

Board of Adjustment

Minutes

City Council Chambers, Lower Level June 7, 2017

Board Members Present:

Chair Tony Siebers
Trent Montague, Vice Chair
Steve Curran
Wade Swanson
Ken Rembold
Kathy Tolman

Board Members Absent:

(none)

Staff Present:

John Wesley
Lisa Davis
Cierra Edwards
Charlotte McDermott
Mary Grace McNear
Mike Gildenstern

Others Present:

Ray Nunez
David Hoffman
Jim Broschart
Christine Tucker
Joe La Tierra
Jackie La Tierra
(others)

The study session began at 4:34 p.m. and concluded at 4:59 p.m. The Public Hearing began at 5:30 p.m., before adjournment at 6:01 p.m., the following items were considered and recorded.

Study Session began at 4:34 p.m.

- A. The items scheduled for the Board's Public Hearing were discussed. Condition #4 was struck in Case BA17-031.

Study Session adjourned at 4:59 p.m.**Public Hearing began at 5:30 p.m.**

- a. Consider Minutes from the April 12, 2017 Special Meeting:

A motion was made by Boardmember Swanson, seconded by Boardmember Rembold, to approve the April 12, 2017 minutes as written.

Vote: Passed (6-0)

- b. Consider Minutes from the May 3, 2017 Meeting:

A motion was made by Boardmember Swanson, seconded by Boardmember Rembold, to approve the May 3, 2017 minutes as written.

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B. Consent Agenda:

A motion to approve the consent agenda as read by Vice Chair Montague with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Rembold and seconded by Boardmember Curran.

Vote: Passed (6-0)

Public Hearing adjourned at 6:01 p.m.

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Case No.: BA17-024 **WITHDRAWN**

Location: 1310 East McKellips Road (District 1)

Subject: *Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) for a group commercial center in the in the NC District. (PLN2017-00098)*

Decision: Withdrawn

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

Motion: It was moved by Boardmember Rembold and seconded by Boardmember Curran to withdraw case BA17-024.

Vote: Passed (6-0)

Case No.: BA17-026 **APPROVED WITH CONDITIONS**

Location: 5055 East University Drive (District 2)

Subject: *Requesting a variance to allow a fence to exceed the maximum allowed fence height in the RM-4 District. (PLN2017-00161)*

Decision: Approved with Conditions

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

Motion: A motion to approve case BA17-026 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the site plan, narrative and exhibits submitted.*
2. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*

Vote: Passed (6-0)

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

FINDINGS:

- A. The RV park was originally constructed in the late 1970's.
- B. The lot does have unique conditions related to triangular shape of the lot and the proximity to the Maricopa County floodway with maintained paths and a RWCD canal.
- C. It would be difficult to provide adequate screening from heavily used path without the granting of a variance.
- D. The southwest property line is about 3,000 feet in length. There are approximately 43 RV lots that are within 5' of the property line and close proximity to the heavily utilized pathways.
- E. Further, strict compliance with Code would deprive the property of the ability to construct a sufficient fence that will provide needed separation for RV park members to the adjacent paths.
- F. The applicant is proposing an 8' wrought iron high fence with masonry columns at 12' on center. This is an upgraded material that will allow visibility onto the pathways.

Case No.: BA17-027 APPROVED WITH CONDITIONS

Location: 6101 East Virginia Street (District S)

Subject: *Requesting a Special Use Permit (SUP) to allow a Wireless Communications Facility to exceed the maximum height allowed in the RS-9 PAD District. (PLN2017-00180)*

Decision: Approved with Conditions

Summary: The applicant, Ray Nunez, Centerline Communications, 4606 E. Elwood, Suite 7, Phoenix, AZ, presented the case to the Board.

David Hoffman, 6142 E. Virginia St., was concerned about the placement, height, and screening of the proposed Wireless Communications Facility, and suggested placing it on the southwest side of the property.

