



Board of Adjustment

Minutes

City Council Chambers, Lower Level

September 6, 2017

Boardmembers Present:

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

Board Members Absent:

none

Staff Present:

John Wesley
Kim Steadman
Lisa Davis
Charlotte Bridges
Charlotte McDermott
Mike Gildenstern

Others Present:

Nancy Smith
Christine Tucker
Ryan Robinson
Charles Caswell
(others present)

The study session began at 4:31 p.m. and concluded at 5:07 p.m. The Public Hearing began at 5:30 p.m., before adjournment at 6:03 p.m., the following items were considered and recorded.

Study Session began at 4:31 p.m.

- A. Zoning Administrator’s Report – Zoning Administrator Wesley informed the Board that the Arizona Supreme Court Case between 1st Pawn and the City of Phoenix will be discussed in further detail at a later meeting, and added that Staff continues to work on the Sign Code Update.
- B. The items scheduled for the Board’s Public Hearing were discussed. Case BOA17-00182 was removed from the Consent Agenda by the applicant for discussion.

Study Session adjourned at 5:07 p.m.

Public Hearing began at 5:30 p.m.

A. Consider Minutes from the August 2, 2017 Meeting:

The Minutes from the August 2, 2017 Meeting were not considered, but will be voted on at a subsequent Board of Adjustment Meeting.

B. Consent Agenda:

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

Vote: 7-0 Approved

Public Hearing adjourned at 6:03 p.m.

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Case No.: BA17-042 CONTINUANCE TO NOVEMBER 1, 2017

Location: 860 N. Riverview (District 1)

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

Decision: Continued to November 1, 2017

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

Motion: A motion to continue case BA17-042 to the November 1, 2017 Meeting was made by Boardmember Swanson and seconded by Boardmember Tolman.

Vote: Passed: 7-0

Case No.: BOA17-00093 APPROVED WITH CONDITIONS

Location: 1132 West Rio Salado Parkway (District 1)

Subject: *Requesting a Special Use Permit (SUP) to allow for a wireless communications facility in the RS-6 District, and an SUP to allow the facility to exceed the allowed height in an RS-6 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 BOA17-00093 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman to approve with the following conditions:

1. *Compliance with the site plans dated March 2, 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 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'-6" 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. *The lease area containing the monopalm and base station equipment cabinets shall be screened by a minimum 8' tall masonry wall, or to the height of the equipment being screened. The masonry wall shall be finished and painted to match the adjacent wall color and be equipped with an opaque metal gate.*
9. *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.*
10. *Provide and maintain two natural living palm trees, minimum 35' tall, as shown on the site plan and within 20' of the equipment enclosure to help camouflage the proposed wireless communication facility.*
11. *Provide and maintain three Mesquite trees, minimum 24" box, along the north property line as shown on the site plan.*
12. *Provide and maintain 4 ft. wide landscape strip with shrubs along the north, east and south side of the equipment screen wall as shown on the site plan.*
13. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
14. *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.*
15. *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.*

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16. *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 BOA17-00093 and the Mesa Zoning Ordinance as amended.*
17. *Compliance with all requirements of the Development Services Department regarding the issuance of building permits.*

Vote: Passed: 7-0 Approved

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

FINDINGS:

- A. The proposed location is a residentially zoned site.
- B. The proposed WCF monopalm design is considered a stealth design
- C. The proposed WCF is designed principally to address issues related to improving network capacity.
- D. The proposed 65 palm fronds at varying lengths, and the plantings of two palm tree, three Mesquite trees and shrubs help mitigate the visual impact of the facility.
- E. The proposed WCF will include an 8 ft. CMU wall and additional landscaping to screen the equipment.
- F. The stealth design monopalm is proposed to be setback more than 59' plus one foot from all residential uses and from the Rio Salado Pkwy Right-of-Way.
- G. The proposed WCF monopalm is located 300± feet from the nearest residential properties to the north, east and south across Rio Salado Pkwy.
- H. The proposed WCF monopalm meets the applicable requirements of MZO 11-35-5 and MZO 11-35-6.
- I. The proposed WCF monopalm is an appropriate use in the RS-6 District and is compatible with the Neighborhood Suburban character type of the General Plan.
- J. The improvements will be compatible and not detrimental to the surrounding neighborhood.
- K. The residential district location is necessary for the provision of personal wireless services to residents.

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Case No.: BOA17-00102 WITHDRAWN BY STAFF

Location: 2528 East McKellips Road Lot 53 (District 1)

Subject: *Requesting variances to allow a storage building to 1.) encroach into the required side yard; 2.) exceed the maximum building area; and 3.) exceed the maximum building height in an RM-4-AS District.*

Decision: Withdrawn by Staff

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

Motion: A motion to withdraw case BOA17-00102 was made by Boardmember Swanson and seconded by Boardmember Tolman.

