Board of Adjustment

Minutes

City Council Chambers, Lower Level
August 3, 2016

Board Members Present:
Trent Montague, Vice Chair
Wade Swanson
Tony Siebers
Ken Rembold
Terry Worcester
Kathy Tolman

Board Members Absent:
Steve Curran (excused)

Staff Present:
Gordon Sheffield
Lisa Davis
Kaelee Wilson
Kim Steadman
Michael Gildenstern
Kelly Gregan
Rebecca Gorton

Others Present:
Rob Peterson
Richard Warren
Jody Peterson
Tom Hunt
Melissa Hammons
Craig Stevens

The study session began at 4:31 p.m. and concluded at 5:17 p.m. The Public Hearing began at 5:41 p.m. Before adjournment at 7:44 p.m., the following items were considered and recorded.

Study Session began at 4:31 p.m.

A. Election of new Chair and Vice Chair
Boardmember Swanson nominated Boardmember Siebers as Chair and nominated Vice Chair Montague to remain as Vice Chair. The motion was seconded by Boardmember Rembold.
Vote: 6-0 (Boardmember Curran, absent)

B. Zoning Administrator's Report
Gordon Sheffield requested early discussion of case BA16-036 due to the need of a resident wishing to speak to the Board as he is unable to remain at the meeting due to a disability. Mr. Sheffield reviewed the history of the case and stated the requirements for a detached structure have not changed since 1958 and the property owner could have designed construction that would meet requirements.

Resident Leonard Anuik of 2134 E. Glencove Street spoke in opposition of the approval. Mr. Anuik stated the power company, SRP, recently dug up the power line between his property and the applicants which created a power outage to his home. Mr. Anuik feels that the structure placed on the electric easement is the reason the power went out and is concerned he will lose power again if the structure is not removed. Mr. Anuik stated he has health issues which require the use of power services. The Board will continue discussion of this case during the public hearing.

Mr. Sheffield updated the Board on the status of the sign ordinance and stated that presentations to council will begin in September.

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

Study Session adjourned at 5:33 p.m.

Public Hearing began at 5:41 p.m.

A. Consider Minutes from the June 1, 2016 Meeting: A motion was made by Boardmember Swanson with the correction of the time the Public Hearing adjourned and seconded by Boardmember Rembold to approve the minutes as written.
Vote: Passed 6-0 (Boardmember Curran, absent)

B. Consent Agenda: A motion to approve the consent agenda as read by the Vice Chair to include the acceptance of Facts of Findings and Conditions of Approval that are recommended by staff and contained in their case reports; as well as the specific clarification made by Mr. Sheffield regarding case BA16-033 for the approval of the Substantial Conformance Improvement Permit and continuance of the Special Use Permit was made by Boardmember Swanson and seconded by Boardmember Rembold.
Vote: Passed 6-0 (Boardmember Curran, absent)

Public Hearing adjourned at 7:44 p.m.

Case No.: BA16-022 **APPROVED WITH CONDITIONS**

Location: 1437 E. Main (District 4)

Subject: Requesting a Special Use Permit (SUP) to allow a wireless communication facility to exceed the maximum height permitted in the CG zoning district (PLN2016-00283).

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plans and elevations submitted, except as modified by the following conditions:
2. Compliance with zoning development standards for wireless communications facilities, MZO Section 11-35.
3. The wireless communication facility shall utilize a stealth monopalm design specifically designed to look like a Faux Date Palm, with a maximum height of forty-nine -feet (49') to the top of the fronds and forty-four feet (44') to the top of the antenna array.
4. The 18'-0"x32'0" lease area containing the equipment shelter and generator shall be entirely screened by a masonry wall, proposed at 8', that extends 12-inches in height beyond the height of the equipment, and include a solid metal gate painted to be compatible with the building on site.
5. The masonry wall shall feature an upgraded design including texture, color, and design compatible with the adjacent buildings/walls.
6. The wireless communication facility enclosure shall be bordered on all sides by a 4' wide landscape buffer with landscape materials as identified in MZO Section 11-33-3.B.2) for perimeter landscape.
7. The wireless communication facility shall be concealed using stealth design of a Faux Date Palm with a minimum of 65 palm fronds. The Palm fronds shall be a minimum of 11-feet in length with 10% of the fronds at a minimum length of 12-feet. The palm fronds shall be blended to ensure the antennas and equipment are completely concealed.
8. Any future alteration (including but not limited to collocation, antenna replacement, or replacement of transmission equipment on an existing wireless tower or base station) shall not defeat the stealth monopalm appearance or the concealment of the antennas or equipment.
9. 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.
10. The antenna array stand-off shall not exceed 1'-6" maximum from the pole.
11. The antenna array for each sector shall not exceed an overall length of 8'
12. The antennas shall not exceed 18.8" wide x 8' tall x 19.7" deep.
13. All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.

