

Board of Adjustment

Minutes

City Council Chambers, Lower Level
September 10th, 2013

Board Members Present:

Danette Harris – Chair
Trent Montague - Vice Chair
Greg Hitchens
Mark Freeman
Wade Swanson
Chad Cluff

Board Members Absent:

Tyler Stradling (excused)

Staff Present:

Gordon Sheffield
Angelica Guevara
Mia Lozano-Helland
Kim Steadman
Wahid Alam
Lesley Davis
Julie Kerran
Kaelee Wison
Delphina Legah

Others Present:

Jose Gomez
John Aliifua
Reese Anderson
Rick Shaw

The study session began at 4:34 p.m. The Public Hearing meeting began at 5:35 p.m. Before adjournment at 6:30 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.

Study Session adjourned at 5:22 p.m.

Public Hearing began at 5:35 p.m.

- A. Consider Minutes from the August 13th, 2013 Meeting a motion was made by Board member Freeman and seconded by Board member Swanson to approve the minutes. Vote: Passed 6-0.
- B. First Consent Agenda a motion to approve the first consent agenda as read was made by Board member Freeman and seconded by Board member Swanson. Vote: Passed 6-0.

Second Consent Agenda a motion to approve the second consent agenda to approve case BA13-047 was made by Board member Freeman and seconded by Board member Swanson. Vote: Passed 5-1 (Abstained Hitchens).

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Case No.: BA13-033

Location: 1930 South Alma School Road

Subject: Requesting a Special Use Permit to allow a wireless communication facility to exceed the maximum height allowed in the LC-PAD zoning district. (PLN2013-00278)

Decision: Approved with Conditions.

Summary: This item was on the consent agenda and was not discussed on an individual basis. The applicant is proposing the construction of a 55-foot tall monopalm measured to the top of the palm fronds located within an existing office complex.

Motion: It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-033 with the following conditions:

1. *Compliance with the site plans and elevations submitted and dated August 29, 2013, except as modified by the following conditions below.*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of fifty-five feet (55') to the top of the palm canopy and 47'-7" forty-seven feet, seven-inches to the RAD center of the antenna array.*
3. *The wireless communication facility shall utilize a Faux Date Palm design with a minimum of 65 palm fronds. Palm fronds shall be a minimum of 10-feet in length.*
4. *Palm tree trunk to have bark cladding material to resemble the bark of a date palm.*
5. *The antenna array stand-off shall not exceed 30" maximum from the pole.*
6. *The antenna array for each sector shall not exceed an overall width of 9' with approximately 3-foot maximum width between antennas.*
7. *The antennas shall not exceed 1'-3" wide x 7.1" deep x 4'-10" tall.*
8. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
9. *The 12' x 28' lease area containing the equipment shelter and generator shall be screened by a 9'-4" tall masonry wall with solid metal rolling gate.*
10. *A minimum four-foot (4') wide landscape planter shall be provided and maintained around the perimeter of the screen wall. A minimum of eleven (11), five-gallon (5) size shrubs shall be planted within this landscape planter.*
11. *Provide and maintain a minimum 35' tall natural living Phoenix Canariensis - Date Palm within the landscape planter surrounding the equipment enclosure to help camouflage the proposed wireless communication facility.*
12. *Three (3) trees shown on Sheet Z-2 adjacent to the north property line and indicated for removal shall be replaced with a lower canopy tree a minimum of 36" box size.*
13. *The operator of the monopalm shall respond to and complete all identified maintenance and repair of the facility within 30 days of receiving written notice of the problem.*
14. *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.*
15. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5-I.*
16. *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*

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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.

17. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.

