

Board of Adjustment

Minutes

City Council Chambers

November 7, 2018

Boardmembers Present:

Wade Swanson, Chair
Chris Jones, Vice-Chair
Trent Montague
Ken Rembold
Steve Curran
Kathy Tolman
Adam Gunderson

Board Members Absent:

NONE

Staff Present:

John Wesley
Kim Steadman
Charlotte Bridges
Veronica Gonzalez
Erik Hansen
Margaret Robertson
Mike Gildenstern

Others Present:

George Pasquel
Cynthia L. Clark
Ralph Pew
Nancy Bonilla
(Others Present)

The study session began at 5:00 p.m. and concluded at 5:30 p.m. The Public Hearing began at 5:32 p.m., before adjournment at 6:04 p.m., the following items were considered and recorded.

Board of Adjustment Study Session

1. Call meeting to order

Study Session began at 5:00 p.m.

2. Zoning Administrator's Report

- 2-a** Discussed that the applicant of **Case BA16-049** Consider an appeal of an interpretation of the Zoning Administrator (ZA) regarding the method of processing a request to develop a single residence subdivision in the location of the driving range for the Red Mountain Ranch Golf Course. has filed a Notice of Appeal.

3. Review and discuss items listed on the Public Hearing agenda for November 7, 2018.

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

4. Adjournment

Study Session adjourned at 5:30 p.m.

Board of Adjustment Public Hearing

Call meeting to order

Public Hearing began at 5:32 p.m.

1. Take action on all consent agenda items.

Items on the Consent Agenda

2. Consider the Minutes from the October 3, 2018 meeting

On a motion by Boardmember Gunderson and seconded by Boardmember Rembold, the Board unanimously approved the October 3, 2018 minutes and Consent Agenda as read by Vice-Chair Jones.

Vote: 7-0
Upon tabulation of vote, it showed:
AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson
NAYS – None

3. Take action on the following cases:

A motion to approve the cases on the consent agenda as read by Vice-Chair Jones was made by Boardmember Gunderson and seconded by Boardmember Rembold.

Vote: 7-0
Upon tabulation of vote, it showed:
AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson
NAYS – None

***3-a Case No.: BOA18-00744 APPROVED WITH CONDITIONS**

Location: 3405 North Higley Road (District 5)

Subject: *Requesting a modification to a Special Use Permit (SUP) to allow a Comprehensive Youth Residence in the RS-90 District.*

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 BOA18-00744 as read by Vice-Chair Jones with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the Masterplan and Narrative, including phased development pursuant to the masterplan submitted.
2. Paving of all primary vehicular access drives which lead to children's or staff residences; access drives between the primary drive and the individual residences may use a base course of crushed granite or gravel as a dust control parking surface.
3. Compliance with all requirements of the Development Services Department in the issuance of building permits.

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson

NAYS – None

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

FINDINGS:

- A. In Sunshine Acres Children's Home has been located at this site for more than 50 years.
- B. The case site is larger than the minimum 20 acres required, and the facility has more than 25 beds licensed by the State of Arizona for a youth residence. The masterplan identifies existing offices, recreational buildings and fields, a chapel, a medical clinic, as well as on-site residences for staff and youth and other facilities that directly support the comprehensive youth residence program.
- C. The masterplan identifies a range of future development to support the program, such as additional residences for youth and staff, an updated recreation center, a larger dining hall, a maintenance facility, and expansion of the baseball field facility.
- D. The narrative identifies the proposed expansion from the existing 60 beds to 250 beds.
- E. Sunshine Acres relies on donations and grants for its proposed development. A 10 to 15 year timeline is anticipated to achieve the full scope of development proposed in the masterplan.
- F. A previous variance was approved (case ZA05-047) to permit the existing fence to exceed the maximum height permitted within a required front yard. No changes are proposed to this variance.
- G. As provided in the applicant's narrative and in the masterplan, this facility complies with the standards for a Comprehensive Youth Residence in the RS-90 district.