Vote: Passed: 7-0

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- Case No.:** BOA17-00129 WITHDRAWN BY STAFF
- Location:** 4728 East Virginia Street (District 5)
- Subject:** *Requesting a Special Use Permit (SUP) to allow a caretaker's residence in conjunction with a new industrial building in a GI District.*
- Decision:** A motion to withdraw case BOA17-00129 was made by Boardmember Swanson and seconded by Boardmember Tolman.
- Summary:** This item was on the consent agenda and not discussed on an individual basis.
- Motion:** A motion to withdraw case BOA17-00129 was made by Boardmember Swanson and seconded by Boardmember Tolman.
- Vote:** Passed: 7-0

Case No.: BOA17-00140 APPROVED WITH CONDITIONS

Location: 10250 East Guadalupe Road (District 6)

Subject: *Requesting a Special Use Permit (SUP) for expansion of the Mulberry Comprehensive Sign Plan (CSP) to include Parcel 5, in an RSL – 4.5 - PAD 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 BOA17-00140 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman 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 regarding the issuance of sign permits.*
3. *Compliance with all requirements and conditions of approval for the SUP, ZA15-002.*

Vote: Passed: 7-0 Approved

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

FINDINGS:

- A. The CSP modifies the existing CSP to add three additional detached signs for a total of seven signs for the 175 acre, 708 home, development.
- B. Four detached signs are existing adjacent to Guadalupe Road and Signal Butte Road. Given the scale of the development, there is a need to identify the project as one large master planned community rather than five independent subdivisions. The number of signs proposed is less than would be allowed by Code, therefore the additional size of each sign for the project is justified.
- C. The scale and placement of the signs is proportional and works well with the overall design and layout of the subdivision. In this case, the subdivisions (parcels) are all connected with one another and accessible from within the Mulberry development. The design of the signs is consistent in material and design with the architecture of the project.
- D. The proposed detached signs for Mulberry are consistent with other detached signs for similar developments.
- E. The signed entrances adjacent to Guadalupe Road are more than 1,300' apart.
- F. The sign criteria within the CSP is tailored to this specific development and promotes superior design.
- G. The proposed CSP is largely consistent with current MZO 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.: BOA17-00148 APPROVED WITH CONDITIONS

Location: 948 South Horne (District 4)

Subject: *Requesting a Special Use Permit (SUP) to allow for a wireless communications facility in an RS-6 District, and an SUP to allow the facility to exceed the allowed height in an RS-6 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 BOA17-00148 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman to approve with the following conditions:

1. *Compliance with the plans dated July 06, 2017, except as modified by the following conditions:*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of seventy feet (70') to the top of the fronds and sixty-five feet (65') to the top of the steel tower.*
3. *In order to maintain concealment, the wireless communication facility shall use 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'-6" maximum from the pole.*
5. *The antenna array for each sector shall not exceed an overall length of 4'.*
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 antennas to assist in screening.*
8. *A palm-frond skirt, and antenna socks shall be used to fully conceal proposed future carrier antennas.*
9. *The lease area containing the equipment shelter and generator shall be screened by a minimum 8' tall masonry wall, or a wall the height of the equipment being screened, and shall be stuccoed and painted to match the adjacent school buildings, with a solid metal gate painted to be compatible with the building on site.*
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. *Provide and maintain three natural living palm trees, minimum 35' tall, as shown on the site plan to help camouflage the proposed wireless communication facility.*
12. *Provide and maintain a 4'-wide landscape area around the masonry wall enclosure of the facility, with decomposed granite, and shrubs planted at 6' on center.*
13. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
14. *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.*
15. *No later than 90 days from the date the use is discontinued or from 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.*

16. *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 BOA17-00148 and the Mesa Zoning Ordinance as amended.*
17. *Compliance with all requirements of the Development Services Department regarding the issuance of building permits.*

Vote: Passed: 7-0 Approved

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 Holmes Elementary School property.
- B. The proposed WCF monopalm design is considered a stealth design.
- C. The proposed WCF is designed principally to address a significant gap in coverage, and a capacity shortfall.
- D. The 65 palm fronds at varying lengths (as conditioned) 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 minimum 8’ CMU enclosure and (as conditioned) additional landscaping for screening of equipment.
- F. The stealth design monopalm is proposed to be setback more than the proposed height, 70’ plus one foot from all residential uses and from the Horne Right-of-Way.
- G. The proposed monopalm is located 160± feet from the nearest residential properties on the east side of Horne.
- H. The proposed WCF monopalm meets the applicable requirements of MZO 11-35-5 and MZO11-35-6.
- I. The proposed WCF monopalm is an appropriate use in the RS-6 District and is compatible with the Neighborhood Suburban character type of the General Plan.
- J. The improvements will be compatible and not detrimental to the surrounding neighborhood.
- K. The residential district location is necessary for the provision of personal wireless services to residents.