The applicant explained to Chair Siebers that when taking in account the terrain, and the traffic on the network in that area, 59' was the minimum height, which is composed of a 55' tower, and 4' of palm fronds at the top. Mr. Nunez explained to the Board that an RF engineer scanned the area, produced coverage maps, and then decided where to place the wireless communications tower based on his findings. The applicant stated that the location suggested by Mr. Hoffman would place the tower out of position, and that it would have trouble with height ratios, as well as shadowing from the church and other buildings in the area.

Boardmember Rembold confirmed with the applicant that there will be 3 palm trees planted in proximity to the tower, to the heights shown on the site plan.

The applicant re-confirmed for the Board that if the cell tower were to be placed in the southwest corner of the property, the church would block signal reception and the tower would have to be taller than the currently proposed 59'. Mr. Nunez explained that the sought-after coverage area is towards the northeast, and that if the proposed tower were to be placed in the southwest corner of the property, the coverage area would overlap coverage of an already-existing tower in the area. He added that collocation of antennae was explored, but wasn't feasible, and showed "Before-and-After" coverage maps to show the impact made with the proposed tower and said that moving the tower further away would reduce the signature. Mr. Nunez closed by saying that sites north of Thomas were explored by another search ring, but this site was chosen, and that because of the nature of digital antennas and modern cell phones using less wattage, the footprint shrinks down drastically, which requires towers being located closer together.

Staffmember Cierra Edwards, confirmed for the Board that live palm trees will be placed around the site to match the aesthetic look, and that Staff is supportive of the Case.

Motion: A motion to approve case BA17-027 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Montague to approve with the following conditions:

1. *Compliance with the site plans dated June 23, 2016, except as modified by the following conditions:*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of fifty-nine (59') to the top of the fronds and fifty-four feet (54') to the top of the antenna array.*
3. *The lease area containing the equipment shelter and generator shall be screened by a minimum 8' tall masonry wall, or to the height of the equipment being screened, finished and painted to match the existing church buildings with a solid metal gate painted to be compatible with the building on site.*
4. *The wireless communication facility shall utilize a Faux Date Palm design with a minimum of 65 palm fronds. Of the 65 palm fronds used, 20% of the fronds must be 96", 40% of the fronds must be 108", and 40% of the fronds must be 120".*
5. *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.*
6. *The antenna array stand-off shall not exceed 2'-6" maximum from the pole.*
7. *The antenna array for each sector shall not exceed an overall length of 9'.*
8. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
9. *Provide and maintain three natural living palm trees, minimum 35' tall, as shown on the site plan within the landscape area surrounding the equipment enclosure (within 20' of the enclosure) to help camouflage the proposed wireless communication facility.*
10. *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.*
11. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
12. *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.*
13. *Antenna socks shall be added to the antenna to assist in screening.*
14. *Future modifications shall be approved by the Planning Director to ensure the modifications remain in compliance with the existing concealment elements of the monopalm or base station as approved in case BA17-027 and the Mesa Zoning Ordinance as amended.*
15. *Compliance with all requirements of the Development Services Division regarding the issuance of building permits.*

Vote: Passed (6-0)

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

FINDINGS:

- A. The proposed location is a residentially zoned site that is within the Red Mountain Community Church property.
- B. The proposed monopalm design WCF is considered a stealth design.
- C. The proposed WCF is designed principally to address issues related to coverage and data capabilities and will provide increased signal coverage.
- D. The proposed 65 palm fronds at varying lengths and the proposed planting of three palm trees adjacent to the monopalm will ensure it will blend with the existing surroundings.
- E. The proposed WCF will include a 8'-6" CMU wall and additional landscaping for screening of equipment.
- F. The stealth design monopalm is proposed to be setback the proposed height, 59' plus one foot from all property lines.
- G. The proposed monopalm is located 471± feet from the nearest residential properties north of Virginia Street.
- H. The improvements will be compatible and not detrimental to the surrounding neighborhood.
- I. The residential district location is necessary for the provision of personal wireless services to residents

