

Board of Adjustment

Staff Report

CASE NUMBER: BA16-065 (PLN2016-00725)
LOCATION/ADDRESS: 5741 E McKellips Road
COUNCIL DISTRICT: District 5
PLANNER: Lisa Davis, Planner II
OWNER: Shoppes at Legacy House LLC
APPLICANT: Withey Morris PLC-Adam Baugh

REQUEST: *Requesting a Special Use Permit (SUP) to allow for a reduction in minimum parking requirements and a Substantial Conformance Improvement Permit (SCIP) for reuse of a commercial building within an existing commercial center in the LC zoning district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a Special Use Permit (SUP) to allow reduction of minimum parking requirements and a Substantial Conformance Improvement Permit (SCIP) to allow a small scale, less than 50,000 square feet (SF), commercial recreation facility, Urban Jungle Fun Park, to locate within a vacant building in an existing commercial center. The SUP for the reduction in the minimum parking requirements is based on a parking demand study provided by the applicant, and a request for shared parking allowed within the center as required by Mesa Zoning Ordinance (MZO) section 11-32-6.

STAFF RECOMMENDATION

Staff recommends continuance of case **BA16-065 to the November 2, 2016 meeting. Should the Board decide to approved the case, staff suggests the following conditions:**

- 1. Compliance with the site plan and parking demand study 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 permits.*
- 3. The existing 316 parking spaces must be maintained for the commercial center.*
- 4. On an annual basis for three years after approval of this application, a progress and status report shall be prepared by the applicant and submitted for review by the Planning Division staff. Based on these reports, in the event the Zoning Administrator, in consultation with the Planning Director, determines that the number of parking spaces needed for this site exceeds the number provided, then the Special Use Permit shall be re-evaluated through the Board of Adjustment, with the potential that additional conditions may be added to address the management of the parking fields. Parking data for this progress and status report shall include all uses within the 5 buildings, and four differing times (early morning, noon, mid-afternoon and 6 pm), collected over a period of two weeks once every quarter of a year.*
- 5. Design Review and approval is required for all exterior modifications to the building prior to the issuance of a building permit.*

SITE CONTEXT

CASE SITE: Existing commercial center – zoned LC
NORTH: (Across McKellips Rd.) Existing Industrial – zoned LI
EAST: (Across June St.) Existing Commercial - zoned LC
SOUTH: (Across June St.) Existing single residential – zoned RS-6
WEST: Existing commercial – zoned LC

PROJECT DESCRIPTION

Development	Overall Commercial site
Overall Site area	8± acres
Building area for proposed use	18,000 SF
Code required minimum parking	165 Spaces for recreation use/ 348 for center
Parking provided	316 existing spaces in center

STAFF SUMMARY AND ANALYSIS

The existing commercial center is located within the Alta Mesa Master Planned Community and is identified as parcel number 141-44-742. In 2007, a site plan for three buildings on 4 acres was approved, including an 18,000 SF, 6,816 SF and a 6,000 SF restaurant. The building area totals 31,953 SF in aggregate. A total of 193 parking spaces were approved for the site showing a total of 162 spaces required (case Z07-032, Ord 4698). Office Max later occupied the 18,000 SF building, but closed in December of 2012, and has been vacant since that time.

A site plan was approved in 2005 for the 3.24-acre site (Z05-018) that included two commercial/restaurant use buildings totaling 28,890 SF, adjacent to the west side, shown as Building A and Building B on the site plan. Building A is located on parcel number 141-44-739A and Building B is located on parcel number 141-44-740. All three parcels including are owned by the same owner Shoppes at Legacy House, LLC. Together the three parcels contain a total of 5 buildings and 316 parking spaces.

The current applicant represents the proposed Urban Jungle. Urban Jungle is an indoor family entertainment center that includes trampolines, climbing walls, obstacle courses and inflatable play. It appeals primarily to children between the ages of 5 and 12.

Special Use Permit Criteria for Approval. A Special Use Permit for reduced parking shall only be issued if the following criteria are found to be true:

1. Special conditions exist that will reduce parking demand at the site, including but not limited to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site;
2. The use will adequately be served by the proposed parking; and
3. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.

The table below indicates the Parking requirements for the use type of each building:

Building	Area	Parking requirements based on use	Total number of spaces required
Proposed Urban Jungle	18,000 SF parking based on 16,500 SF used	1/100 SF for gym, health club	165 spaces
AutoZone	6,816 SF	1/375 retail	18 spaces
Precision Martial Arts	6,000 SF	1/100 SF for gym, health club	60 spaces
Buildings A & B	28,890 SF- 2 buildings	1/275 shell building	105 spaces
Total	59,706 SF		348 Spaces required

Based on the uses within the existing five buildings a total of 348 spaces is required to support all of the uses within the center. Currently there are 316 parking spaces provided, a shortage of 32 spaces (an 8.9% shortage using additive methods to determine parking minimums).