Vote: Passed (6-0)

STAFF ANALYSIS AND RECOMMENDED FINDINGS:

1. The approved Special Use Permit (SUP) would allow the placement of a 55 foot high monopalm adjacent to the north property line of the existing office development. The monopalm and associated ground-mounted equipment would be located within a 50' x 17'-4" lease area and the associated equipment shelter and an emergency generator would be located within a 28' x 12'-10" screened area. The applicant has proposed to surround the shelter and generator with a 9'-4" tall CMU wall.
2. The wireless communication facility has been approved to address "both capacity deficiencies and a gap in coverage." Approval of a SUP for this monopalm requires that the wireless communication facility be compatible with and not detrimental to surrounding properties, and consistent with the General Plan and other recognized plans and policies approved by the City Council.
3. Wireless communication facilities that exceed the maximum height permitted are an allowed use in the LC Zoning District subject to granting of a Special Use Permit. In addition, the Zoning Ordinance includes location, design, and operation requirements:
 - a. Location Preferences: The Zoning Ordinance provides a ranked listing of preferred locations for new wireless communication facilities. Top preference is given to placement on existing non-residential structures, such as buildings or utility facilities located more than 300 feet from residential zones, followed by co-location on existing wireless communication facilities. When such locations are not available, locations within industrial zones are preferred, followed by stealth applications in commercial zones, then stealth applications in residential zones.

The applicant evaluated existing verticality within the search radius and has determined that there are no structures that can be used to address the specific coverage gap. Staff has completed an informal review of verticality, and concurs with the applicant's assessment.

- b. Design Preferences: The Zoning Ordinance provides a ranked listing of preferred design approaches for new wireless communication facilities. Top preference is given to architecturally integrated building mounted antennas such as steeples, chimneys, and cupolas, followed by building mounted antennas concealed by faux structures, then antennas directly mounted to building and visible but artistically integrated into the structure. When building mounted locations are not available, freestanding structure designs such as sculptures and clock towers are preferred, followed by freestanding stealth trees, then freestanding monopoles.

The applicant has requested the use of a freestanding monopalm with a height of 47'-7" feet to the RAD center of the antennas (55 feet to top of palm fronds). A monopalm design was chosen by the applicant as the best method to blend into the surrounding environment, noting an existing monopalm already on the site and real palms also existing at the site.

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- c. Location of Facilities: The Zoning Ordinance requires that within commercial districts, new freestanding antenna structures may be located within 1,000 feet of another freestanding facility, provided a stealth camouflaged design is used.

As noted above, the applicant has proposed a monopalm design and stated the existing 60-foot tall monopalm located 80 feet from the proposed monopalm on the site is not co-locatable without affecting the stealth design. In addition, the existing towers within a two-mile radius are not viable as they do not meet the coverage objective or do not provide the needed coverage within Verizon's search ring.

- d. Height of Facilities: Consistent with the Zoning Ordinance requirements, ground-mounted equipment will be screened by an eight foot high CMU wall painted to match surrounding development.

The applicant's request proposes a 9'-4" tall CMU wall to surround the equipment shelter and emergency generator.

- e. Required Separation and Setbacks: Alternative antenna structures, such as a monopalm, must be setback from residential uses by a distance equal to the height of the structure plus one foot and setback from streets by a distance equal to the height of the structure plus one foot.

The approved wireless communication facility is located 115 feet from Alma School Road, 270 feet from the nearest multi-residence development, and 500 feet from the nearest single residence.

- f. Design Standards: The Zoning Ordinance provides several standards to help ensure antennas, antenna support structures, and related equipment are located, designed, and screened to blend with the existing natural or built surroundings. Specific to the use of a monopalm design, these standards help ensure that faux trees actually camouflage the wireless facility by requiring that antennas and antenna support structures not extend beyond the outside edge of the faux palm fronds.

Staff has concerns that the three-sector, three antennas per sector antenna array will not be sufficiently camouflaged by the faux palm fronds, as each sector will have an overall width of 10' 6" wide and will be over 30" from the pole. Staff has recommended a condition of approval limiting the overall width of the antenna sector to a maximum of 6 feet to ensure the palm fronds adequately screen the antennas and a maximum standoff width of 18".

- g. Required Landscaping: The Zoning Ordinance requires wireless communication sites to include a landscape buffer of plant materials that effectively screens views of the base of support structures and equipment facilities from adjacent residential properties, public right-of-way, path, or trail. The standard buffer requirement is a continuous landscape strip with a minimum radius of 4 feet around the perimeter of the installation.