***3-b Case No.: BOA18-00759 APPROVED WITH CONDITIONS**

Location: 732 North 82nd Street (District 5)

Subject: *Requesting Special Use Permits (SUP) to allow 1) a wireless communications facility in the RS-43 District; 2) a wireless communication facility to deviate from design requirements of Chapter 11-35-5 of the Mesa Zoning Ordinance; and 3) a wireless communications facility to exceed the maximum height allowed in the RS-43 District.*

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 BOA18-00759 as read by Vice-Chair Jones with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the drawings dated 10/17/2018, Justification and Compatibility Statement dated 10/12/18., except as modified by the following conditions:
2. The wireless communication facility shall utilize a monopalm design with a maximum height of sixty-five (65') to the top of the fronds and sixty feet (60') to the top of the steel tower.
3. In order to maintain concealment, 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".
4. The antenna array stand-off shall not exceed 2'-5" maximum from the pole.
5. The antenna array for each sector shall not exceed an overall length of 9'.
6. All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.
7. Antenna socks shall be added to the antenna to assist in screening.
8. Provide a permanent, weather-proof identification sign, approximately 16-inches by 32-inches in size on a base station equipment cabinet 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.
9. To camouflage the proposed wireless communication facility, provide and maintain two natural living date palm trees, minimum 35' tall, as shown on the site plan .
10. Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.I.
11. 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.
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.

CONDITIONS (CONT.)

13. Future modifications must 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 BOA18-00759 as well as the Mesa Zoning Ordinance as amended.
14. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson

NAYS – None

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

FINDINGS:

- A. The proposed WCF is designed to improve network coverage.
- B. The proposed location is at a horse stable facility in a RS-43 district.
- C. The stealth design of this WCF meets MZO §11-35-5.A location preference #6 for locating in a residential district.
- D. The faux date palm tree design of this WCF meets MZO §11-35-5.B design preference #6 for stealth design.
- E. The stealth monopalm design and the two additional 35' tall palm trees help mitigate the visual impact of the facility.
- F. The proposed WCF installation is within private property, which is surrounded by an existing 6' tall masonry wall.
- G. The stealth design monopalm will be setback more than 65' plus 1' from all residential uses and the Adobe Street and 82nd Street rights-of-way.
- H. The proposed WCF monopalm meets the applicable requirements of MZO 11-35-5 and MZO 11-35-6, except for the requested deviations.
- I. The proposed WCF monopalm is an appropriate use in the RS-43 district and is compatible with the Neighborhood Suburban character type of the General Plan.
- J. The location, size, design, and operating characteristics of this WCF are consistent with the purposes of the RS-43 district.
- K. The improvements will be compatible with and not detrimental to the surrounding neighborhood.
- L. The RS-43 district location is necessary for the provision of personal wireless services to Mesa residents.
- M. The proposed WCF monopalm meets all applicable requirements of MZO 11-35-6.E with the exception of the requested deviations, for which acceptable alternatives are provided to achieve the intent of the ordinance.

***3-c Case No.: BOA18-00763 APPROVED WITH CONDITIONS**

Location: 536 West Dana Avenue (District 4)

Subject: *Requesting a Variance to allow an encroachment in to the required side yard setback in the RM-2 District.*

Decision: Approved with Conditions

Summary: This item was on the consent agenda and not discussed on an individual basis. A neighbor, (Nancy Bonilla, 542 W. Dana), was present in support of the request.

Motion: A motion to approve case BOA18-00763 as read by Vice-Chair Jones with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan as submitted.
2. Compliance with all requirements of the Development Services Department in the issuance of a building permit.