14. As part of the proposed concealment for the monopalm stealth design provide and maintain two natural living palm trees (minimum 35' high) which must be located within 20' of the equipment enclosure to help camouflage the proposed wireless communication facility.
15. 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.
16. Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.I.
17. 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.
18. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The proposed location is a commercially zoned site that is currently vacant between existing in-line retail commercial centers.
B. The proposed WCF is a coverage site.
C. The proposed equipment enclosure will be fully screened by the proposed 8' masonry wall.
D. The WCF is proposed to be located 118± feet away from the residential property to the south. The minimum required setback is 50'.
E. The WCF is proposed to be located 117± feet away from the Main Street right of way and the minimum required setback is 50'
F. Perimeter landscape material is required to be installed at the minimum 4' to meet MZO Section 11-35-5.H.
G. The improvements will be compatible and not detrimental to the surrounding neighborhood.

Case No.: BA16-025 **APPROVED WITH CONDITIONS**

Location: 2642 N. Mesa Drive (District 1)

Subject: Requesting a Variance to allow room additions to an existing single residence to encroach into front, side and rear building setbacks in the RS-43 zoning district (PLN2016-00334)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan submitted expect as modified by conditions below.
2. The required front yard, side yard, and rear yard setbacks and maximum building coverage for the subject site shall be consistent with the base RS-7 zoning district. Front yard shall be 10' to livable primary wall and 20' to a garage or carport; rear yard setback minimum shall be 20' and side yard setbacks shall have a minimum of 5' and an aggregate total of 15'.
3. Maximum building coverage is 45% of the lot.
4. **The "existing gravel drive" indicated on the site plan is located within the right of way. No permanent improvements to the existing gravel drive, including but not limited to paving, can occur without review and approval from the Development Services Department.**
5. Compliance with all requirements of the Development Services Department with regard to the issuance of building permits.

Vote: Passed (6-0; Boardmember Curran, absent)

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

- **A.** The house was built in the early 1950's and the current owner purchased the property in 2010.
- **B.** The lot is significantly smaller at 8,164 SF than the minimum 43,560 SF lot required for the RS-43 zoning district.
- **C.** The dimensions of the lot are 88' wide by 92' deep and a minimum 130' wide and 150' depth is required for the RS-43 zoning district.
- **D.** The proposed remodel and addition will improve appearance for the neighborhood.
- **E.** The existing house is 13'-6" from the front property line.
- **F.** The lot to the south, 2634 N Mesa Drive, received a variance for reduction in setbacks for the construction of a new house, ZA00-104.
- **G.** Rezoning to RS-7 is not a supportable option in this location.
- **H.** The applicant has provided sufficient justification related to the physical constraints of the land, which would justify the degree of the requested variance.
- **I.** Further, strict compliance with Code would deprive the property of the ability to construct a detached building in the rear portion of the lot.

Case No.: BA16-026 **APPROVED WITH CONDITIONS**

Location: 2912 E. McKellips Road, #16B (District 1)

Subject: Requesting a Variance to encroach into the rear yard setback for a manufactured home in a manufactured home park in the RM-4 zoning district. (PLN2016-00349)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan submitted expect as modified by conditions below.
2. Compliance with all requirements of the Development Services Department with regard to the issuance of building permits.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The Mesa Grande Manufactured Home Park was established in the early 1960's.
B. Mesa Grande Manufactured Home Park was annexed into Mesa in 1979 and subsequently comparably zoned RM-4, Z80-020A.
C. The current MH Park owner purchased the property in 2012.
D. The existing MH that has separate ownership from the MH Park was placed on the lot in 2009. The non-compliance of setback requirements was revealed in 2015.
E. There is a maintenance equipment storage building to the west/rear of the space 16-B and is depicted as 13'-6" to the designated space line to the east adjacent to space 16-B. There is a total of 17'-2" at the closest point between the maintenance building and the MH.
F. The street side yard is more than 7' setback that exceeds the minimum 5' side yard setback.
G. More than 50% of the existing manufactured homes are encroaching into the required 10' rear yard setback.
H. The applicant has provided sufficient justification related to the constraints of the park, which would justify the degree of the requested variance.
I. Further, strict compliance with Code would deprive the property of the ability to place a manufactured home in space 16-B.

Case No.: BA16-027 **APPROVED WITH CONDITIONS**

Location: 608, 610 and 616 E. Southern Avenue (District 4)

Subject: Requesting: 1) a Substantial Conformance Improvement Plan (SCIP) to allow an existing professional office building to be used for a medical office, and; 2) a Special Use Permit (SUP) for a reduction in the required parking spaces all in the RM-4 zoning district. (PLN2016-00350)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site 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. The pedestrian connection from Southern Avenue must be comprised of pavers or stamped concrete.
4. The new refuse enclosure shall comply with Solid Waste requirements.

Vote: Passed (6-0; Boardmember Curran, absent)

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

FINDINGS SCIP:

A. The buildings in the group commercial center were built in the early 1980's.
B. If the site were brought into full compliance with current development standards, it would prevent conforming uses from operating on the property.
C. Full compliance with Code would require the setbacks be dimensioned from the 65-foot half street which would eliminate 32 parking spaces from an already under parked site; thus intensifying a non-conformity.
D. With the recommended condition of approval, the site will come into the furthest compliance with Code in proportion to the request.
E. The proposed development will be in substantial conformance with current code.
F. Full compliance with current Code development standards would require significant demolition of existing improvements.
G. The deviations requested are consistent with the degree of change requested and improve the site.
H. The proposed improvements with the recommended conditions of approval help bring the site into a closer degree of conformance with current standards.
I. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods

FINDINGS SUP:

A. The uses on the property include medical, church and school uses.
B. The required number of parking spaces required for the uses is 99 spaces and the site have 92 spaces.
C. As it exists, the site is under parked and it losing 3 additional spaces to provide the required landscape islands.
D. The uses on the property have alternate peak hours of operation.
E. The granting of this Special Use Permit will not be detrimental to the surrounding properties.

