

Board of Adjustment



Minutes

City Council Chambers, Upper Level
October 7, 2015

Board Members Present:

Mark Freeman – Chair
Trent Montague - Vice Chair
Wade Swanson
Ken Rembold
Jessica Sarkissian

Board Members Absent:

Tony Siebers (Excused)

Staff Present:

Gordon Sheffield
Wahid Alam
Kaelee Wilson
Mike Gildenstern

Others Present:

Tim Neilson
Matt Wiley
Richard Dwyer

The study session began at 4:30 p.m. and concluded at 5:02 p.m. The Public Hearing began at 5:30 p.m. Before adjournment at 5:35 p.m., the following items were considered and recorded.

Study Session began at 4:30 p.m.

- A. Discussion of items listed on the Public Hearing Agenda

Study Session adjourned at 5:02 p.m.

Public Hearing began at 5:30 p.m.

- A. Consider Minutes from the September 2, 2015 Meeting -A motion was made by Boardmember Swanson and seconded by Boardmember Sarkissian to approve the minutes. Vote: Passed 6-0
- B. Consent Agenda -A motion to approve the consent agenda as read was made by Boardmember Swanson and seconded by Boardmember Sarkissian. Vote: Passed 6-0

Public Hearing adjourned at 5:35 p.m.

Case No.: BA15-018 APPROVED WITH CONDITIONS

Location: 60 North Gilbert Road

Subject: Requesting a: 1) a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of a commercial building; and 2) a Special Use Permit to allow a reduction to the minimum number of required parking spaces, both in the GC zoning district. (PLN2015-00389)

Decision: Approved with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve Case BA15-018 with the following conditions:

1. *Compliance with the site plan as submitted, except as may be modified by the conditions below;*
2. *Compliance with all requirements of the Mesa Building Code (Title 4 of the Mesa City Code), including the issuance of any required permits resulting from a change to the building code occupancy classification of the building;*
3. *Compliance with stormwater retention requirements; and*
4. *Compliance with all provisions and requirements related to solid waste pick up.*
5. *Compliance with the Zoning Ordinance Section 11-06-2 Land Use Regulations for Automobile/Vehicle Sales and Leasing.*
6. *Non-operating vehicles shall not be stored on this site, and adjacent parking spaces within the center shall not be used for display or storage of vehicles. Only currently operating vehicles can be placed on display, and then only for the purpose of displaying the vehicle for potential sale and lease.*
7. *Vehicle Display shall be limited to the locations depicted on the submitted site plan, dated September 22, 2015. Any storage or display outside of the depicted area shall be considered a violation of the Zoning Ordinance.*
8. *The dealership business shall not be operating from this location until a Certificate of Occupancy and City of Mesa Tax and License is issued for this particular business at this location.*

Vote: Passed (6-0)

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

- A. The An Automobile Sales/Leasing is proposed to occupy the former restaurant (Pizza Hut) building, which was developed to be a pad site within a shopping center.
- B. The existing site and building is located within a group commercial where parking is shared by all tenants and the updated parking study indicates sufficient parking for the overall center.
- C. The site largely conforms to present zoning ordinance requirements for a pad site in

General Commercial for automobile sale and leasing activity, except screening, perimeter landscaping and width of foundation base.

- D. The proposed revisions will remove the excess parking not required, and replace it with a display area for vehicles.
 - E. Additional demolition or revisions to the site, beyond what is proposed, would result in requiring a degree of compliance that is disproportionate to the degree of change being proposed. The change in use will result in a reduction in on-site parking demand, and likely result in a reduction to the level of vehicular travel arriving and staying at this site for longer periods of time.
 - F. The proposed automobile sales and leasing activity is consistent with the Mesa 2040 General Plan designation of the site as 'Community Commercial Center'.
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Case No.: BA15-022 **APPROVED WITH CONDITIONS**

Location: 1925 East Brown Road

Subject: Requesting a Special Use Permit to allow a wireless communications facility to exceed the maximum height allowed in the LC zoning district. (PLN2015-00187)

Decision: Approved with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve case BA15-022 with the following conditions:

1. *Compliance with the site plans dated April 2, 2015, except as modified by the following conditions.*
2. *The wireless communication facility shall utilize an architectural tower design with a maximum height of sixty-feet (60').*
3. *The design of the architectural tower shall be reviewed and approved by the Zoning Administrator through the Administrative Review process.*
4. *The northern wall of the architectural tower element shall align with the front wall of the building suites and shall not obstruct the sidewalk.*
5. *The equipment enclosure shall be located to the south of the tower element in the adjacent parking spots.*
6. *The 22'-7" by 21'-0" lease area containing the equipment shelter and generator shall be screened by a 10' tall masonry wall with solid metal gate painted to be compatible with the architectural tower and buildings.*
7. *The operator of the WCF shall respond to and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
8. *Provide a permanent, weather-proof identification sign, approximately 16-inches by 32-inches in size on the gate of the fence identifying the facility operator(s), operator's address, and 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.*
9. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
10. *No later than 90 days from the date the use is discontinued or the cessation of operations, the owner of the abandoned tower or the owner of the property on which the facilities are sited shall remove all equipment and improvements associated with the use and shall restore the site to its original condition as shown on the plans submitted with the original approved application. The owner or his agent shall provide written verification of the removal of the wireless communications facility within 30 days of the date the removal is completed.*
11. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