The site plan provides a continuous landscape planter around the perimeter of the equipment enclosure. Additionally, while there are existing mature tall trees on the site and close to the proposed monopalm location, the applicant is proposing the removal and replacement of three (3) trees within the landscape area adjacent to the north property line to accommodate the proposed faux palm and unobstructed line of sight to the monopalm. Staff has added a condition of approval to ensure the trees are replaced with trees a minimum of 36" box size.

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Case No.: BA13-042

Location: 1705 West Main Street

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the PS zoning district.
(PLN2013-00359)

Decision: Continuance to the October 15th, 2013 hearing

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

Motion: It was moved by Board member Freeman seconded by Board member Swanson to continue case BA13-042 to the October 15th, 2013 hearing.

Vote: Passed (6-0)

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Case No.: BA13-043

Location: 470 South Alma School Road

Subject: Requesting a Substantial Conformance Improvement Permit to allow the redevelopment of a vacant vehicle sales facility in the GC and LI zoning districts. (PLN2013-00124)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis. The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to facilitate the redevelopment of the site while maintaining the existing reduced setbacks adjacent to the perimeter property lines, reduced foundation base width around the building, and reduced landscape within parking areas.

Motion: It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-043 with the following conditions:

1. *Compliance with the site plan, landscape plan, and building elevations submitted, except as modified by the conditions listed below.*
2. *All setbacks shall be measured from the future half street right-of-way width as per Sec. 11-2-3(L).*
3. *Provision of a pedestrian connection to Alma School Road.*
4. *Vehicle loading and unloading shall occur on-site.*
5. *A maximum of 30% of the street side landscape area may be used for vehicle display. A minimum 12 foot wide planter strip shall separate vehicle display areas from sidewalks along the streets. Vehicle display encroachment wider than 30 feet shall be separated by a minimum distance of 30 feet between similar vehicle displays that encroaches into the street side landscape area.*
6. *No additional Vehicle Display Platforms are permitted.*
7. *Light standards within 50 feet of the south property line shall provide house side shields.*
8. *Illumination levels throughout the site shall comply with maximum light intensity as indicated the Mesa City Codes at the property lines.*
9. *Provide an 8 foot wide landscape setback adjacent to the south property line with 18 trees and 24 shrubs. Shrubs shall be provided in front of screen wall.*
10. *Provide a 6-inch vertical concrete curb between all drive-aisles/parking spaces and landscape areas.*
11. *Administrative Design Review approval required for the proposed changes to the exterior building elevations.*
12. *Dedication of right-of-way required as specified in the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.*
13. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

FINDINGS:

- 1.1 The applicant was approved to redevelop an existing site that was developed in the 1980s with setbacks,

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landscape, and parking lot landscape requirements that differ from those required by current Code.

- 1.2 The applicant was approved for deviations from current Code requirements related to building, parking and landscape setbacks around the perimeter of the site and foundation base. These reductions will allow the vacant site to be re-occupied with minor improvements without requiring significant alteration of the site or demolition of the majority of the existing improvements.
- 1.3 The applicant has provided sufficient evidence that compliance with current Code requirements would not be possible without significant alteration of the site, resulting in the demolition of the existing paved areas which would significantly reduce the area available for vehicle display and storage. To provide substantial conformance with current Code development standards, landscaping around the majority of the perimeter of the site will be replaced and a wider landscape buffer will be provided adjacent to the south property line where residential exists.
- 1.4 The approved site and landscape plans, including staff recommended conditions for approval, substantially conform to the intent of the Code and provide a development that is consistent with and not detrimental to adjacent properties.

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- Case No.:** BA13-044
- Location:** 2416 East Broadway Road
- Subject:** Requesting: 1) a Variance to allow the reduction to the required parking space dimensions; and 2) a Variance to allow an encroachment into the required side yard in the RS-6 zoning district. (PLN2013-00387)
- Decision:** Approved with Conditions.
- Summary:** This item was on the consent agenda and was not discussed on an individual basis. The requested variances would allow the enclosure of a carport and maintain the existing four foot setback along the north property line, where a minimum five-foot setback is required.
- Motion:** It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-044 with the following conditions:
1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
 2. *Provision of a minimum garage width of eighteen feet (18') and depth of twenty feet (20').*
 3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Vote:** Passed (6-0)

FINDINGS

1. The special condition of the property is pre-existing.
2. The residential footprint and roof line will not be changed.
3. Strict compliance with current setback requirements would deprive the applicant of the ability to have enclosed parking.
4. The variance does not grant a special privilege unavailable to other properties in the same zoning district.
5. The home was placed at an angle parallel to the north property line, which severely affects development options on the opposite side and rear.
6. A 10' setback is provided on the south property line adjacent to the street to comply with development standards.