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson

NAYS – None

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

FINDINGS:

- A. The original home was built in 1930 without covered parking, which was in compliance with development standards at that time.
- B. The lot area is less than the minimum 7,200 square feet required in the RM-2 District and was created as a part of a subdivision plat recorded in 1910.
- C. The MZO requires single family residences provide two covered parking spaces on site.
- D. Granting of the variance would not constitute a special privilege as all single residences are now required to provide two covered parking spaces and the proposed carport will bring the property into compliance with current MZO standards.

***3-d Case No.: BOA18-00764 APPROVED WITH CONDITIONS**

Location: 360 South Center Street (District 4)

Subject: *Requesting: 1) a Special Use Permit (SUP) to allow outdoor sales and leasing of boats; and 2) a Development Incentive Permit to allow the development of a bypassed parcel in the DB-2 District.*

Decision: Withdrawn

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

Motion: A motion to acknowledge withdrawal of case BOA18-00764 as read by Vice-Chair Jones with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Rembold to approve with the following conditions:

Vote: 7-0
Upon tabulation of vote, it showed:
AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson
NAYS – None

3-e Case No.: BOA18-00767 APPROVED WITH CONDITIONS

Location: 922 South Country Club Drive (District 4)

Subject: *Requesting a Special Use Permit (SUP) to allow the number of special events to exceed the allowed maximum in the GC-PAD District.*

Decision: Approved with Conditions

Summary: George Pasquel, Withey Morris, 2525 E. Arizona Biltmore Circle, Phoenix, representing the Goodwill Store to the south of the property, wanted to clarify that special events held at 922 S. Country Club Drive would not negatively impact circulation into the Goodwill Store parking field, and that Goodwill would be kept informed of any upcoming special events.

Timothy Conrad, 922 S. Country Club Drive, presented the case to the Board.

Chair Swanson explained the nature of the Special Use Permit, and the recourse that surrounding property owners would have with any issues that arise during the special events.

Cynthia Clark, 947 S. Vineyard St., expressed concern over the number of events requested over the course of the year, specifically the traffic-generation and noise created by the planned events.

Staffmember Steadman clarified that according to the information presented by the applicant, only 10% of the events would be held outdoors at the stage which has the greatest impact on Ms. Clark's property. Mr. Steadman explained the recourse that a neighbor would have if there was a disturbance. He finished by explaining that he had contacted the Mesa Police Department, which did not report any complaints.

The applicant, Timothy Conrad, confirmed for Boardmember Tolman that most of the special events would occur on the covered patio area, some inside, and only 10% (probably 3 a year) would occur on the stage that is near Ms. Clark's property. Mr. Conrad went on to say that most of the events will feature vendors, local bands, and food trucks. He closed by adding that they are all charity events, and anyone in the neighborhood is invited.

Mr. Conrad confirmed for Boardmember Curran that the events will not go past 10 p.m., and that most will end earlier than that.

Mr. Conrad explained to Boardmember Jones that he was not entirely familiar with City of Mesa Code *Title 6-12 Offensive, Excessive, and Prohibited Noises*, but Staffmember Steadman said that he would provide Mr. Conrad with that information.

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Mrs. Clark explained to the Board that she has not filed any complaints against the property this year, but she did have an issue with the noise coming from an air compressor left running for 4 days, people climbing over her back fence, people picking fruit from her trees, and trash being thrown over the wall, over the last 5 years. She also expressed that parking and limited notification has been a problem as well.

Ms. Clark explained to Boardmember Curran that she thinks that other neighbors have not filed complaints because they do not want to call attention to themselves.

Boardmember Jones explained to Ms. Clark that the Special Use Permit is for only one year, so there is a lot riding on this year, and it's in the applicant's best interest to comply with requirements.

Ms. Clark stated that she has not observed any events going past 10 p.m. this year, and that she didn't realize that only 10% of the events would be located immediately adjacent to her home, and closed by being in support of the request, but with considerations.

Zoning Administrator Wesley stated that the applicant is on notice to operate well, and that the neighbors are encouraged to register complaints when necessary.

Chair Swanson added that Ms. Clark should exchange contact information with the applicant, to foster an open line of communication for any issues that may arise.

