

## Board of Adjustment

### *Staff Report*

**CASE NUMBER:** BA16-044 (PLN2016-00577)  
**STAFF PLANNER:** Kaelee Wilson  
**LOCATION/ADDRESS:** 1927 North Gilbert Road  
**COUNCIL DISTRICT:** Council District 1  
**OWNER/APPLICANT:** CVP-Village Grove, LLC- Zach Bonsell

**REQUEST:** Requesting: 1) a Substantial Conformance Improvement Permit (SCIP) and; 2) a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP), both associated with the development of a drive-thru restaurant in the LC zoning district.

### **SUMMARY OF APPLICANT'S REQUEST**

The request for a SCIP will allow a pad drive-thru restaurant to be constructed in a parking lot of an existing shopping center. The Village Grove shopping center is located on the southeast corner of Gilbert and McKellips Road and was initially constructed in 1974.

### **STAFF RECOMMENDATION**

Staff recommends **approval** of case BA16-044, *conditioned upon the following:*

1. *Compliance with the site plan and elevations submitted, except as modified by the conditions below.*
2. *Compliance with all requirements of Design Review approval;*
3. *Compliance with all requirements of Administrative Site Plan Modification;*
4. *Compliance with all requirements of Development Services in the issuance of building permits;*
5. *All landscaping material throughout the shopping center shall be replenished shown on the approved landscape plan from case DR99-075.*
6. *The Comprehensive Sign Plan shall be continued to the October 5, 2016 Board of Adjustment meeting.*
7. *All parking spaces shall be 9' wide by 18' long.*

### **SITE CONTEXT**

**CASE SITE:** Existing parking lot- zoned LC  
**NORTH:** (across McKellips Road) Existing bank and residential subdivision - zoned LC and RS-9  
**EAST:** Existing residential development – zoned RS-9PAD  
**SOUTH:** Existing residential development – zoned RS-9PAD  
**WEST:** (across Gilbert Road) Existing commercial uses - zoned NC and LC

### **STAFF SUMMARY AND ANALYSIS**

The project site is currently a parking lot that serves the existing uses within the shopping center. The proposal is for a 2,000 square foot drive-thru Starbucks with a 300 square foot outdoor patio. The building will be oriented with the long-axis parallel with Gilbert Road, and the drive-thru lane wrapping the western and part of the northern portions of the property.

The overall shopping center met code standards at the time of construction but doesn't currently meet development standards. The proposed building would continue the existing setback and is not proposing to encroach further.

A summary of the applicant's proposal and staff recommendations for the site is provided in the table below:

Development Standard	Code Requirement	Applicant Proposed	Staff Recommended
<b>Landscape Setbacks for center</b> McKellips Rd. East Gilbert Rd. South	15' 25' 15' 25'	15' 40' 10'-6" Approx. 5'	As proposed As proposed As proposed As proposed
<b>Foundation Base</b> Front of building (east) Drive-thru side (west) North South	15' 2' 5' 15'	Varies: 8'-9" – 26-9" Varies: 4' Varies: 0'-10' Varies: 5'plus	As proposed As proposed  As proposed
<b>Required Parking for Group Commercial Center</b>	320 spaces	326 spaces	Meets Code
<b>Landscape setback adjacent to drive-thru lane</b>	7'	4'	As proposed
<b>Drive-Thru Queing Distance</b>	100' from order box to pick-up window 40' from order box to entry of drive-thru	100' 21'	As Proposed

As listed in the table above, the proposed building does deviate from several development standards. Staff supports the deviations as the new building will be a positive addition to an older shopping center. The proposed building does not intensify any non-conformities for the overall shopping center.

There is currently a parking variance approved for the commercial recreation use (Z99-049), Kids that Rip, which is based on the parking requirements in place before 2011. Under the current Zoning Ordinance, the entire center (including Kids that Rip) would be parked at 1 space per 275 square feet. This excludes the Starbucks pad site that must be parked at 1 space per 100 square feet. The overall Village Grove shopping center, Starbucks included, requires a total of 320 parking space. After the construction of Starbucks there will be a total of 326 parking spaces on site. In addition, the applicant has provided a parking study that was conducting four times a day for several days. At no given point of that study were all of the parking spaces utilized. The highest number of spaces used was 114 spaces at 6 pm (a peak time for several restaurants and the Kids that Rip facility).

There is concern about the general entry into the drive-thru lane with multiple lanes of traffic. A condition of approval has been added that includes a requirement for Administrative Site Plan approval. This additional review will allow staff and the applicant to work on a solution for the drive-thru entry. Any revisions to the site plan that may arise through the additional review process for the drive-thru entry should not impact the SCIP or create any additional deviations.

Additional time to work with the applicant in regards to the Comprehensive Sign Plan is needed. A continuance is recommended for Comprehensive Sign Plan portion of the request.

With the proposed design, the site will be in substantial conformance with current code. Improvements to the existing development constitute the greatest degree of compliance without full demolition of the existing site improvements. Full compliance with all requirements would significantly limit a lawful, permitted use of this site.

#### **FINDINGS**

1. This request will allow for the development of a coffee shop. The coffee shop will have a drive-thru and outdoor seating.
2. The site comes into substantial conformance with foundation base requirements and parking lot landscape requirements.
3. The site cannot come into full conformance with code without significant modification to the site.
4. The improvements will be compatible and not detrimental to the surrounding neighborhood.
5. Based on the applicant's parking study there is adequate parking on site for this use.

#### **ORDINANCE REQUIREMENTS:**

##### **Zoning Ordinance, Sec. 11-73-3 – Substantial Conformance Improvement Permits – 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.