Case No.: BA16-028 **APPROVED WITH CONDITIONS**

Location: 1239 S. Crismon Road (District 6)

Subject: Requesting Special Use Permits (SUP) to allow: 1) a Comprehensive Sign Plan; and 2) an electronic message displays to change more frequently than once per hour in the LC zoning district. (PLN2016-00265)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the sign plan submitted, except as modified by the conditions listed below.
2. Any additional signage not identified with this Sign Plan will require modification to this Special Use Permit.
3. Compliance with all requirements of the Development Services Division with regard to the issuance of sign permits.
4. Parcel 1, Culver's, shall be limited to a total of three attached signs with an aggregate maximum total of 160 square feet.
5. Each message on the electronic display message sign shall remain static for a minimum of fifteen (15) seconds.
6. The transitions between messages and the light intensity level of the electronic message display shall comply with the requirements of Section 11-41-8(D)17.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The CSP establishes consistent detached sign design, size and height for parcels 1 through 4.
B. If the pad sites were reviewed as separate parcels all could have a detached sign that are taller than the proposed 8'.
C. The CSP proposes three detached signs adjacent to Crismon Road and one adjacent to Southern Avenue. No proposed detached sign exceeds 12 feet in height or 80 square feet in area.
D. The proposed detached sign design for all four of the signs is consistent in size, colors and material utilizing a contemporary design consistent with the existing Burger King sign.
E. The one additional attached sign for the Culvers at Parcel 1 is located at the main entrance to the Hospital from Crismon Road. This area of all three signs cannot exceed the maximum allowed per code.

F. The proposed electronic message display sign is 340' south of the northernmost existing Burger King detached sign and 167' north of the sign placement proposal for Parcel 2. The speed limit at Crismon Road is 45 mph which is typical for the area. The design of the sign is consistent with the approved elevations of the approved elevations for Parcels 2 and 3.

G. The electronic message displays are to remain static for a minimum of one hour unless a Special Use Permit (SUP) is granted. Staff recommends the that message display shall remain static for a minimum of 15 seconds which is consistent with previous Board of Adjustment decisions.

H. The proposed CSP is largely consistent with current Code requirements and is complimentary to adjacent development and consistent with the use of the property. Therefore, the CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

Case No.: BA16-029 **APPROVED WITH CONDITIONS**

Location: 1220 N. Horne (District 1)

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to redevelop an existing car wash in the LC zoning district (PLN2016-0040S)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan and landscape plan submitted, except as modified by the conditions below.
2. Compliance with all requirements of and Administrative Design Review approval;
3. There shall be a total of 5 trees along Horne. The 4 new trees shall be of non-palm variety and 15 gallon in size.
4. Compliance with all requirements of Development Services in the issuance of building permits.
5. The decomposed granite along Horne shall be replenished.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. This request will allow for the redevelopment of an existing carwash.
B. A new lounge and office will be added and three shade canopies will be legitimized.
C. The site comes into substantial conformance with foundation base requirements and parking lot landscape requirements.
D. The site cannot come into full conformance with code without significant modification to the site.
E. The improvements will be compatible and not detrimental to the surrounding neighborhood.

Case No.: BA16-030 **APPROVED WITH CONDITIONS**

Location: 2458 W. Onza Avenue (District 3)

Subject: Requesting a Variance; 1) to encroach into the required front yard set-back; 2) to encroach into the required side yard setback and 3) to deviate from the required building form standards for the conversion of an existing carport into a garage in the RS-6 zoning district. (PLN2016-00409)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan and elevations submitted, except as modified by the conditions listed below.
2. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.
3. The garage shall be architecturally compatible with the home.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The home was built in 1976 with a two-car carport that does not meet current interior dimensions for a carport or garage.

B. The applicant would like to enclose the current carport into a garage. In order to meet Code requirements for interior dimensions, three variances are required.

C. The granting of the variance would not constitute a special privilege to this property owner over other properties in the area as there is one remaining home on Onza Avenue that has a carport.

D. Strict compliance with development standards would deprive the property owner of a privilege enjoyed by surrounding property owners.

Case No.: BA16-031 **APPROVED WITH CONDITIONS**

Location: 174S N. Greenfield (District 5)

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing business in the LI zoning district. (PLN2016-00442)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

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. Dead and missing landscape material shall be replaced in a manner consistent with the previously approved landscape plan. Specific species or varieties of plants listed on the approved landscape plan may be substituted with varieties of a similar size and appearance. Overall, any substitutions shall remain consistent with allowances authorized by MZO Chapter 11-33.
4. There shall be a minimum of three bicycle parking spaces provided on the site as per MZO Section 11- 32-8.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. Modifications to development standards will allow for a 3,013 SF addition to the building for expansion of an existing business.
B. The existing office/warehouse project with the 7,756 SF building was constructed in the mid 1990's.
C. In 2000, City Council approved rezoning the Wal-Mart site to the north side of this case site, changing the zoning from M-2 (now GI) to C-2 (now LC) for the large retail center site. This change affected the case site by increasing the building and landscape setback along the north side of the property from 0 to 25-ft.
D. Required screening for the parking and circulation adjacent to Greenfield Road is provided with a 3'- 6" screen wall as required by MZO, Section 11-30-9.H.
E. Compliance with the 25' setback at the north side would create a jog in the building at the building addition and would impact the parking and circulation at the south side of the site.
F. Full compliance with development standards would require demolition of the existing site improvements, including removal of parking required for the use.
G. The deviations requested are consistent with the degree of change requested to improve the site.