Motion: A motion to approve case BOA18-00767 with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Jones to approve with the following conditions:

1. Compliance with the site plan, Project Narrative and Operation Plan details except as modified by the conditions below.
2. Apply for and receive a Mesa Special Event License prior to each event.
3. Compliance with all requirements of the Special Event License.
4. Events shall operate, per the Operation Plan, between the hours of 8:00 AM and 10:00 PM.
5. Compliance with Title 6-12 "Offensive, Excessive, and Prohibited Noises" of the Mesa City Code.
6. The Special Use Permit allows up to 25 events per year in which the SUP is in effect.
7. The Special Use Permit allows up to 30 event days per year in which the SUP is in effect.
8. The Special Use Permit allows events to exceed the 4-day-per-event limit.
9. The Special Use Permit shall automatically expire on November 8, 2019 and be of no further force and effect.
10. At the end of the SUP year the applicant will provide a report describing all events hosted during the year. The report will describe the scale and location of the event on the site, the hosting organization (if other than Desert Winds), any complaints from neighbors and how they were resolved, and any Police involvement. Any review of a request to extend the SUP beyond a year will include review of this report.
11. Compliance with all requirements of the Development Services Department in the issuance of building permits.

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson

NAYS – None

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

FINDINGS:

- A. The requested SUP would allow special events for up to 30 event days per year for Desert Wind Harley-Davidson.
- B. The applicant has submitted an Operation Plan that indicates the hours of operation for each event will be limited to the hours of 8:00 AM to 10:00 PM. If the event includes the sale of alcohol the applicant has indicated the appropriate licenses and security will be in place to ensure the proper ID for sales and to ensure the alcohol does not leave the premises of the special event.
- C. The applicant's Good Neighbor Policy indicates written notification will be sent to neighbors within 500 feet for each event. Neighborhood complaints will be directed to the Marketing Director for resolution of any problems.
- D. The applicant indicates there is adequate parking on site for most events. If additional parking is required, the applicant proposes 2 methods for providing additional parking: 1) Request a permit for the closure of Emerald Avenue in conjunction with the application for the license for the specific event; and 2) Negotiate additional event parking with surrounding businesses.
- E. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

***3-f Case No.: BOA18-00776 APPROVED WITH CONDITIONS**

Location: 1510 South Country Club Drive (District 3)

Subject: *Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) in the GC District.*

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 BOA18-00776 as read by Vice-Chair Jones with the acceptance of Findings of Fact and Conditions of Approval, was made by Boardmember Gunderson and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan, sign plan details, and project narrative submitted.
2. Compliance with all requirements of the Development Services Department in the issuance of sign permits.

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson

NAYS – None

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

FINDINGS:

- A. The CSP proposes to exceed the MZO for the number of attached signs on the property, but proposes an aggregate sign area below the allowed Code maximums.
- B. The CSP does not increase the amount of detached signage on property, which is below Code allowances for sign area and height.
- C. The sign criteria within the CSP is tailored to this specific development and enhances the characteristics of the land use.
- D. The CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the district in general.

Items not on the Consent Agenda

4. Take action on the following cases:
NONE

5. Other business

None.

6. Items from citizens present

None.

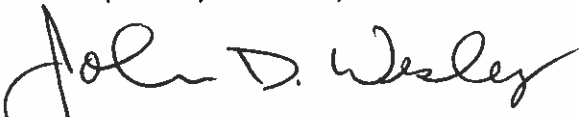
7. Adjournment

A motion to adjourn was made by Boardmember Tolman and seconded by Boardmember Rembold.

Vote: 7-0
Upon tabulation of vote, it showed:
AYES – Swanson, Jones, Montague, Rembold, Curran, Tolman, Gunderson
NAYS – None

Public Hearing adjourned at 5:32 p.m.

Respectfully submitted,


John Wesley,
Zoning Administrator