

Board of Adjustment Minutes



**City Council Chambers, Lower Level
May 9, 2006**

Board members Present:

David Shuff, Chair
Greg Lambright, Vice Chair
Randy Carter
Mike Clement
Dina Higgins
Dianne von Borstel

Board members Absent:

Roxanne Pierson (Excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Lena Butterfield

Others Present:

Michael Yost
Wayne Rockwood
Bob Weigel
Don Jolley
Areli Alvarez
Angela Lamarid

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:15 p.m., the following items were considered and recorded on Board of Adjustment Tapes #346 & 347.

Study Session 4:30 p.m.

- A. The study session began at 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the April 11, 2006 Meeting A motion was made to approve the minutes by Boardmember Lambright and seconded by Boardmember von Borstel. Vote: Passed 6-0
- B. Consent Agenda A motion was made to approve the consent agenda as read by Boardmember Carter and seconded by Boardmember Higgins. Vote: Passed 6-0

**Board of Adjustment Meeting
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Case No.: BA06-022

Location: 2200 through 2300 Blocks of West Broadway Road (North side West of Dobson Road)

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the M-1 zoning district.

Decision: Approved with conditions

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

Motion: It was moved by Boardmember Carter, seconded by Boardmember Higgins to approve this case with the following conditions:

1. *Compliance with the sign plan as submitted, except as modified by the conditions listed below.*
2. *Buildings 1, 3, and 4 tenants with only one entrance shall be allowed one (1) attached sign with a maximum sign area of one-hundred and fifteen (115) square feet.*
3. *Tenants of Buildings 1, 3, and 4 with more than one elevation shall be allowed two (2) attached signs with a maximum aggregate sign area of one-hundred and sixty (160) square feet and no sign shall exceed one-hundred and fifteen (115) square feet.*
4. *Building 2 tenants with only one entrance shall be allowed a maximum of two (2) signs with an aggregate sign area of one-hundred and ten (110) square feet.*
5. *Tenants of Building 2 with more than one elevation shall be allowed two (2) attached signs with a maximum aggregate sign area of one-hundred and sixty (160) square feet and no sign shall exceed one-hundred and ten (110) square feet.*
6. *Attached signs for Building 1, 2, 3, and 4 tenants with more than one entrance shall comply with current Sign Code.*
7. *Attached signs for Building 5 and 6 tenants shall comply with current Sign Code.*
8. *Review and approval of a Special Use Permit(s) for Comprehensive Sign Plan(s) for areas designated on the site plan as Phase 2 and Future Development by Others by the Board of Adjustment as a separate submittal.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: Passed 6-0

Finding of Fact:

- 1.1 The Zoning Code would allow an aggregate total of 64 feet in height and 640 square feet in sign area for detached signs along Broadway Road, an aggregate total of 34 feet in height and 340 square feet in sign area for detached signs along Roosevelt Road, and an aggregate total of 64 feet in height and 640 square feet in sign area for detached signs along the private street Birchwood Avenue.
- 1.2 The Comprehensive Sign Plan proposes an aggregate total of 25 feet 4 inches in height and 137 square feet in sign area between five detached signs along Broadway Road, an aggregate total of 6 feet in height and 23 square feet in sign area between two signs along Roosevelt Road, and an aggregate total of 16 feet 4 inches in height and 89 square feet in sign area between two detached signs along Birchwood Avenue (a private street). The detached signs will have a coordinated design theme and no sign would exceed 12 feet in height or 80 square feet in sign area.

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- 1.3 The Comprehensive Sign Plan proposes number and size requirements for attached signage that relates to total building frontage rather than tenant frontages. Including staff recommended conditions for approval, the number and sign area proposed for each tenant is generally consistent with what could be allowed by current Code. The attached sign areas that slightly exceed Code maximums would be offset by detached signs that are significantly less than could be allowed by Code.

- 1.4 The Comprehensive Sign Plan identifies the potential location of six center identification detached signs. The review of the proposed CSP does not include these signs. Future phases of the Broadway 101 development will require separate submittal for a Special Use Permit for a Comprehensive Sign Plan.

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Case No.: BA06-023

Location: 102 North Lindsay Road

Subject: Requesting a Development Incentive Permit (DIP) to allow the development of a preschool in the C-2 zoning district.

Decision: Approved with conditions

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

Motion: It was moved by Boardmember Carter, seconded by Boardmember Higgins to approve this case with the following conditions:

1. *Compliance with the site plan and landscape plan as submitted, except as modified by the conditions listed below.*
2. *Compliance with current Zoning Code requirements unless modified by the conditions listed below.*
3. *Compliance with all requirements of the Design Review Board.*
4. *A minimum eighteen-foot (18') building/landscape setback shall be provided adjacent to the west property line.*
5. *A minimum twelve-foot (12') foundation base shall be provided along the east building elevation.*
6. *Sidewalks shall have a minimum width of five feet (5') that does not include parking space overhangs.*
7. *One eight-foot by fifteen-foot (8'x15') parking lot landscape island shall be provided in the parking aisle adjacent to the east building elevation.*
8. *A minimum of thirteen (13) trees and thirty-five (35) shrubs shall be provided within the landscape setback adjacent to the north property line.*
9. *Seven (7) twenty-four inch (24") box trees shall be provided within the landscape setback adjacent to the west property line.*
10. *One (1) additional five (5) gallon shrub shall be provided in each eight foot (8') by thirty-six foot (36') parking lot landscape island.*
11. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit*