H. 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.
I. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Case No.: BA16-032 **APPROVED WITH CONDITIONS**

Location: 234S E. Main Street (District 2)

Subject: Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP)in the RM-4 zoning district. (PLN2016-00446)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan and sign elevations submitted except as modified by the conditions below.
2. Compliance with all requirements of the Development Services Division with regard to the issuance of sign permits.
3. The existing monument sign must be removed prior to the issuance of the sign permit for the proposed detached monument sign.
4. Any additional signage will require a modification to the Comprehensive Sign Plan.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The property is allowed two signs that are 8' tall and 32 square feet.
B. The proposed sign is 50 square feet and 11'-4" in height.
C. The existing sign is within the future width line and easements. The proposed sign cannot be placed in a similar location.
D. The proposed sign is required to be places out of the future width line and easements which is 10 feet further on the property than the current sign.
E. The mobile home park is surrounded by commercial development with large signs.
F. The granting of this request will not be detrimental to the surrounding properties.

Case No.: BA16-033 **APPROVED WITH CONDITIONS**

Location: 2840 E. Main (District 2)

Subject: Requesting 1) a Substantial Conformance Improvement Permit (SCIP) for the redevelopment of an existing shopping center and 2) a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) in the LC zoning district. (PLN2016-00448)

Decision: Approval of the Substantial Conformance Improvement Permit with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval for the Substantial Conformance Improvement Permit (SCIP) and the continuance of the Special Use Permit (SUP) as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

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. As per MZO Section 11-30-9 screening of roof mounted mechanical equipment shall be required.
4. Screening shall be provided to meet the requirements of Mesa Zoning Ordinance (MZO), Section 11-30-9.H, for parking spaces adjacent to Lindsay Road as shown on the site plan. Screening of the parking and circulation areas adjacent to Main Street shall be addressed at the time of development of the two pad sites.
5. The existing non-conforming pole sign shall be removed prior to the issuance of a Certificate of Occupancy and/or final inspection for any of the new users within Phase 1.
6. There shall be a minimum of 20 bicycle parking spaces provided throughout the site as per MZO Section 11-32-8.
7. A total of 6 shrubs shall be added to each of the existing landscape islands within the parking field currently containing the palm trees.
8. The landscape area along the north property line shall be extended at the same depth to the curbline of Lindsay Road. A minimum of three trees and six shrubs shall be installed with automatic irrigation systems within this area between the sidewalk and no further than 75-ft east of the property line. The extruded curb bordering this landscape area shall also be extended to include this same additional landscaping.
9. Compliance with all current subdivision regulations prior to the issuance of a building permit.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The 11± acre site was developed in the mid 1970's. The Kmart building was constructed first at 85,201 SF, and the additional 43,307 in commercial center constructed soon after.

B. The Kmart store closed in October of 2015. The building will be repurposed as 4 separate retail spaces.
C. With the approved deviations for Phase 1, the improvements to the site will include installation of landscape material, appropriate screening for the parking and circulation areas adjacent to Lindsay Road, full compliance with landscape material adjacent to Lindsay Road and Main Street; installation of landscape islands within the parking field and at the main entrance of the site; increased foundation base at the south elevation of the building.
D. Full compliance with development standards would require demolition of the existing site improvements including removal of parking and circulation.
E. The deviations requested are consistent with the degree of change requested to improve the site.
F. The proposed improvements together with the recommended conditions of approval will help bring the site into a closer degree of partial conformance with current standards.
G. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Case No.: BA16-034 **APPROVED WITH CONDITIONS**

Location: 1730 W. Guadalupe Road (District 3)

Subject: Requesting a Special Use Permit (SUP) to allow for more than four (4) special events in a calendar year in the PS zoning district. (PLN2016-00455)

Decision: Approved with Conditions

Summary: Chair Siebers requested that Vice Chair Montague proctor case BA16-034 as he will recuse himself. The applicant, Jessica Kaslowski of 1730 W. Guadalupe stated St. Timothy's would like to host events on the property and bring in food trucks several times each year. Ms. Kaslowski stated the desire is to allow parishioners and the community to gather outside of church functions. The events would be low-key and contained to a particular area of the parking lot.