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

- A. The proposed location completely obstructs the sidewalk leading from the parking lot to the inline retail shops which eliminates accessibility, connectivity and the opportunity for the required landscaping.
- B. The proposed WCF is a capacity and coverage site.
- C. The proposed WCF and equipment enclosure will be visible from the parking lot, which contradicts the requirement of a stealth design.
- D. No additional landscaping is being proposed around the enclosure, which is a code requirement listed in Section 11-35-5H of the Zoning Ordinance.
- E. The proposed WCF is 146'-7" from Brown Road, and 84'-9" from the residential property to the west.
- F. The proposal would have a detrimental impact on the shopping center and the surrounding neighborhoods by being visibly intrusive due to the limited design efforts to screen the facility and the placement.
- G. The WCF tower, in any design configuration, will be visible from the residential homes to the east and south, from Brown Road and from the parking lot within 300 feet of the proposed location of the Wireless Communication Facility.
- H. The recommended conditions of approval will not prohibit the provision of wireless communication services from the proposed location.
- I. The slight adjustment of the location of the tower away from the pedestrian sidewalk is a feasible alternative from site planning perspective, and will result in better pedestrian connectivity with the street, and provide better pedestrian access for parking spaces west of this location, including ADA access.

Case No.: BA15-038 APPROVED WITH CONDITIONS

Location: 1948 East McKellips Road

Subject: Requesting a Special Use Permit to modify a Comprehensive Sign Plan in the LC zoning district. (PLN2015-00316)

Decision: Approved with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve Case BA15-038 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by these conditions.*
2. *All raceways shall match the color of the building elevation to which the sign is attached, elevations supporting the attached signs, either by integral color of a matching material, or by painting the raceway to match the color of the background elevation.*
3. *Compliance with the previously approved CSP (BA14-032) unless otherwise modified per this request.*
4. *Compliance with all requirements of Development Services in the issuance of sign permits.*

Vote: Passed (6-0)

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

- A. The building has more than 100' of frontage parallel to McKellips Road and is allowed 3 attached signs with a maximum aggregate sign area of 160 square feet per code. The proposed CSP will allow 4 attached signs.
- B. The aggregate square footage of the attached sign area is under the allowed code requirement at 108.29 sf.
- C. The McDonald's does not have an individual sign monument sign as they are utilizing the group commercial monument sign with multiple tenant panels
- D. The canopy signs and the directional signs are not substantially visible from beyond site boundaries or public right-of-ways.
- E. The requested modifications will be compatible with and not detrimental to surrounding properties.
- F. The requested SUP is in conformance with the Commercial Center character area identified the Mesa 2040 General Plan.

Case No.: BA15-042 APPROVED WITH CONDITIONS

Location: 526 West Rio Salado Parkway

Subject: Requesting a Variance to allow a fence to exceed the maximum height permitted when located within the required street side setback in the RM-4 zoning district. (PLN2015-00366)

Decision: Approved with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve case BA15-042 with the following conditions:

1. *Compliance with the site plan as submitted, except as may be modified by conditions listed below.*
2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
3. *Compliance with all requirements of the Transportation Department with regard to access to a public street and sight line visibility standards.*

Vote: Passed (6-0)

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

- A. The existing 86 unit apartment complex on a 2.3 acre site was constructed in the early 1980's.
- B. Close proximity and access to several newer regional scale commercial developments, and to the 101 and 202 Freeways, have impacted this site through increased traffic on Rio Salado Parkway. The increase in traffic occurred after the construction of this apartment project in the early 1980's.
- C. The buildings, parking and circulation are existing on the site and are pre-existing, built in conformance to the standards in place at the time of development, and are not self-imposed conditions.
- D. Strict compliance with the placement of the 6' high fence behind the 20' setback would impact the design of the parking and circulation of the site, resulting in a reduced number of parking spaces. In turn, reducing the number of parking spaces does create undue hardship to the property owner, as it would create another non-conforming condition (fewer than the minimum number of parking spaces) on the site.
- E. The apartment complex to the east has an existing 6' high wrought iron fence with gates placed adjacent to West 9th Street. It is common for apartment complexes to have such security and traffic control related 6-ft high fencing at the perimeter of the site.

- F. The request does not involve an expansion or intensification of the apartment complex.
- G. Strict compliance with development standards would deprive the property owner of a privilege enjoyed by surrounding property owners.
- H. An e-mail has been received from the City of Mesa Transportation Department, dated August 11, 2015. It indicates that they accept the gate concept, and lists additional requirements for full compliance with Traffic Safety requirements needed to obtain required building permits for this fence project.