Case No.: BA17-028 APPROVED WITH CONDITIONS

Location: 7022 East Hampton Avenue (District 6)

Subject: *Requesting a Special Use Permit (SUP) for modification of a Comprehensive Sign Plan in the LC-PAD District. (PLN2017-00232)*

Decision: Approved with Conditions

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

Motion: A motion to approve case BA17-028 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the comprehensive sign plan 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 sign permits.*
3. *Each Super Store use may have up to four attached signs with a maximum total sign area of 350 square feet.*

Vote: Passed (6-0)

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

FINDINGS:

- A. The CSP modifies the existing CSP to add a Super Store designation. This designation is identified as a user with over 90,000 SF of commercial space and over 349' of building frontage.
- B. The proposed signs for Floor & Décor are consistent with other attached signs design and size in the commercial center.
- C. The proposed 350 square feet of attached sign area allotted between the four proposed signs are within scale to the 92,247 square feet building.
- D. The building is setback over 1,300' from Power Road and over 200' from Hampton Avenue.
- E. No detached sign changes or additions are proposed.
- F. The design of the signs is consistent in material and design with the architecture of the building.
- G. The north facing building has limited visibility from Power Road. The additional signage proposed is proportional to the building size, and addresses these issues related to commercially viable visibility of the building from the adjacent streets.
- H. The sign criteria within the CSP is tailored to this specific development and promotes superior design.
- I. The proposed CSP is largely consistent with current Code requirements and is complimentary to the 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.: BA17-029 APPROVED WITH CONDITIONS

Location: 6215 East Arbor Avenue (District 2)

Subject: *Requesting a Special Use Permit (SUP) to allow a Wireless Communications Facility to exceed the maximum height allowed in the LC zoning District. (PLN2017-00229)*

Decision: Approved with Conditions

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

Motion: A motion to approve case BA17-029 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the site plans dated March 29, 2017, except as modified by the following conditions:*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of fifty-nine (59') to the top of the fronds and fifty-four feet (54') to the top of the antenna array.*
3. *The lease area containing the equipment shelter and generator shall be screened by an 10' tall masonry wall that is finished with stucco and painted to match the adjacent building with a solid metal gate painted to be compatible with the color of the wall.*
4. *The wireless communication facility shall utilize a Faux Date Palm design with a minimum of 65 palm fronds. Of the 65 palm fronds used, 20% of the fronds must be 96", 40% of the fronds must be 108", and 40% of the fronds must be 120".*
5. *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.*
6. *The antenna array stand-off shall not exceed 2'-6" maximum from the pole.*
7. *The antenna array for each sector shall not exceed an overall length of 9'.*
8. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
9. *Provide and maintain two natural living palm trees (minimum 35' high) around the enclosure to help camouflage the proposed wireless communication facility.*
10. *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.*
11. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
12. *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.*
13. *Antenna socks shall be added to the antenna to assist in screening.*
14. *Future modifications shall be approved by the Planning Director to ensure the modifications remain in compliance with the existing concealment elements of the monopalm or base station as approved in case BA17-029 and the Mesa Zoning Ordinance as amended.*
15. *Compliance with all requirements of the Development Services Division regarding the issuance of building permits.*

Vote: Passed (6-0)

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

FINDINGS:

- A. The proposed location is a commercially zoned site that is a rehabilitation center.
- B. The proposed WCF is designed principally to address issues related to signal capacity and coverage.
- C. The proposed equipment enclosure will appear as a building addition and will not be readily recognizable.
- D. The improvements will be compatible and not detrimental to the surrounding neighborhood.