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Case No.: BA13-045

Location: 960 North Riverview

Subject: Requesting a Special Use Permit to allow a wireless communication facility to exceed the maximum height allowed in the PS-PAD zoning district. (PLN2013-00392)

Decision: Continuance to the October 15th, 2013 hearing

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

Motion: It was moved by Board member Freeman seconded by Board member Swanson to continue case BA13-045 to the October 15th, 2013 hearing.

Vote: Passed (6-0)

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Case No.: BA13-046

Location: 415 South Higley Road

Subject: Requesting a Special Use Permit to allow a wireless communication facility to exceed the maximum height allowed in the LC zoning district. (PLN2013-00393)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis. The applicant is proposing the construction of a 59 foot tall monopalm located within the existing retail development.

Motion: It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-046 with the following conditions:

1. *Compliance with the site plan submitted except as modified by the following conditions below.*
2. *The commercial communication towers shall utilize a monopalm design with a maximum height of sixty feet (60') to the top of the palm canopy and fifty-five feet (55') to the top of antennas.*
3. *The commercial communication tower shall utilize a Faux Date Palm design with a minimum of 65 palm fronds. Palm fronds shall be a minimum of 10 feet in length.*
4. *The antenna arrays stand-off shall not exceed thirty inches (30") from the pole.*
5. *The antenna array for each sector shall not exceed an overall width of nine feet (9').*
6. *The antennas shall not exceed 96" long x 12.5" wide x 7.1" deep.*
7. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
8. *The 16' x 13'-4" lease area containing the equipment shelter and generator shall be screened by an 8'-4" high masonry wall and solid metal gates.*
9. *Enlarge the existing raised landscape island located at the east end of the parking stalls to the south of the approved cell tower by a minimum of two parking stall widths and install a minimum of four (4), five-gallon (5) size shrubs along with live Mexican Fan Palm within this landscape planter.*
10. *Provide one (1) 35' foot tall and one (1) 25' tall Mexican Fan Palm to be planted inside raised landscape islands to the east and south of the approved cell tower location.*
11. *The operator of the monopalm shall respond to and complete all identified maintenance and repair of the facility within 30 days of receiving written notice of a problem.*
12. *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.*
13. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5-I.*
14. *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.*
15. *Future colocation of one additional carrier may be allowed through a separate zoning approval, provided appropriate methods are used to camouflage the additional antennas and equipment.*

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16. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

FINDINGS:

- 1.1 The monopalm wireless communication facility is an allowed use in the LC Zoning District subject to the granting of a Special Use Permit (SUP).
- 1.2 The development of a new 54 foot tall (59 foot to top of fronds) wireless communication facility is appropriate at this location as existing vertical structures of sufficient height to accomplish capacity and coverage goals were not available.
- 1.3 The 59-foot monopalm design is an appropriate method to blend a wireless communication facility into this environment.
- 1.4 The wireless communication facility exceeds the minimum required setbacks of the base Zoning District and the setback requirements for stealth tower designs. The monopalm would be located at a distance greater than 181' from the multi-residence and at a minimum of 175' from streets. All ground-mounted equipment will be enclosed and screened by an eight foot high CMU wall painted to match existing development.
- 1.5 The addition of a landscape area equal to two parking stalls around the base of support structures and equipment facilities (consistent with Code requirement) will help buffer the facility. To further mitigate the visual impact of the monopalm, the approved conditions include installation of two live palms and shrubs in the vicinity of the monopalm.
- 1.6 The monopalm design to camouflage antennas and wiring has been approved in a location consistent with such camouflaging. The conditions of approval will help ensure the monopalm design is an effective solution to camouflage and reduce the visual impact of the wireless communication facility.
- 1.7 The approved wireless communication facility has not been the subject of a neighborhood meeting. Since the letters of notification were mailed and completion of this report, staff has not received any inquiries regarding this request.
- 1.8 The distance from adjacent residential uses, the context of the site, and use of a stealth design are evidence that the monopalm wireless communication facility would be compatible with, and not detrimental to surrounding properties.