Craig Stevens, 1806 W. Navarro Avenue, spoke about the lack of communication in the past with the church regarding events. Mr. Stevens thanked the church and city for communicating with the surrounding neighbors about the request. He is in favor for the food trucks and is requesting a stipulation preventing the events to grow and asked not to allow the music to be too loud. Boardmember Swanson clarified that his concern is about the size if it grows and asked staff member Michael Gildenstern if there could be a maximum number of trucks placed on the SUP allowed. Mr. Gildenstern replied that a limit of the number of trucks could be placed on the SUP if the Board desires. The applicant, Ms. Kaslowski, agreed to a cap of trucks and stated the church had no intention of making it any bigger. Ms. Kaslowki agreed that the most trucks they would have were 9 trucks and not more than 12 food trucks.

Mr. Sheffield suggested limiting the length of the SUP which would require a review more often to ensure compliance. Boardmember Tolman agreed with staff recommendation not to allow more than 12 trucks. Mr. Sheffield clarified that SUP permits can be withdrawn if a violation occurs repeatedly. The Zoning Administrator would go to the Board and request revocation of the SUP.

Motion: A motion to approve Case BA16-034 with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Tolman.

The motion was not seconded and Boardmember Swanson made a motion to approve Case BA16-034 with the acceptance of Facts of Findings and Conditions Approval as recommended in the Staff Report with the condition of limiting the amount of food trucks to no more than 12 and seconded by Boardmember Tolman with the following conditions:

1. Compliance with the site plan and operation plan submitted except as modified by the conditions below.
2. Signage shall be contained to the boundaries of the Special Event area. Signage visible from outside the boundaries of the site shall not be displayed prior to nor after the dates of the Special Event (may include construction and break down days), as specified in the Special Event License.
3. Compliance with all requirements of the Development Services Division in the issuance of building permits.
4. Compliance with all requirements of the Business Services Department regarding application for and issuance of a Special Event License.
5. The Special Use Permit shall be valid for approximately the same isochronal period each year, and shall expire August 2019. The Special Use Permit is non-transferable for both location and applicant. The applicant shall comply with provided operation plan details. Minor changes in dates from year to year may occur.
6. The amount of food trucks allowed for each event shall not exceed twelve (12) trucks.

Vote: Passed (5-0; Boardmember Curran, absent; Chair Siebers, recused)

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

A. The Special Event will be located west of St. Timothy Catholic Church in the paved parking lot with all event parking located to the north of the event. It will be open from 5:30-7:00 pm, on the third Friday of every month.
B. St. Timothy Catholic Church operated the food truck event 3 times over the last 12 months with no complaints from surrounding neighbors.
C. The food truck event will be located far enough from the neighboring residential uses, and far enough from the church that Staff does not anticipate any injury or detriment to surrounding uses.
D. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

Case No.: BA16-035 **APPROVED WITH CONDITIONS**

Location: 1930 S Greenfield Road (District 2)

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit (SUP) for the reduction of the required number of parking spaces to allow a restaurant with drive-thru in the LC zoning district. (PLN2016-00457)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

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.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. This request will allow for the redevelopment of a bank site into a restaurant. The restaurant will have a drive-thru and outdoor seating.
B. The site comes into substantial conformance with foundation base requirements and parking lot landscape requirements.
C. The site cannot come into full conformance with code without significant modification to the site.
D. Adequate parking is proposed for the site based on the differing peak demand time for the uses in the commercial center.
E. The improvements will be compatible and not detrimental to the surrounding neighborhood.
F. Based on the applicant's parking study there is adequate parking on site for this use.

Case No.: BA16-037 **APPROVED WITH CONDITIONS**

Location: 545 S. Robson (District 4)

Subject: Requesting 1) a Substantial Conformance Improvement Permit (SCIP) to allow a reduction in landscaping setbacks and 2) a Special Use Permit (SUP) for a reduction in the minimum number of required parking spaces to allow expansion of a development in the LI zoning district. (PLN2016-00445)

Decision: Approved with Conditions

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

Motion: A motion to approve with the acceptance of Facts of Findings with the removal of Condition #3 in the Conditions of Approval as discussed, was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

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. As per MZO Section 11-30-9 screening of roof mounted mechanical equipment shall be required.
4. Wrought iron gate shall be modified or replaced to provide full screening of the site.
5. The existing structures at the east side of the property shall be removed to comply with the site plan.
6. Installation of decomposed granite in the landscape area adjacent to Robson shall be installed. This shall be indicated on the construction documents for the new building.
7. There shall be a minimum of three bicycle parking spaces provided on the site as per MZO Section 11-32-8.

Vote: Passed (6-0; Boardmember Curran, absent)

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

A. The 9,000 SF south building was constructed in the mid 1980's with the intent to build to mirror image building indicated as future phase to be placed at the north side of the property. The site plan indicated 20 parking spaces total for the site.
B. In 2000, a variance was approved for the project to construct the 9,000 SF building at the north side of the property but expired prior to construction.
C. Full compliance with current parking standards would require a total of 50 parking spaces. The applicant has indicated that 22 parking spaces on the site will meet the demand and will not exceed the capacity of or have a detrimental impact on the supply of on-street parking. The use will be adequately served by the proposed parking based on the experience of the existing 9,000 SF building.

