11-43-2 Design Standards for Permanent Signs and Sign Structures of the Mesa Zoning Ordinance, as required by Section 15.1 of the Cadence CP; and
3. All signs, when illuminated, shall conform to the City of Mesa Lighting and Electrical Code, and shall conform to the brightness standards specified in the Mesa Sign Ordinance as required by Section 15.3(a)(i)(6) of the Cadence CP; and
4. Compliance with all requirements of the Development Services Department in the issuance of sign permits.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. Arrival at Cadence is a large commercial development of approximately 27± acres located at the southeast corner of Ray and Ellsworth Roads.
- B. The Arrival at Cadence development is the commercial anchor of an approximately 464± acre mixed-use, master planned community known as Cadence at Gateway.
- C. The Arrival at Cadence individual CSP conforms with Section 4.7 of the Cadence DU 1, Phase 2 Plan for the CC LUG.
- D. The Arrival at Cadence individual CSP conforms with the purpose and intent of Chapter 15 of the Cadence CP by establishing flexible sign criteria tailored to a specific development project with standards appropriate to the unique character of the development.
- E. The Arrival at Cadence individual CSP conforms to Section 15.1 of the Cadence CP, which establishes the sign standards and criteria as set forth in the Mesa Zoning Ordinance (MZO) as the base sign standards and criteria for use within the Cadence CP except as modified by this CSP.

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- F. The Arrival at Cadence individual CSP provides the required information for each proposed sign type in compliance with Section 15.3(a) of the Cadence CP.
- G. The Arrival at Cadence individual CSP proposed 48 feet of aggregate height for the four detached signs along Ellsworth Road, meets the criteria in Section 15.3(a)(i) of the Cadence CP to exceed the 45-foot maximum aggregate height specified in Table 11-43-3(D)(3) of the MZO.
- H. Approval of the CSP will advance the goals and objectives of the General Plan and the Gateway Strategic Development Plan by accommodating a customized sign plan for the planned commercial/retail, employment, restaurant, and/or service uses within development.
- I. The location, size, and design of the proposed signage is consistent with the existing PC District, Cadence CP, and also conforms with the Mixed Use Community character area of the General Plan and the Mixed Use Community District of the Gateway Strategic Development Plan .
- J. The Arrival at Cadence CSP will not be injurious or detrimental to the surrounding properties, nor to the general welfare of the City. The design, placement, quantity, and size respect the existing and planned context and character of the area.
- K. The Arrival at Cadence CSP has no impact on public services, public facilities, or public infrastructure. Adequate public services, public facilities, and public infrastructure are available to serve Arrival at Cadence development.

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***4-e Case No.: BOA20-00471 (Approved with Conditions)**
Location: 1265 East Inca Street
Subject: Requesting a variance from the required front yard setback to allow for an addition to the carport of an existing single residence in a RS-9 PAD 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 BOA20-00471 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the final site plan as submitted.
2. Compliance with all applicable City of Mesa Development Codes and regulations.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. The existing home was constructed in 1978 and conforms to required RS-9-PAD District front yard setback of 20 feet.
- B. The existing home was constructed with a 20-foot, four-inch wide by 18 feet long carport, which complied with the MZO standards at the time of construction.
- C. The existing single residence’s 20 feet wide, 4-inches by 18 feet long double carport does not conform to Section 11-32-4(E) of the MZO.
- D. Construction of an addition to the carport to facilitate a garage enclosure, which meets Section 11-32-4(F)(2) of the MZO minimum interior dimension requirements for a double-car garage, is not possible without the granting of variance to allow the addition within the required RS-9 District front yard setback of the 20 feet.
- E. The special circumstances are pre-existing and were not created by the property owner.