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Case No.: BA13-048

Location: 1501 East Main Street

Subject: Requesting a Substantial Conformance Improvement Permit to allow the redevelopment of a vehicle service facility in the GC zoning district. (PLN2013-00391)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis. The request involves the relocation of Gunnell's Tire, which is being moved as part of the Light Rail extension through downtown Mesa.

Motion: It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-048 with the following conditions:

1. *Compliance with the site plan, landscape plan and elevations submitted, except as modified by the conditions listed below.*
2. *Add four (4) tree triangles to the landscape strip along the west property line.*
3. *Provide minimum 15'-wide landscape area on south property line, except at the trash and tire enclosures.*
4. *Extend the 10' wide landscape area on the east property line another 30' to the north.*
5. *Provide gates and a roof cover on the tire storage enclosure. Final design and details to be reviewed and approved by staff.*
6. *Compliance with required tree/shrub quantities per Ch. 33 of the zoning Ordinance.*
7. *No outdoor activities or outdoor storage are permitted. All service and repair activities and product storage must occur within an enclosed structure.*
8. *All existing and/or proposed mechanical equipment shall be fully screened to comply with §11-30-9.*
9. *Compliance with all requirements of Design Review approval.*
10. *Compliance with all requirements of Development Services in the issuance of building permits.*

Vote: Passed (6-0)

FINDINGS

- 1.1 This request allows the development of a Tire Sales use on a GC-zoned property. The project includes renovation of the existing 2,438 sq. ft. building with the addition of 4,377 sq. ft. of service bays for a total 6,815 sq. ft. building. Improvements proposed by the applicant include: 1) the existing building exterior will be renovated to blend with the new construction; 2) the limited landscape areas along the west property line will be increased; and 3) rooftop mechanical equipment will be fully screened.
- 1.2 Regarding concerns related to the limited landscape strip along Barkley St. (west property line), the applicant will add planting triangles (for trees) to the narrow strip. This solution allows for the full number of required trees in that area. Other minor revisions to planting areas are included in the conditions of approval.
- 1.3 Full compliance with current Code development standards would significantly reduce the amount of buildable area and could preclude the use of the site for this permitted use. A limited amount of area is available for improvement to the existing development site and to affect compliance with current

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development standards. Sufficient justification exists to review the requested SCIP. The applicant's approved site plan, including the recommended conditions of approval, provides substantial conformance with current development standards and demonstrates site improvements that will benefit the property owner and surrounding neighborhood.

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Case No.: BA13-049

Location: 2535 West Broadway Road

Subject: Requesting: 1) a Variance to allow the reduction to the required parking space dimensions; and 2) a Variance to allow an encroachment into the required side yard in the RS-9 zoning district. (PLN2013-00381)

Decision: Continued to the October 15th, 2013 hearing.

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

Motion: It was moved by Board member Freeman seconded by Board member Swanson to continue case BA13-049 to the October 15th, 2013 hearing.

Vote: Passed (6-0)

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Case No.: BA13-047

Location: 3325 and 3404 North Val Vista Drive

Subject: Requesting a Special Use Permit to allow a farm stand in the AG and RS-43 zoning districts. (PLN2013-00386)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis. The requested Special Use Permit would allow two 8' x 40' sales stands with commercial kitchens for the sale of agricultural products grown on the premises.

