

Board of Adjustment

Staff Report

CASE NUMBER: BA16-014 (PLN2016-00204)
LOCATION/ADDRESS: 330 S. Gilbert Road
COUNCIL DISTRICT: District 4
STAFF PLANNER: Lisa Davis, Planner II
OWNER: Nasser Zaghi
APPLICANT: Bill Reiff

REQUEST: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to improvement standards for the development of a retail pad in an existing commercial group center in the LC zoning district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the addition of a retail pad for an 106 square feet (SF) ice house kiosk within an existing group commercial center at 330 S. Gilbert Road (located just north of Broadway Road on the east side of Gilbert Road). The SCIP application requests to add a pad site to an existing non-conforming, group commercial site. In doing so, the SCIP application addresses the following: 1) a reduced landscape setback adjacent to Gilbert road and at the north property line; 2) a reduction to the amount of landscape material required for perimeter landscape; 3) a reduction of parking lot landscape islands, which are required to be installed every 8 parking spaces and; 4) elimination of a street side parking screen wall.

The proposed improvements to the site include:

- 1) Installation of a new retail pad site for the ice house kiosk,
- 2) Addition of landscape material adjacent to Gilbert Road for the entire commercial center, and
- 3) Addition of landscape material within the foundation base area of the new 106 SF building.

The requested reductions would allow for the addition of a retail pad for an existing nonconforming site, without bringing the entire site into 100% conformance with current standards.

STAFF RECOMMENDATION

Staff recommends **approval** of case BA16-014, *conditioned upon following:*

1. Compliance with the site plan and landscape plan submitted, except as modified by the conditions below;
2. Compliance with all requirements of Site Plan approval.
3. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.
4. Compliance with all requirements of Design Review **showing compliance with Building Design standards in Mesa Zoning Ordinance (MZO) Section 11-6-3.C.**
5. **Mechanical units shall be fully screened by the design of the building as required in MZO Section 11-30-9.**
6. **There shall be a minimum of three bicycle parking spaces provided on the site as per MZO Section 11-32-8.**
7. **The hedge adjacent to Gilbert Road utilized for screening of parking and circulation area shall be maintained. As plants die or become diseased, these plants shall be replaced.**
8. **All signs will be required to meet all requirements of the Sign Ordinance, Article 5 of the MZO.**

CASE SITE: Existing group commercial center – Zoned LC
NORTH: (Across the alley) Existing single residence – zoned RS-7
EAST: (Across Gilbert Road) Existing single residence – zoned RS-6
SOUTH: Existing restaurants – zoned LC
WEST: Existing multi-residence – zoned RM-4 and vacant parcel –zoned RM-3

PROJECT DESCRIPTION

Existing overall commercial center: 2.0 ± acres
Proposed Ice kiosk retail pad: 351 SF (13' x 27')
Existing commercial building size: 32,661 SF
Proposed ice kiosk building: 106 SF
Existing Parking spaces for the center: 139 Spaces
Required Parking spaces for the center: 119 Spaces at 1/275 spaces for group commercial buildings
Revised Parking spaces for the center: 133 Spaces

STAFF SUMMARY AND ANALYSIS

Development Standard	Code Requirement	Applicant Proposed	Staff Recommendation
<i>Setback for overall commercial center (building/landscape)</i> Gilbert Road North Property Line West Property Line South Property Line	15 feet 25 feet building/20 feet landscape 20 feet building/15 feet landscape 15 feet building/15 feet landscape	0 feet existing from future ROW 0 feet existing 20 feet building/ 0 feet landscape 15 feet building/5 feet landscape	As proposed As proposed As proposed As proposed
<i>Foundation Base for the pad</i> East elevation North elevation West elevation South elevation	5 feet 15 feet 10 feet 10 feet	5 feet 18 feet 10 feet 13 feet	As proposed As proposed As proposed As proposed
<i>Landscape material for overall commercial center</i> Gilbert Road North Property Line West Property Line South Property Line	16 trees & 96 shrubs 12 non-deciduous trees 5 non-deciduous trees 7 non-deciduous trees & 50 shrubs	16 trees & 99 shrubs 0-no landscape area 0-no landscape area 0 landscape material	As proposed As proposed As proposed As proposed
<i>Landscape material at Foundation Base</i>	3 trees total	3 trees total	As proposed

- The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow to modifications of improvement standards to add a new retail pad within an existing nonconforming group commercial center. The new retail pad is proposed to be used as a 106 SF ice house kiosk. It will be a 24 hour walk up kiosk dispensing ice. A narrative is attached from the applicant.
- The existing 2± acres site with the 32,661 SF building was developed in the 1970's. The new retail pad will remove a total of 6 parking spaces however the overall center will still comply with current codes. Required number of parking spaces is 119 spaces and the total number proposed after the removal of the six spaces is 133 spaces.