D. The applicant has stated that customers do not frequent the site and vehicles are dropped off and remain on site for several weeks. Vehicles are worked on and parked inside the buildings.
E. Full compliance with development standards would require demolition of the existing site improvements, and elimination of the anticipated north building.
F. The deviations requested are consistent with the degree of change requested to improve the site.
G. 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.
H. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Case No.: BA16-023 **APPROVED WITH CONDITIONS**

Location: 614 S. Robson (District 1)

Subject: Requesting a Special Use Permit (SUP) to allow an accessory dwelling unit to be leased or rented in the RS-6 zoning district. (PLN2016-00325)

Decision: Approved with Conditions

Summary: The applicant, Ryan Dunigan, 614 N. Robson presented a review of his request to be allowed to lease an accessory dwelling on his property. Mr. Dunigan continued to explain that he is a resident of Mesa living in the accessory building and renting the main house. He continued to explain that when he purchased the property, there was a work shop in the rear of the main home which he renovated into a livable space with necessary permits.

Mr. Dunigan explained that he travels extensively but uses the accessory building as his primary residence. He recently placed the home on a short term rental site and was not aware that approval was required in order to do this. Mr. Dunigan stated his intention is to eventually live in the front unit as soon as his family is able to relocate to Mesa.

Boardmember Swanson inquired why he is not occupying the primary residence at this time and Mr. Dunigan responded that he does not need that much space until his family relocates. Mr. Swanson asked if he had an estimated time when he would reside in the main house and how long the current lease is. Mr. Dunigan responded that he should be moving into the main house with in the next 12 months and the current lease is month to month.

Vice Chair Montague confirmed if the posting of the second unit on a rental site was what triggered the neighbor's attention that he was not residing on the property. Mr. Dunigan responded that he did have that intention of short term leasing when he was out of town. However, he is now and will be in the future residing in the rear dwelling. Mr. Montague confirmed that Mr. Dunigan understands that he will be required to reside in one of the units and he cannot rent out both units.

Gordon Sheffield clarified that state legislature passed SB1315 which will be in effect in January, 2017 which will eliminate any City the ability to regulate short term rentals. Vice Chair Montague clarified that this will impact a residence with only one dwelling. Assistant City Attorney, Kelly Schwab, clarified the state legislature SB1350 will allow local government to regulate Health, Safety and Traffic as is regulated for any other type of single family home. The bill will allow a property owner to rent their home as a short term vacation rental. in response to the question of whether or not someone could rent out multiple units on a property, Ms. Schwab feels that

based on the law as of January 1, the city cannot prevent both units being rented on a short term basis. Prior to that, our City code prevails until the new law comes into effect.

Resident Kenneth Heames, 606 N. Robson spoke in opposition. Mr. Heames stated having a rental and possibility of two rentals on the same property impact street parking. Mr. Heames feels that Mr. Dunigan should know the laws since he makes his living by renting properties. Vice Chair Montague stated that the City has no ability to deny one's desire to rent their property and Mr. Sheffield clarified that if there were no accessory structure, the owner would have the right to rent his property.

Boardmember Rembold clarified that if the Board were to deny this request, the law that takes effect in January would allow short term rentals. Ms. Schwab stated that if both buildings were rented on a short term basis in January, the City would have no regulatory authority to stop it.

Richard Warren, 626 N. Robson spoke in opposition. Mr. Warren stated that he moved into the neighborhood over a year ago and his concern relates to the disingenuous attitude of the owner. Mr. Warren described several discussions he had with the applicant and feels that he does reside out of state. Mr. Warrant continued to describe conversations he has had with Mr. Dunigan.

Rob Peterson, 618 N. Robson spoke in opposition. Mr. Peterson stated he has lived in his home for more than 20 years and his main concern is the disingenuous way the applicant has approached the City and the neighbors. Specifically, with respect to the structure that was built without permits in the rear of the property.
He continued that when the new law comes into effect, the owner will now have the right to have two short term rental units in a beautiful neighborhood and will not have to comply with any code or zoning requirements. Mr. Peterson continues to confirm that Mr. Dunigan does not reside at the property and is not a resident of Arizona.

Boardmember Tolman requested an explanation about the interpretation made by the Zoning Administrator in the staff report that the property owner must reside in the primary residence in order to rent the accessory dwelling. Mr. Sheffield explained that the owner is required to reside on the property. Mr. Sheffield clarified that there were building permits for the accessory strucutrewhat Mr. Peterson stated as the building code and records. City 2012-01656 was issued and finaled on 6/14 for construction w/o a permit. And the upgrade from a shed to a dwelling unit there was an initial building permit for that and was issued in 2016. Permits were issued

Applicant Mr. Dunigan responded that he did not know what the permit process was and that permits were required. As soon as he was made aware he applied for the permits. He continued to state that he does not want to do any harm and will give

up the short term rental process. Mr. Dunigan is requesting that he continues to live in the rear house and rent only the front unit.

Chair Siebers confirmed that Mr. Dunigan provided a copy of his Arizona state driver's license. However, the address on his license is another location in Mesa. Mr. Dunigan stated he files taxes at his address on Robson and will change his driver's license to the Robson address as well.

Chair Siebers confirmed with Mr. Sheffield that there is no ability for us to restrict anyone from purchasing homes and renting them out. Mr. Sheffield responded that the issue is that there is a detached accessory unit that requires a Special Use Permit. The difference between the new law and the situation with Mr. Dunigan is between short term and long term rentals. Rentals lasting longer than 30 days will still be subject to the new state regulation.