Motion: It was moved by Board member Freeman seconded by Board member Swanson to approve case BA13-047 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *All sales shall be cash and carry only, with no areas for outdoor dining.*
3. *One (1) non-illuminated sign allowed per site not to exceed 16 square feet in area or 6 feet in height.*
4. *Provision of a dust proof treated surface for parking and circulation consisting of 3 inch deep ABC gravel or equivalent.*
5. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (5-0-1) (Hitchens abstained)

STAFF ANALYSIS/FINDINGS

1. The Special Use Permit approved allows the applicant a farm stand at 3325 N. Val Vista Dr., known as Site A and a farm stand at 3404 N. Val Vista Dr., known as Site B.
2. The subject sites are zoned AG at the 3325 S. Val Vista site and RS-43 at the 3404 N. Val Vista site. Both sites are surrounded by existing farm lands. There is an existing farm store (B & B Farms) that sells and ships citrus produce at the 3404 location.
3. Access to the sites is through driveways from Val Vista that are a two-lane roadway from the South Canal to Thomas Rd and have no curbs or gutters.
4. The farm stand on Site A will initially be used for cold and dry storage, and the production of salsas, hot sauces and BBQ sauces all produced from the agricultural produce grown on the properties. An existing structure on the site will be removed to accommodate the farm stand and a future parking area. The applicant does not anticipate that there will be retail traffic at this time for this location.
5. The farm stand at Site B will also produce salsas, sauces and additionally citrus desserts, chili, limited burritos, tacos, sandwiches and drinks. All sales are cash and carry with no areas or opportunities for outdoor seating

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and dining. The applicant has indicated that there are plans for an outdoor meat smoker in the future. Hours of operation at this site will be 11:00 AM to 6:00 PM Monday through Friday and closed for most holidays.

6. Site B has an existing paved parking area. A parking area for approximately 20 spaces and dust proofed with gravel is proposed for Site A.
7. This Special Use Permit will be declared lapsed and of no further force and effect if it is not exercised or extended within 1 year of its issuance.
8. The approved sales stands for agricultural products are compatible with adjacent developments, as they are complementary to the existing agricultural uses that surround these properties.

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Case No.: BA13-032

Location: 256 East Broadway Road

Subject: Requesting a Special Use Permit to allow auto repair and vehicle sales in the DB-2 zoning district. (PLN2013-00247)

Decision: Approved with Conditions

Summary: Joe Gomez, the applicant, presented the case to the Board. Mr. Gomez explained his concerns with the conditions set forth by staff. He stated that due to his finances he is unable to build the wall or fence in the rear of the building.

Board member Montague recalled there would not be a possibility of no conditions of approval. Staff member Angelica Guevara clarified the storage of vehicles in the rear area invokes the requirement for a screen wall to screen the vehicles.

Board member Swanson asked Mr. Gomez if he reviewed the staff recommendations in the staff report. Mr. Gomez stated that he did review the report. Board member Swanson stated he understands Mr. Gomez's issue is with Condition No. 5. Board member Harris added that there is an issue with Condition No. 4 as well. Board member Swanson added No. 10 as well. Mr. Gomez stated that for him No. 4 and No. 10 are together. Board member Swanson stated so is No. 4 and No. 5. Mr. Gomez stated he will want the vehicles out on the street.

Board member Harris pointed out the four parking stalls located in front of the fence.

Board member Swanson stated that if vehicles were parked in the front, then parking would be behind the property line, and customers seeking other services would be pulling into the property through the larger gate into the back. Mr. Gomez stated customers can use the front of the office or the bay area for parking when it is not being used.

Board member Freeman confirmed this was an auto repair business and Mr. Gomez's that has evolved into a car sales business. Mr. Gomez stated that if a customer cannot pay for the repairs he sells the vehicle to generate money for his business as a mechanic. Board member Freeman stated the Central Main Area Plan does not support his request and type of business. Board member Freeman questioned if the masonry fence on the north side is crucial since he has no neighbors.

Gordon Sheffield stated that the Ordinance anticipates permanence, and the screening requirement is intended to use durable material. The experience staff has had with chain link fences and wooden materials has not been good; over a period of time it tends to deteriorate and does not look attractive. Since this request is of a temporary nature, the Board can consider different materials as part of the conditions of approval. Gordon Sheffield also stated that the screening requirement is not necessarily because of a car lot, but that the screening requirement will be attached to anything that happens to the

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property, including auto repair (not just vehicle sales).

Board member Swanson stated his understanding of Condition No. 5 is not just related to the north side, but also includes a chain link fence on the south side of the property. Mrs. Guevara stated that is correct.