Case No.: BOA17-00182 APPROVED WITH CONDITIONS

Location: 6700 block of East McKellips Road (District 5)

Subject: *Requesting a Development Incentive Permit (DIP) to allow modifications to development standards for a drive-through restaurant in an LC District.*

Decision: Approved with Conditions

Summary: Staff member Lisa Davis explained to the Board that the applicant has expressed concerns with Conditions 5 and 7.d.. The foundation base at the north side of the proposed building cannot meet the 15' minimum. They have asked that the condition be modified to allow an average of 11' and staff is in support of the request. This will accommodate the narrowing of the site adjacent to McKellips Road.

The applicant, Ryan Robinson, 4G Development, San Diego, presented the Case to the Board. He provided a plan that showed the truck delivery route from McKellips Road and the difficulty that trucks will have maneuvering the site with landscape islands.

Boardmember Curran was concerned that delivery trucks consistently driving over the endcaps on the proposed islands would create a maintenance issue.

The applicant explained to Boardmember Swanson that trucks will make deliveries outside of business hours, so the parking stalls shown in the truck delivery path plan will be vacant when deliveries are made.

The applicant confirmed for Boardmember Jones that although he doesn't have any research to support the position that a flush aggregate endcap will be effective in regulating traffic flow onsite, he was hopeful that a variation in material would influence driving and parking behavior.

Charles Caswell, 1548 N. Power Road, expressed concern that cars won't see pedestrians when exiting the drive-thru when heading out towards Power Road.

The applicant explained that Chick-fil-A drive-thrus normally feature a stop sign placed at the end of the drive-thru lane for safety.

Boardmember Swanson mentioned that the vehicles existing the proposed development are right- turn-only, which may also help with safety concerns.

Chair Montague confirmed with the applicant that conditions 5 and 7.d. are the conditions of concern.

Boardmember Tolman felt that since the case featured an unusual shaped property the site should be developed to a standard that would be conducive to receive deliveries.

Zoning Administrator Wesley explained to the Board that Staff saw a need for separation/delineation in the parking lot, and that decorative aggregate or grasscrete could be utilized in place of the required landscape material.

Boardmember Jones agreed with the modification to Condition #5.

Boardmember Tolman confirmed that the applicant would not have to landscape the areas in the middle of the roll curbs.

Zoning Administrator Wesley suggested amending Condition #5 to read; "Landscape islands at the ends of the row of parking in the middle of the parking area shall use a roll curb and paving material different than the remainder of the parking area."

Motion: A motion to approve case BOA17-00182 with the acceptance of Findings of Fact and modifications to Conditions of Approval #5 and #7.d as read was made by Boardmember Swanson and seconded by Boardmember Rembold to approve with the following conditions:

1. *Compliance with the site plan, landscape plan and elevations as submitted, except as modified by the conditions below.*
2. *Compliance with all requirements and conditions of approval for Site Plan Review, Z17-037.*
3. *Compliance with all requirements and conditions of approval for Design Review, DR17-033.*
4. *Compliance with all requirements of the Development Services Department regarding the issuance of building permits.*
5. *Landscape islands at the ends of the row of parking in the middle of the parking area shall use a roll curb and paving material different than the remainder of the parking area.*
6. *All landscape material shall meet the minimum required size and number per MZO Section 11-33.*
7. *The site plan and elevations shall be revised for acceptance by the Planning Director to include the following items:*
 - a. *Provide parking lot screening to meet MZO 11-30-9.H.*
 - b. *All screen walls and trash enclosure shall be designed to be compatible with building architecture in material, color and texture.*
 - c. *The northern most 3 parking spaces at the west side of the site shall be eliminated. The landscape median at the west side of the drive through shall be widened to reduce the drive aisle to 24' in width.*
 - d. *An average of 11' of foundation base landscape shall be provided at the north side of the building.*
 - e. *A bike rack shall be installed to accommodate a minimum of three bicycles.*

Vote: Passed: 7-0 Approved

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

FINDINGS:

- A. The development conforms to the General Plan's description of a Mixed-Use Activity character area.
- B. The site is 2 acres, which is under the 2.5-acres maximum allowed for a DIP application, and the lot has been in its current configuration for more than 10 years.
- C. The site has direct access to existing utility services.
- D. The proposed restaurant with a drive thru is consistent with the level of development of existing and surrounding commercial uses and developments.
- E. Compliance with the Site Plan Review and Design Review approval will ensure that the level of site improvements, architectural detailing and design elements on the building will meet the Design Standards listed in the Zoning Ordinance.
- F. With the recommended conditions of approval, the landscape quantities and materials meet the intent of the development standards listed in the Zoning Ordinance.

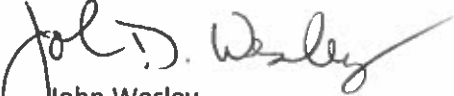
OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,


John Wesley,
Zoning Administrator