- In the 1970's a limited number of parking lot landscape islands were installed in the center at that time. The request does not include installation of additional parking lot landscape islands. However with the installation of the retail pad will include added foundation base landscape that will soften the large parking field and the buildings of the center.
- The commercial center was constructed with no landscape area at the west or north side of the property. A 5' landscape area is provided at the south side of the site. Although no landscape material occurs adjacent to the south side. There are a number of bollards placed within this 5' setback. Requiring landscape material, irrigation system and curb would far exceed the proportion of improvement to the site for the 106 SF retail pad.
- According to the proposed landscape plan, there will be ten 24" box trees to be installed along with additional landscape material adjacent to Gilbert Road. This will bring the site into compliance with current landscape code for the landscape area adjacent to Gilbert Road.
- As justification for the SCIP, the applicant has noted:
 - 1) Parking is proposed meet code requirements;
 - 2) Landscape areas and material will be added to the site;
 - 3) The use is consistent with the commercial center; and
 - 4) Full compliance with code for the overall center would far exceed the proportion of improvement proposed for the site.
- Screening for the parking adjacent to Gilbert Road is required to meet section 11-30-9.H which includes screen wall. Existing on the site is a dense hedge that has been maintained to screen cars and circulation. Addition of additional shrubs and trees will further improve the street frontage. Additionally there is limited space between the property line and parking area to provide a screen wall.
- Full compliance with current Code development standards would require significant demolition of buildings and alterations to the existing development site, including elimination of the north side of the commercial center and the disruption of vehicular circulation. Improvements to the site have been proposed that improve the site's overall compliance with current development standards.
- The intent of a SCIP is to recognize existing site constraints, and work proportionately with the degree of improvement being sought by the applicant to also improve the property based upon the development standards. The proposed improvements with the added conditions of approval constitute the greatest degree of compliance with current development standards without requiring demolition of the existing buildings or other significant improvements to the site. Deviations to current development standards are necessary to accommodate the addition of a new retail pad for this commercial center. The deviations requested will allow the development of the site in a manner that is consistent with development at other similar sites. The deviations will result in a development compatible with and not detrimental to, adjacent properties or neighborhoods.

FINDINGS:

1. The existing group commercial center project was developed in the 1970's.
2. This application will allow for a 106 SF retail pad to be installed within the existing commercial center.
3. The minimum number of parking spaces, 119 spaces, will be exceeded with the proposed 133 spaces.
4. The entire site will be brought into substantial conformance with the Zoning Ordinance. Full compliance with development standards is not in proportion to the proposed site improvements. It would require demolition of the retail building to the north to building and landscape setbacks. Requirements to meet the landscape setback will impact the vehicular circulation to the west and is not in proportion to the amount of improvements proposed for the site.
5. With the approved deviations, the improvements to the site will include installation of additional landscape material adjacent to Gilbert Road to bring the site into conformance with current codes per section 11-33.
6. The parking and circulation area is currently screened by a well maintained dense hedge. There is limited space between the property line and the parking lot curb to require the addition of a screening wall. Additional landscape material including additional trees and shrubs will be added to the Gilbert Road frontage that will further expand the screening of the parking and circulation area.
7. The deviations requested are consistent with the degree of change requested and improve the site.
8. The proposed improvements with the recommended conditions of approval help bring the site into a closer degree of conformance with current standards.
9. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

ORDINANCE REQUIREMENTS:

Chapter 73, Substantial Conformance Improvement Permits (SCIPs)

Section 11-73-1 Purpose and Applicability

The purpose of this chapter is to establish a review process by which improvement standards required by this [Ordinance](#) can be incrementally installed on non-conforming sites when such sites are enlarged; buildings are replaced, extended or have additions constructed; or other site modification developed. The intent is to recognize existing site constraints, and work proportionately with the degree of improvement being sought by the applicant to also improve the property based upon the development standards adopted by the Ordinance, and therefore bring non-conforming developments into substantial compliance with this Ordinance through approval of a [Substantial Conformance Improvement Permit](#) (SCIP).

Section 11-73-2 Allowed Modifications

The only development requirements that may be modified in a [SCIP](#) are building setbacks, landscaping design, on-site parking, building height, right of way dedication, and other site development provisions, contained in this [Ordinance](#).

Section 11-73-3 Required Findings

A [SCIP](#) shall not be granted unless the [Zoning Administrator](#), acting as a [Hearing Officer](#), or [Board of Adjustment](#) shall find upon sufficient evidence that:

- A. The entire development site will be brought into substantial conformance. Substantial conformance shall mean physical improvements to the existing development site which constitute the greatest degree of compliance with this [Ordinance](#) that can be attained without causing or creating any of the following conditions:

1. The demolition or reconstruction of existing buildings or other significant structures (except signs); or
 2. The cessation of the existing conforming use, or the preclusion of any other lawful, permitted use.
 3. The creation of new non-conforming conditions.
- B. The improvements authorized by the [SCIP](#) will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.