Boardmember Swanson stated that the applicant can rent out his main residence if he chooses and the City cannot prevent him from doing so. Mr. Swanson stated that the applicant is asking for is that while living in one structure, he wants to rent out the other which requires a SUP. If he intends to rent one or more of the units on a short term basis in January, he can do so. The SUP stipulates that the applicant lives in one of the structures while renting the other out which protects the neighborhood.

Boardmember Swanson clarified that the applicant did provide a copy of his Arizona Driver's license and that building permits for the accessory structure were obtained after Mr. Dunigan purchased the property. Boardmember Rembold requested a clarification if he could rent out one building long term and the other short term. Assistant City Attorney, Kelly Schwab clarified that the state does not want the cities to interfere with private individuals to rent out their homes for short term basis.

Motion: A motion to approve Case BA16-023 with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Vice Chair Montague and seconded by Boardmember Swanson with the following conditions:

1. Compliance with the site plan exhibit and narrative submitted.
2. Compliance with the zoning development standards for the RS-6 HD district.
3. Compliance with all requirements of the Development Services Division in the issuance of any necessary building permits.
4. Compliance with all requirements of the Tax and Licensing Division.
5. The owner of the property must reside in one unit in order to rent out the other unit.
6. The Special Use Permit is issued specifically to Ryan Dunigan, the property owner, and is non-transferrable. The Special Use Permit will automatically terminate when Ryan Dunigan is no longer the property owner.

Vote: Passed (6-0; Boardmember Curran)

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

A. The entrance to the accessory dwelling unit is not visible from public right-of-way. The occupants of both homes have parking options within the carport, on the driveway and on the street.
B. The owner of the home resides on the property within the accessory dwelling unit and rents out the main home.
C. The applicant has noted the following as justification for the granting of the Special Use Permit: 1) the property has been substantially upgraded; 2) the improvements have added value to the surrounding properties; 3) there is adequate parking for both units; and 4) the adjacent neighbors do not have an issue with the special use permit request.
D. The rental of the dwelling unit on the property will not have a detrimental impact on the neighborhood nor will it alter the existing single residence character on site.

Case No.: BA16-024 **APPROVED WITH CONDITIONS**

Location: 314 W. University (District 1)

Subject: Requesting Special Use Permits (SUPs) to allow: 1) a Comprehensive Sign Plan; 2) an electronic message display sign in a downtown zoning district; and 3) an electronic message display to change more frequently than once an hour; all relating to a place of worship in the DR-3 zoning district. (PLN2016-00310)

Decision: Approved with Conditions

Summary: The applicant, Pastor David Land, 314 W. University Drive, presented a review of his request for a Special Use Permit. Mr. Land addressed the need for the 7' height sign is for visual purposes. He continued to state that since the sign has to be out of the right-of-way, the taller sign will be easier to read from the roadway. Pastor Land is also concerned about vandalism if the sign has to be constructed at 5' in height. He then presented photographs of other signs in the area which appear taller and continued to describe the design of the requested sign.

Chair Siebers asked Pastor Land to direct him to the existing trees that would be in the line of sight of the line. Mr. Land pointed out the 4 new trees that the City requested they plant. Pastor Land stated that after the sign is in place the next goal is to landscape.

Lois Cree, 523 E. 8th Street spoke in favor of the request for a 7' high sign. Ms. Cree is a member and on the Board of the church and stated the sign would be used to advertise and promote the church and community activities. Ms. Cree stated that the original sign was vandalized and not easy to read while driving by the church. Ms. Cree is asking the Board to approve the exception of the sign height.

Boardmember Tolman inquired about the use by right as a church. Mr. Sheffield responded churches are authorized in all zoning and considered as institutional and use in a residential district are required to meet commercial standards. This specific site is in a DR-3 residential zoning. The requirements for signage in the downtown area is designed to be smaller/lower with less area than areas outside of downtown.

Chair Siebers stated there have been some recent changes for signs which include that the content of the sign cannot be reviewed. Mr. Sheffield agreed that from the City's standpoint, content is irrelevant and that we review sign quality. Mr. Sheffield stated that staff agrees with the request for a 32 sq. ft. sign, but disagree with the request for the 7' height.

Boardmember Worcester discussed his opinion of the location where the sign is being placed and feels it will be close to the sidewalk. Mr. Worcester stated that he favors staff recommendation of a 5' height sign.

Chair Siebers requested Pastor Land show the photos of signs in the area in which he feels are taller than the 5' staff is recommending. Mr. Sheffield clarified that the signs that Mr. Land presented are in commercial zoning districts, whereas the church is in a downtown residential zoning.