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***4-f Case No.: BOA20-00497 (Approved with Conditions)**
Location: Within the 100 to 200 block of West Pepper (south side)
Subject: Requesting a variance for a reduced setback to parking spaces along a main drive aisle connecting directly to a street, and the Form Based Code Building Form Standards, Building Type Standards and Private Frontage Standards, to allow a mixed-use development in the T5 Main Street Flex (T5MSF) Transect Zone.
Decision: Approved with Conditions.
Summary: This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA20-00497 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the final site plan and elevations as submitted, except for the following:
 - a. Administrative approval of the design of the ground floor commercial spaces, which will demonstrate superior pedestrian-scale design and comply with the City of Mesa Quality Development Design Standards, prior to final approval of commercial building permits for the building.
2. Compliance with all City development codes and regulations, except as modified by the variance requests listed in Table 1 of this report.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
4. Prior to the submittal of a building permit, submit and obtain approval from the City of Mesa for a Zoning Clearance for compliance with the Form Based Code.
5. Prior to the submittal of a building permit, submit and obtain approval from the City of Mesa for a Form Based Code Zoning Opt-In to the T5MSF zone.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. There are special circumstances, including the continued provision of public parking for surrounding businesses in addition to the parking required of the development, which pose challenges to the developer to fully conform to all requirements of the Form-Based Code.
- B. The existing parking on the site was not created by the applicant and has been in existence for over 50 years.
- C. The strict application of the MZO will deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district.
- D. The approval of the variances will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the form-based code zoned district.

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***4-g Case No.: BOA20-00525 (Approved with Conditions)**
Location: 241 North Power Road
Subject: Requesting a Development Incentive Permit (DIP) to allow deviations from certain development standards for a new restaurant with a drive-thru in the LC 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 BOA20-00525 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the final site plan as 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 ZON20-00312 for site plan approval.
4. Compliance with all requirements of Design Review case, DRB20-00315.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. The site is 1± acre and has been in its current configuration for more than 10 years.
- B. The site is served by, or has direct access to, existing utilities.
- C. The total developable land area within 1,200 feet of the site is not more than 25 percent vacant.
- D. Greater than 50 percent of lots within 1,200 feet of the site have been developed for more than 15 years.
- E. This requested deviations through the DIP will allow for the development of a bypassed parcel.
- F. The proposed development is consistent with the General Plan designation character are of Neighborhood Village Center.
- G. The requested modifications will result in a development that is commensurate with existing development in the vicinity.
- H. Compliance with Site Plan Review approval (Case# ZON20-00312) and Design Review approval (Case# DRB20-00315) to ensure the level of site improvements, architectural detailing and design elements on the building will meet the intent of the Design Standards of the MZO.

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***4-h Case No.: BOA20-00529 (Approved with Conditions)**
Location: Within the 2000 to 2100 blocks of North Power Road (east side) and the 2000 block of East McKellips Road (north side)
Subject: Requesting a Special Use Permit (SUP) to allow modification of an existing Comprehensive Sign Plan (CSP) for a group commercial center in the LC 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 BOA20-00529 was made by Boardmember Curran as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Wagner to approve the following conditions:

1. Compliance with the sign plan documents submitted.
2. Compliance with all requirements of the Development Services Department in the issuance of sign permits.

Vote: 6-0

Upon tabulation of vote, it showed:

AYES – Gunderson-Rembold-Tolman-Curran-Lynam-Wagner

NAYS – None

ABSENT – Jones

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

- A. The subject site is an existing commercial retail center.
- B. Several of the buildings are setback hundreds of feet from the adjacent streets restricts normal attached sign visibility from the adjacent streets.
- C. The proposed modification to the CSP adds choice to the allowed attached sign types, which gives tenants more flexibility to customize their attached signage, so it is more recognizable and visible.
- D. The proposed modifications to the CSP are appropriate for the architectural style of the existing development
- E. The additional attached signs types proposed by this CSP modification are considered “high-quality” and integrate well with the architecture of the existing commercial retail center and comply with permanent attached sign standards of Section 11-43-2(B) of the MZO.

Items not on the Consent Agenda

5. **Take action on the following cases: None**
6. **Items from citizens present.**
7. **Adjournment.**

Without objection, the public hearing was adjourned at 5:45 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Rachel Prelog". The signature is written in a cursive, flowing style.

Rachel Prelog,
On behalf of Zoning Administrator (Dr. Nana Appiah)