The criteria of approval of the Special Use Permit have been met through staff review based on the following:

- 1) Special Conditions apply to the proposed use in that, although the small scale commercial entertainment use requires 1 parking space per 100 SF of area, the types of uses within the existing center have varying peak hours. As indicated in the narrative, the peak hours of use for Urban Jungle tend to be afternoon/evenings and weekends. These times tend to be off-peak to the existing primarily commercial tenants in the center that end at 5pm during the week. This is with the exception of the Precision Martial Arts studio that will have some of the same peak hours of use as the Urban Jungle.
- 2) Within the applicant's proposal there is data that was collected for one week, August 26 through September 1, at 3 different time periods for each day, 9 am, 12 pm, and 3 pm. The columns are identified by the parcel numbers. As noted above there are a total of three parcels for the five buildings. Reviewing the data provided, the busiest time was at 9 am on a Thursday for all three parcels. Breaking it down further, the data for the three building site, parcel 141-44-742, including the 18,000 SF proposed Urban Jungle showed the busiest time at noon on Saturday at 33 spaces. There are a total of 193 parking spaces approved for this parcel. Staff believes there will be adequate parking for the Urban Jungle and the other uses within the center. According to the site plan provided the largest portion of vacancy within the center is at Building A. Most of the buildings are currently occupied.
- 3) The data collected did not include an evening count. This is when Urban Jungle indicated that it will have peak hours during the week. The Precision Martial Arts Studio will likely have the same type of peak hours. The applicant has indicated that they will collect the evening data starting Wednesday October 26 through Monday October 31 and will provide update to staff. Staff will update the Board at Study Session on Wednesday November 2 with the data provided.
- 4) According to the narrative, the Urban Jungle use is operating in Santee California with parking provided at a ratio of 1 space / 166 SF of building area. There is adequate parking for the Santee site and the business owner believes the existing parking available will be adequate for their use. Should there need to be additional parking over the existing 316 parking spaces then on-street parking is available at June Street east and south of the site.

Although staff believes the number of parking spaces and the mixture of uses will be adequate to support the proposed use, there is a caveat. Additional data that would finish answering questions related to early evening/late afternoon parking demands was not collected for the evening hours that are listed as the peak hours for Urban Jungle. However, the parking demands for the other uses within the same commercial center appear to be low enough to offset this as an immediate concern. The conditions of approval include a recommendation that the Special Use Permit to be re-evaluated annually within the next three years to ensure that the parking needs for the overall center are met.

The reduced minimum parking requirements are generally consistent with the Ordinance. As justification for the decreased number of minimum number of parking spaces the applicant has noted:

- 1) Most children are dropped off with a parent returning later for pick up;
- 2) There are a mixture of uses within the center with varying peak hours that can co-exist;
- 3) On-street parking is available at June Street adjacent to the commercial center;
- 4) The data collected showed a maximum of 45 spaces utilized within the 316 spaces; and
- 5) The plan is consistent with and will not be detrimental to the surrounding neighborhood.

Substantial Conformance Improvement Permit (SCIP)

The proposed change from retail use to assembly type building is considered intensifying the use and requires the approval of a SCIP. The existing 18,000 SF building has been vacant for 4 years. The property owner believes that it is unlikely that a single retail user will occupy the building in the future. The proposed changes to the building are limited to the interior and potentially to the exterior entry of the building. No specifics were provided showing a request to reduce any of the setbacks or foundation base to the existing building or landscape areas. Design Review approval will be required for the change in elevations to the building prior to the issuance of a building permit.

The intent of a SCIP is to recognize existing site constraints, and work with the applicant to proportionately improve the property based upon current development standards. The proposed modifications, and those recommended in listed conditions of approval, constitute the greatest degree of compliance with current development standards without requiring demolition of existing buildings or other significant improvements to the site. Modifications to current development standards are necessary to accommodate the continued viable use of this site. The modifications 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

- 1.1 The commercial center was developed in 2005 and 2007.
- 2.1 The 8-acre site contains a total of 5 buildings totaling 59,706 SF in area and 316 parking spaces.
- 3.1 On-street parking is allowed adjacent to June Street at the east and south side of the site.
- 4.1 The proposed use does have special conditions of peak hours of evenings and weekends.
- 5.1 The 5 building, 8-acre site is owned by a single entity this allows for shared parking for the group commercial site.
- 6.1 Based on the data provided the peak hours of parking are 9 am utilizing only 45 spaces of the 316 parking spaces. This is only 14.2 % of the total number of parking spaces.
- 7.1 The parking demand study does not show the evening parking demands for the existing commercial center.
- 8.1 The proposed reduction of minimum parking requirements and improvements for the commercial center is compatible with, and not detrimental to, adjacent properties or the neighborhood in general.
- 9.1 Full compliance with development standards would require demolition of the existing site improvements including removal of parking and circulation.
- 10.1 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.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Section 11-19-5 – Definition of Terms:

SPECIAL USE PERMIT (S.U.P.): A discretionary authorization issued by the Zoning Administrator/Board of Adjustment only upon finding, through a public hearing, that the proposed activity permitted by such Special Use Permit is in conformance with the intent of this Code, the General Plan and/or other specified plans or Council policies; and will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general; and may be limited by specific conditions, restrictions, terms or time periods.

11-32-6: Parking Reductions

Required parking for any use may be reduced through approval of a Special Use Permit, pursuant to Chapter 70, unless specified otherwise, and the following:

- A. Criteria for Approval. A Special Use Permit for reduced parking shall only be issued if the following criteria are found to be true:
 - 1. Special conditions—including but not limited to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site—exist that will reduce parking demand at the site;
 - 2. The use will adequately be served by the proposed parking; and
 - 3. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.

Section 11-73-1 Substantial Conformance Improvement Permits (SCIP) 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.