Motion: A motion to approve Case BA16-024 with the acceptance of Facts of Findings and Conditions of Approval as recommended in the Staff Report was made by Boardmember Rembold and seconded by Boardmember Swanson with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Any additional signage not identified with this Sign Plan will require modification to this Special Use Permit.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of sign permits.*
4. ***The detached sign shall be a maximum of 5 feet tall.***
5. ***The existing detached sign must be removed prior to the final inspection of the sign permit for the new monument sign.***
6. ***Each message on the electronic display message sign shall remain static for a minimum of fifteen (15) seconds.***
7. ***The transitions between messages and the light intensity level of the electronic message display shall comply with the requirements of Section 11-41-8(D)17.***

Vote: Passed (5-1; Boardmember Curran, absent; Boardmember Tolman, naye)

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

A. The original church was developed in the mid 1950's.
B. The church site is 310' wide adjacent to University Drive
C. The CSP proposes one 32 square feet detached sign adjacent to University Drive.
D. The subject site is flanked to the east and west by sites currently zoned DB-1. The sites across University Drive are also zoned DB-1. The DB-1 zoning designation allows for a detached sign of a maximum of 32 square feet and 5 feet in height.
E. The existing detached change letter reader panel sign located in the future right of way will be removed with the installation of the new monument sign.
F. The proposed new sign will help to identify the church along University Drive.
G. The proposed electronic message display sign is approximately 150' from the east and the west property lines. There are no walls or landscaping to block visibility of the sign.
H. The speed limit at University Drive is 40 mph which is typical for the area.
I. The electronic message displays are to remain static for a minimum of one hour unless a Special Use Permit (SUP) is granted. In this case a 15 second message display allowance is consistent with previous Board of Adjustment decisions.
J. The proposed CSP is largely consistent with current Code requirements, and the deviations requested related to the size of the detached sign adjacent to University Drive result in a plan that is complimentary to adjacent development and consistent with the use of the property. Therefore, the CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

Case No.: BA16-036 **APPROVED WITH CONDITIONS**

Location: 2146 E. Glencove (District 1)

Subject: Requesting a Special Use Permit (SUP) to allow for more than four (4) special events in a calendar year in the PS zoning district. (PLN2016-00455)

Decision: Approved with Conditions

Summary: The applicant, Robert Sanderson, 2146 E. Glencove, reviewed his request for a variance for an accessory structure placed on his property in 1992. Mr. Sanderson stated he had contacted the City for permit approval had been told he no permits were required because it was not considered a building. He presented photos for the Board which showed his home and similar structures in surrounding neighborhood. Mr. Sanderson stated that the neighbor who complained has been there since 2005 and now complaining and it is not an eyesore. His request is to have the variance until he sells the property and then it could be removed at that time.

Resident Daniel Jones, 2157 E. Glencove spoke in favor of the variance and does not consider the structure an eyesore. Mr. Jones stated that Mr. Sanderson checked with the City and took all of the steps to ensure that the structure was built and should be allowed the variance. He requested the Board at least give the applicant temporary approval until the property is sold, then the structure would be torn down. Chair Siebers asked Mr. Jones if he was aware of conflicts with SRP and Mr. Jones stated he was not aware of the situation. However, Mr. Jones stated the neighbor had recently poured concrete between their property and recalls the SRP representative told him that when the neighbor put in the wall it shorted out the power.

Jackie Piriezky, 2145 E. Grandview Street spoke in opposition of the variance. Ms. Piriezky stated that the structure is an eyesore and that the structuree is closer to the back fence than he is supposed to be. She stated it appears to be about 16' from the fence. Ms. Piriezky stated it is all she sees and feels the structure needs to be removed.

Mr. Sanderson responded that he has never heard complaints from the neighbors to the rear. Chair Siebers inquired about the SRP situation and Mr. Sanderson responded that they were there to repair a neutral line which was damaged. He stated that SRP had traced the line to the side of the yard with concrete sitting on the line. Boardmember Rembold clarified that an easement is for utilities and if a structure is placed on the easement, it may need to be removed for repairs.

Mr. Sanderson responded that the structure is not near the easement. Mr. Jones commented that a new pillar was placed put in by the neighbor when he extended his fence and that was what shorted out the power line.

Boardmember Worcester asked if Mr. Sanderson is considering selling his property. The applicant responded that he is not considering it. Chair Siebers stated that the structure on the west side appears to be on the wall and the overhang appears to be over the wall.

Zoning Administrator, Gordon Sheffield reviewed the setback requirements and how they relate to the structure. Chair Siebers inquired about compliance options. Mr. Sheffield replied that the options are; 1) to

remove the violation; 2) reduce the height of the structure and move back to meet the requirements; and 3) to reduce height and floor area of the structure.

Boardmember Rembold inquired if the Board denies Mr. Sanderson's request, how long would he have to comply with the removal of the structure. Mr. Sheffield responded that the requirement could be a part of the motion.

Chair Siebers spoke about the Board as a venue to hear these types of cases. Some could cause a hardship for the removal of a structure. Boardmember Worcester suggested requesting if the applicant would be willing to work with staff to come to a solution that staff and the applicant would be satisfied with. Mr. Sheffield suggested if the Board would like to discuss this further, the applicant would be given another 30 days to work with staff for a solution.

Chair Siebers asked Mr. Sanderson if he would be agreeable to working with staff for a solution if the Board continued the case until the next hearing. Mr. Siebers stated that this would allow staff and the applicant to provide specific measurements of the size and location of the accessory structure. The Board would then make a decision based on specific measurements. Mr. Sanderson agreed with the continuance.

Motion: A motion was made for a continuation of Case BA16-036 to the September 7, 2016 hearing was made by Vice Chair Montague and seconded by Boardmember Swanson.

Vote: Passed (6-0; Boardmember Curran, absent)

OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a
Zoning Administrator