Angelica Guevara stated staff has the same recommendation as last month (Denial). This recommendation is due to the existing character of this section of Broadway Road with the new Council's adopted policy document for the Central Main Street Area Plan. Staff recommends denial of the request because providing an additional vehicle sales lot at this property is not in line with the policies of the Plan. Should the Board decide to approve the case, staff did include some recommended conditions of approval that would help alleviate some of staff's concerns such as the time limit, keeping the request to the specific business owner, bringing the site to a closer degree of compliance with current development standards, requiring the replacement of the chain link fence with masonry wall (to screen outdoor storage area), provision of landscaping along street frontage, other conditions of approval that would not allow vehicles to split platforms, and the requirement to have the pole sign to come into conformance.

Board member Cluff asked what year the light rail is anticipated to stop at Mesa Drive. Mrs. Guevara stated spring 2015.

Mr. Gomez stated that based on what Mrs. Guevara stated regarding the five-year permit, it could happen if he could succeed, and he wants the Board's support; also it is not his building.

Board discussion ensued amongst the board members concerning Condition No. 5, the five year time limit, and landscaping.

Motion: It was moved by Board member Hitchens seconded by Board member Freeman to approve case BA13-032 with the following conditions:

1. *Compliance with the narrative, site plan, and landscape plan submitted, except as modified by the conditions below.*
2. *This Special Use Permit for auto sales is specific to the applicant of record for BA13-032 and cannot be transferred without review by and approval by the Board of Adjustment.*
3. *The Special Use Permit is approved for limited time not to exceed 5 years.*
4. *All display of sale vehicles to be behind the new block wall.*
5. *Replacement of the existing chain link fences and gates visible from Broadway Road with a 6-foot tall masonry wall and solid metal gates designed to comply with Sec. 11-30-4(B) Fences and Freestanding Walls and Sec. 11-30-9 Screening.*
6. *Right-of-way landscaping to be installed along the Broadway Road frontage containing:*
 - a. *Tree and shrub quantities shall be provided as shown on the landscape plan provided by the applicant dates 4-11-13.*
 - b. *1 tree shall be a minimum of 36" box size, 1 tree shall be a minimum of 24" box, and 1 tree shall be no less than 15 gallon in size to comply with Sec. 11-33-3.*
 - c. *50% of shrubs shall be a minimum of 5 gallon size and the remaining shrubs no less than 1 gallon in size.*
 - d. *A 6" continuous vertical curb shall be provided to separate landscape areas from the asphalt.*
 - e. *Revise the landscape plan design to remove the turf shown within the right-of-way as it is not allowed and shall be replaced with a 2" deep layer of decomposed granite for dustproofing.*

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- f. An irrigation system shall be provided to all landscaped areas containing living plant materials.*
7. *Vehicle display platforms are not authorized for use on the site.*
 8. *Existing non-conforming pole sign shall be removed.*
 9. *If a new monument sign is provided it shall be placed out of the right-of-way and must be located in an area where it can be surrounded by a landscape planter and a 6" concrete vertical curb to provide separation and protection of the sign from vehicles.*
 10. *Vehicle display shall not be allowed on the site until conditions 2 through 6 are met.*
 11. *Any new signs require a separate sign permit.*
 12. *Compliance with all requirements of the Development Services Office with regard to the issuance of building permits.*

Vote: Passed (5-1) Swanson-nay

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Case No.: BA13-050

Location: 2213 West Peralta Avenue

Subject: Requesting: 1) a Variance to allow the reduction to the required parking space dimensions; and 2) a Variance to allow an encroachment into the required side yard in the RS-6 zoning district. (PLN2013-00331)

Decision: Approved with Conditions

Summary: John Aliifua, the applicant, presented the case to the Board. Mr. Aliifua explained he built a carport not knowing he needed a building permit.

