

Board of Adjustment

Staff Report

CASE NUMBER: BA16-038 (PLN2016-00456)
LOCATION/ADDRESS: 1133 S. Dobson Road
COUNCIL DISTRICT: District 3
STAFF PLANNER: Lisa Davis, Planner II
OWNER: Phoenix Dobson LLC
APPLICANT: Goodman Childcare – Kyle Goodman and Kay Walsmith

REQUEST: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards for the development of a childcare facility in the LC zoning district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a Substantial Conformance Improvement Permits (SCIP) to allow for development of a child care center, Goodman Childcare, in an existing commercial center located at 1133 S. Dobson Road. The SCIP application includes requests to:

- 1) Reduce the required landscape setbacks adjacent to Dobson Road and Southern Avenue; and
- 2) Reduce the required landscape setback at the north property line from 15' to 0' and the east property line from 15' to 0'.

The proposed improvements to the site include installation of a 6' high wrought iron fence to enclose a 6,268 SF outdoor play yard with a 5' side landscape area at the north side, and installation of raised planters at the south elevation or main entrance of the building. The requested modifications would allow for development of a childcare center within an existing nonconforming site, without bringing the entire site into conformance with current standards.

STAFF RECOMMENDATION

Staff recommends **approval** of case BA16-038, *conditioned upon following:*

1. Compliance with the site and landscape plan submitted, except as modified by the conditions below;
2. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.
3. **A total of 4 trees shall be added to the proposed 5' wide landscape at the north side of the outdoor play area identified on sheet AS102 or elsewhere on the site as approved by the Planning Director.**
4. **There shall be a minimum of three bicycle parking spaces provided on the site as per MZO Section 11-32-8.**

CASE SITE: Existing commercial center – Zoned LC
NORTH: Existing multi residence – zoned RM-2 PAD
EAST: Existing multi residence – zoned RM-3
SOUTH: (Across Southern Ave) Existing multi-residence development – zoned RM-2-PAD
WEST: (Across Dobson Rd) Existing college– zoned PS

PROJECT DESCRIPTION

Existing overall commercial center: 8 acres ±
 Existing Building for childcare: 6,013 SF
 Proposed Outdoor play area: 6,268 SF
 Parking required for the overall center: 362 spaces
 Parking Provided for the overall center: 407 spaces

STAFF SUMMARY AND ANALYSIS

The applicant has proposed to develop a new childcare center within an existing commercial center located at the northeast corner of Dobson Road and Southern Avenue. The original commercial center and the townhouses to the north were constructed in the early 1970's. The childcare center is proposed to be located in the building at 1133 S Dobson which is at the north side behind the existing bank that is adjacent to Dobson Road. In 1991, ZA91-060, a variance was approved for reduction of landscape requirements and elimination of parking screening for the development of the Taco Bell Pad adjacent to Dobson Road.

A summary of the minimum code requirements, a portion of the applicant's proposal and staff recommendation for the site is provided in the table above and in discussion below.

| Development Standard | Code Requirement | Applicant Proposed | Staff Recommended |
|--|------------------|---------------------------------|---|
| <i>Setback (building/landscape)</i> | | | |
| Dobson Road | 15 feet | Landscape-Less than 5' in areas | As proposed |
| Southern Avenue | 15 feet | Landscape-Less than 5' in areas | As proposed |
| North Property Line | 20 feet | Landscape-0 feet | As proposed |
| East Property Line | 20 feet | Landscape-0 feet | As proposed |
| <i>Foundation Base</i> | | | |
| West elevation | 5 feet | 5 feet | As proposed |
| South elevation | 15 feet | 15 feet | As proposed |
| North elevation | 10 feet | 21 feet | As proposed |
| East elevation | 5 feet | 30 feet | As proposed |
| <i>Landscape material at Foundation Base</i> | 6 trees total | 0 trees total | 4 trees to be planted in the 5' landscape island at north side of play area |

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards. Because the overall commercial center was constructed in the 1970's it does not meet a number of the current development standard requirements including the required 15' landscape setback adjacent to Dobson Road and Southern Avenue, a 20' landscape setback at the north and east adjacent multi-residence, screening for parking or the landscape islands required every 8 spaces within the parking field. Requiring the overall commercial center to comply with all current development standards to allow for the childcare center would require significant demolition and reconstruction to the 8-acre site. The proposed setbacks and shown landscape islands can be justified because strict compliance with code would significantly impact the site as it would require significant alteration to existing parking and circulation areas.

A 6,268 SF outdoor play area is proposed to be installed with the childcare center at the north and east side of the building. The installation of the outdoor play area will eliminate 10 parking spaces. A parking calculation sheet and plan have been provided that show the overall commercial center is currently over parked by 54 spaces. The 407 total number of parking spaces after the removal of the 10 spaces will meet the minimum 362 spaces required by code.

The outdoor play area includes shade structures, play equipment, basketball hoop and four square court. It will be enclosed by a 6' high wrought iron fence that begins at the west side of the building and wraps around to the north side. Referring to sheet AS102, a 5' wide landscape area is also proposed at the north side of the wrought iron fence to provide the needed separation between the play area and the drive aisle. The drive aisle will be reduced from 25' to 20' and will meet all code requirements.

The addition of the 5' wide landscape planter at the north side of the outdoor play area will be a significant improvement to the site. Landscape materials proposed include two types of shrubs. Staff is recommending that 4 trees also be installed in the landscape planter. This will partially fulfill the requirement of 6 trees for foundation base material as shown table above. The installation of the landscape planter will bring the site into substantial conformance with code.

In the future as a larger portion of the commercial center begins to redevelop, staff would suggest installation of landscape material including shrubs and trees to be installed adjacent to Dobson Road and Southern Avenue. Screening of the parking and circulation areas and additional landscape islands should also be reviewed when the time is right for redevelopment of the overall site.

As justification for the SCIP, the applicant has noted:

1. Full implementation of code standards removes substantial portions of parking and circulation for the site;
2. Proposed improvements include installation of outdoor play area with significant amenities that will re-purpose a part of the seldom used parking area of the commercial center;
3. Proposed site improvements include installation of a 5' wide landscape planter area with shrubs at the north side of the outdoor play area where there is not landscape;
4. Proposed raised planters at the main entrance (south elevation) of the building and within the play area.

After reviewing the existing commercial center and the proposed childcare facility, it has been determined that full compliance with current development standards would require significant alteration to the existing development site. 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 improvements. There is no creation of new non-conforming conditions. Deviations to current development standards are necessary to accommodate the redevelopment of this site with a viable use. 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 commercial center was developed in the early 1970's with existing landscape setbacks at all sides, screening for parking or vehicular circulation is not provided and limited landscape islands within the parking field.
2. Full compliance with development standards would require demolition of a significant amount of the existing site improvements, including removal of parking required for the proposed new use.
3. With the approved deviations, the proposed improvements to the site include installation of a landscape planter at the north side of the outdoor play area and landscape planters at the south elevation.
4. The deviations requested are consistent with the degree of change requested to improve the site.
5. No new non-conforming conditions are proposed.
6. The number of parking spaces after the removal of 10 spaces for the childcare center will meet minimum code requirements.
7. The proposed improvements (based on the submitted plans) together with the recommended conditions of approval will help bring the site into a closer degree of partial conformance with current standards.
8. 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 (SCIP)

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.