Case No.: BA17-030 APPROVED WITH CONDITIONS

Location: 1122 North Higley Road (District 2)

Subject: *Requesting a Special Use Permit (SUP) for modification of a Comprehensive Sign Plan in the LC District. (PLN2017-00228)*

Decision: Approved with Conditions

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

Motion: A motion to approve case BA17-030 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the comprehensive sign plan submitted and BA87-063, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division regarding the issuance of sign permits.*
3. *The (2) two modifier signs (shown as BAKERY DELI, PHARMACY LIQUOR) shall have a font size of 12 inches which is consistent with the height of the existing modifier signs.*
4. *The 43,000 SF building is limited to a maximum of five attached signs that shall not exceed a maximum total of the 210 SF.*

Vote: Passed (6-0)

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

FINDINGS:

- A. The CSP establishes consistent attached sign design and size.
- B. The proposed 210 square feet of total attached signage area between the five proposed signs are within scale to the ±43,000-single user building.
- C. The building is setback over 507' from Higley Road with a frontage of 234'.
- D. The design of the signs is consistent in material and design with the architecture of the building.
- E. The sign criteria within the CSP is tailored to this specific development and promotes superior design.
- F. The proposed CSP is largely consistent with current Code requirements and is complimentary to the 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.: BA17-031 **APPROVED WITH CONDITIONS**

Location: 828 East Broadway Road (District 4)

Subject: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards for the re-use of a school site to allow for development of a park in the PS District. (PLN2017-00295)*

Decision: Approved with Conditions

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

Motion: A motion to approve case BA17-031, with Condition #4 removed through a vote in Study Session, with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the site plan, landscape plan elevations and narrative submitted, except as modified by the conditions below;*
2. *Compliance with all requirements of the Development Services Division regarding the issuance of building permits.*
3. *There shall be a minimum of 3 bicycle parking spaces provided as per MZO Section 11-32-8.*

Vote: Passed (6-0)

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

FINDINGS:

- A. Mesa Junior High was closed in 2012. The 27± vacant school has not been used since 2012.
- B. The improvements proposed for the building and site are proportionate to the proposed intensified use, and provide modifications to the development of the site in a manner sufficient to develop a new park.
- C. Full compliance with development standards would require demolition of the existing site improvements including revisions to minimum sports fields.
- D. The deviations requested are consistent with the degree of change requested to improve the site.
- E. The proposed improvements will bring the site into a closer degree of conformance with current standards and do not create new non-conforming conditions.
- F. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

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- Case No.:** BA17-032 CONTINUED TO JULY 12, 2017 MEETING
- Location:** 1842 West Broadway Road and 1911 West Broadway Road (District 3)
- Subject:** *Consider an appeal of a Zoning Administrator interpretation regarding the proximity of two medical marijuana dispensaries. The Zoning Administrator's interpretation is that the two medical marijuana dispensaries were registered as approved locations on the same day, and for this reason both locations are considered legal but non-conforming uses. The applicant is appealing this interpretation. (PLN2017-00188)*
- Decision:** Continued to July 12, 2017
- Summary:** Chair Siebers clarified that no decision on Case BA17-032 would be made at the June 7th Hearing as the Case was noticed to be continued to the July 12, 2017 Meeting, and he addressed what could or could not be discussed based on what was agendaized in the Public Notice for the Case.
- Jim Broschart, Maintenance Manager and Acting Plant Manager for Arizona Corrugated Container at 225 S. Dobson Rd., made comments in opposition to allowing two medical marijuana dispensaries to locate within a mile of each other due to the perceived impact that such businesses, when located at that proximity from one another, will have on the customers that come to visit his place of employment.
- Motion:** A motion to continue case BA17-032 was made by Boardmember Swanson and seconded by Boardmember Tolman to July 12, 2017.
- Vote:** Passed (6-0)

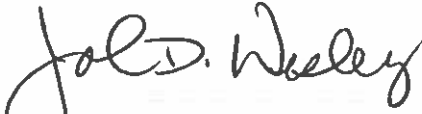
OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Wesley". The signature is written in a cursive style with a large, looping initial "J".

John Wesley,
Acting Zoning Administrator