Case No.: BA15-043 APPROVED WITH CONDITIONS

Location: 3852 North Hawes Road

Subject: Requesting a Variance to allow a detached accessory structure to be constructed in front of the front line of the primary dwelling in the RS-90 zoning district. (PLN2015-00379)

Decision: Approval with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve case BA15-043 with the following conditions:

1. *Compliance with the site plan as submitted, except as may be modified by conditions listed below.*
2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
3. *The east wall of the detached garage shall be located no more than 8'-2" in front of the home.*

Vote: Passed (6-0)

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

- A. The existing home and garage are located within the boundaries of two washes on the north and south sides of the property. Building the proposed garage behind the front face of the primary structure would create a situation where the structure would encroach into a wash regardless of what side of the property that the structure is sited.
- B. The home was sited in a manner that does not allow enough clearance to accommodate the proposed garage to be sited behind the front face of the primary structure on either the north or south side of the lot.
- C. Strict compliance with development standards would deprive the property owner of a privilege enjoyed by surrounding property owners.
- D. As proposed, the property will not receive a special privilege due to other lots in the general area usually being able to accommodate a garage with 4 bays.
- E. The property was previously granted a variance (ZA00-096) for a similar request based on the current site constraints.

Case No.: BA15-044 APPROVED WITH CONDITIONS

Location: 4325 and 4349 East Pueblo Avenue

Subject: Requesting a Development Incentive Permit (DIP) to facilitate development of a place of worship on an infill site located in the RS-35 zoning district. (PLN2015-00381)

Decision: Approval with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve case BA15-044 with the following conditions:

1. *Compliance with the site plan as submitted, except as may be modified by conditions listed below.*
2. *The five parking spaces on the northeast corner of the property along Pueblo Avenue shall be removed. If desired, these spots can be relocated by expanding the middle row of parking on the east side of the building not to exceed more than 8 parking spaces in a row and 24' for the drive aisles on either side of the landscape caps.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
4. *Parking lot lighting shall be placed in the parking lot and not the landscape islands.*
5. *Of the trees provided on site, 25 percent shall be 36" box and the remainder shall be 24" box.*

Vote: Passed (6-0)

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

- A. This request for a DIP would allow for a place of worship to be constructed in the RS-35 zoning district.
- B. The use of a place of worship is consistent with the "Neighborhood Agriculture" character area as identified in the Mesa 2040 General Plan.
- C. The two parcels have been by-passed by surrounding development.
- D. The closest vacant parcel is approximately 1,321 feet to the south.
- E. The proposed site improvements meet the intent of the development standards listed in the Zoning Ordinance.

Case No.: BA15-045 APPROVED WITH CONDITIONS

Location: 1255 East Southern Avenue

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to facilitate redevelopment of a group commercial center in the LC zoning district, including a proposed encroachment into a required setback required for a commercial loading area when placed adjacent to a residential zoning district. (PLN2015-00385)

Decision: Approval with Conditions

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to approve case BA15-045 with the following conditions:

1. *Compliance with the site plan as submitted, except as may be modified by compliance with the conditions below.*
2. *Compliance with all conditions listed for Administrative Review cases PLN2013-00353 (both September 18, 2013 and February 18, 2014 letters), and PLN2015-00100.*
3. *Compliance with all requirements of the Development Services Department in the review and issuance of a building permit.*

Vote: Passed (6-0)

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

- A. The initial site plan approval for this group commercial center came in 1991 (Z91-051), and Design Review approval came in 1992 (DR92-001). The site was developed with a grocery tenant designed to old the anchor tenant space. This initial tenant has left, and a subsequent tenant has occupied the space, and left. The site has since remain vacant for several years.
- B. The applicant has completed extensive remodeling and redevelopment of the center, each of these applications has not triggered a requirement to bring the site into conformance with present zoning ordinance development standards, but has represented significant reinvestment into a commercial center.
- C. The existing truck well loading dock is approximately 41-ft from the east property line, which is coterminous with a single residence subdivision. As such, it is a 9-ft encroachment into the present 5ft setback for loading docks from residential zoning districts. The proposed widening of the existing dock is not a new encroachment, but an expansion of an existing encroachment into a setback.
- D. The applicant has proposed to offset impacts related to the additional encroachment by increasing the height of a screen wall placed immediately next to the truck well to 12'ft,

and extending this 12-ft high wall over 50-ft from the loading/receiving dock. In addition, the applicant is extending the enclosed receiving bay closer to edge of the loading dock to further address questions about excess light and noise that may occur during loading and receiving operations. Extending the enclosed receiving shed closer allows materials to be transferred from the truck trailer to the interior of the grocer's back of space warehouse area more quickly, and impacts of excess light and noise become better attenuated by the enclosed space.

Case No.: BA15-046 WITHDRAWN BY APPLICANT

Location: 861 East Mahoney

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) for a proposed assisted living facility, including possible reductions to the minimum number of on-site parking spaces, and allowances for existing buildings to remain encroaching into required perimeter building setbacks, all in the RM-4 zoning district. (PLN2015-00326)

Decision: Withdrawn

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

Motion: It was moved by Boardmember Swanson seconded by Boardmember Sarkissian to withdraw case BA15-046.

Vote: Passed (6-0)

OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,



Gordon Sheffield, AICP CNU-a
Zoning Administrator