Board member Freeman asked if he considered widening the width of his garage to have a two car garage. Staff member Lesley Davis stated the applicant would still be encroaching into the side yard. Board member Freeman stated if, with the variance he could still encroach into the side yard. Board member Freeman asked what would be the maximum width he could get for the carport. Staff member Lesley Davis stated that would be a determination the Board would have to make as to what would be justified. She explained that 5' and 10' is what is typically required, 15' total for side setbacks. The issue in the garage is not the width but the depth. The reason the applicant was going a little wider was to accommodate angling the car because of the depth. She referred to the map, and mentioned the possibility of bringing that single car garage out closer to the street, but the concern was that it states 29' when she measured it was only meeting the 29' setback, and does not know if that is accurate. Mr. Aliifua stated it is from the curb to the garage. Staff member Davis stated the property line would be closer to the 20' so if he would take the garage out to extend it forward it would encroach into the front setback.

Board member Harris stated the limit is 22' for garages for the length and would still have to come out 5'.

Board member Freeman asked staff what the applicant would have to do if the request is denied. Ms. Davis stated he would have to meet code.

Board member Harris asked in the case the posts were moved in, if the roof structure would have to be trimmed back. Gordon Sheffield stated that an overhang can encroach 3' into a setback as long it maintains at least 2' separation from the property line. Mr. Aliifua's overhang complies. Board member Harris stated the post has to be moved. Mr. Sheffield stated if there was a 5' setback the post would have to be moved. As was pointed out, it is technically the 10' side yard.

Board member Swanson stated he built it for a carport and for unobstructed access to the backyard for vehicular access into the backyard. Mr. Aliifua stated his intention was to accommodate putting things in his backyard. Board member Swanson stated if the Board decided to move the posts in, in his mind, the applicant would need to rip it out because he will not have access to the backyard. Mr. Aliifua stated he needs the carport and made it

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to where he will need to go straight to the backyard versus maneuvering pass the post. He was not aware of the 10' setback and built it to accommodate tenants.

Board member Harris referred to the drawing, stating that the gate is 15 ½ ft. Mr. Aliifua stated there are 5 ft. panels and foot and half on each end of wood. Staff member Davis stated that is the dimension on the existing wall of the home to the property line.

Board member Freeman asked on what year he built a ledger plat hanging off the house and beam and post for his existing car port. Mr. Aliifua stated three months ago.

Board member Swanson stated it appears he was reported by his neighbors or by an anonymous call in support of denying his application for encroaching in his neighbor's yard. Mr. Aliifua stated it is not complete and stopped building because he received a letter.

Ms. Davis stated she had nothing else to add and that the gate would not be difficult to move back to accommodate vehicles to maneuver to the backyard. Staff will not be opposed if Board approves a lesser degree of variance to a minimum 10' parking to give the secondary stall.

Board discussion ensued amongst the board members concerning the variance.

Motion: It was moved by Board member Hitchens seconded by Board member Swanson to approve case BA13-050 and with the following conditions:

1. *Compliance with all requirements of Development Services in the issuance of building permits.*
2. *Setback of 5' is obtained on the west side of the property.*
3. *Compliance with the narrative, site plan, and landscape plan submitted, except as modified by the conditions below.*

Vote: Passed (6-0)

FINDINGS:

- 1.1 The approved detached accessory building would result in a 7 foot, 6 inch encroachment into the required 10-foot vehicular access side yard in the RS-6 district. The lot is 7,150 square-feet in size and has been developed in a manner similar to surrounding properties.
- 1.2 The applicant's justification for the detached building includes the desire to have an attached carport structure for a second vehicle. The current structure only has a small single car garage, which is typical throughout this neighborhood.
- 1.3 Per section 11-32-4(E) of the Zoning Ordinance, the minimum parking space size for a one car carport is 10 feet wide by 20 feet long. The approved structure is 13 feet wide and 21 feet long. Therefore, the degree of encroachment approved exceeds what would be necessary to accommodate a single car carport structure.
- 1.4 The applicant has not provided sufficient justification related to the land, which would justify the degree of the requested variance. The need for a variance stems from the property owner constructing the detached

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building without a building permit. This need was created by the property owner and is based on a self-imposed hardship. Further, strict compliance with Code setback standards would not deprive the property of the ability to construct a detached building as there is sufficient area to the front and rear of the property to accommodate room additions.

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OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a
Zoning Administrator

Minutes written by Delphina Legah, Office Assistant II