Vote: Passed 6-0

Finding of Fact:

- 1.1 The approximately one acre parcel will be developed with an 8,775 square foot preschool, which is a permitted use in the C-2 district.
- 1.2 Given the size of the parcel, the requested deviations from current Code requirements are reasonable. The applicant has provided a site plan, landscape plan, and building elevations, which generally meet the intent of the Design Guidelines.
- 1.3 The development of the site with a preschool will be compatible with and not detrimental to the adjacent neighborhood. Improved site planning, landscaping, and architecture will offset impacts.
- 1.4 The proposed site plan, including the recommended conditions of approval, will allow development of the site to a degree that is comparable to, or exceeds, similar commercial

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properties located in the vicinity of this site.

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Case No.: BA06-024

Location: 10639 East Main Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of three vacant pad sites within a Group Commercial Center in the C-2 zoning district.

Decision: Approved with conditions

Summary: Mr. Weigel, applicant, presented the case to the Board. He explained that the owner of the property is in agreement with and willing to comply with all the conditions of approval, with the exception of Condition Number eight. The owner of the property is afraid landscaping the whole center, including the property that they do not own will be looked at as trespassing. Mr. Clement inquired about the expanse of the dead and dying vegetation. Mr. Sheffield responded that the dead and dying vegetation is significant enough that code compliance currently enforcing the landscape requirements within of the Signal Butte Market Place. Discussion ensued. The Board agreed that the landscaping in the Signal Butte Market Place needs to be addressed, however, without placing sole responsibility on the owner of the three pad sites. Mr. McVay explained that condition 8 does not specify who had to take care of the landscaping, just that it had to be done. Mr. Sheffield explained that this is one way City staff can remind the management company to take care of the landscaping. Discussion ensued. The Board agreed that the owner of the three pad sites should only be responsible for the landscaping located within the property boundaries of the pad sited. But staff should encourage rigorous enforcement from code compliance in order to improve the landscaping. Additionally, the applicant was requested to support efforts to improve the landscaping of the entire center.

Motion: It was moved by Boardmember von Borstel, seconded by Boardmember Lambright to approve this case with the following conditions:

1. *Compliance with the site plan and landscape plan submitted, except as modified by the conditions listed below*
2. *Provision of a minimum ten-foot (10') building and landscape setback for development on Pad F from Signal Butte Road.*
3. *Compliance with current Code related to foundation base requirements for buildings on Pad D, Pad E, and Pad F except adjacent to the west elevation of Pad E where a minimum ten-foot (10') foundation base shall be provided.*
4. *Landscape islands adjacent to the trash enclosures for Pad D and Pad F shall be expanded to provide a minimum eight feet (8') of landscape area behind the trash enclosures.*
5. *The landscape island that will separate drive-thru from non drive-thru traffic on Pad E shall be a*

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minimum five feet (5') wide.

6. *The drive entrance located in the southeast corner of Pad F shall be eliminated and replaced with a landscape island.*
7. *Provision of pedestrian connections to Pad D, Pad E, and Pad F from the public sidewalks adjacent to Main Street and Signal Butte Road, which utilize stamped concrete, brick pavers, or other material approved by the Design Review Board.*
8. *Replacement of all dead or dying plants within the boundaries of pad sites D, E, and F.*
9. *Compliance with all requirements of the Design Review Board.
Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 6-0

Finding of Fact:

- 1.4 The applicant is proposing the development of three retail pad sites within an existing group commercial center known as Signal Butte Marketplace. The commercial center was developed in the 1990's, with setbacks not as large as those required by current Code. Development of the pad sites consistent with the existing development requires deviations from current Code.
- 1.5 The applicant has proposed deviations from current Code requirements related to setbacks adjacent to Main Street and Signal Butte Road. Such reduced setbacks would allow required on-site parking to remain in-line with the existing parking fields.
- 1.6 The applicant has proposed reduced foundation bases adjacent to the buildings on Pads D and E. At the same time, sufficient evidence has been provided that the proposed pad sites and the entire center have excess parking available. A reduction in the amount of on-site parking provided by this proposal would allow provision of full foundation base, while still maintaining sufficient parking.
- 1.7 The proposal includes a landscape plan that provides sufficient plant materials associated with the pad sites. The replacement of dead or dying landscape materials within the entire Signal Butte Marketplace will improve conformance for the entire center. The applicants should not be required to replace landscaping outside of the boundaries of each pad site.
- 1.8 The proposed site and landscape plans, including staff recommended conditions for approval, substantially conform with 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.: BA06-25

Location: 660 East University Drive

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow for the conversion of an existing single residence into a day care center in the R-4 zoning district.

Decision: Continued for 60 days

Summary: Mr. Jolley, applicant, presented the case to the Board. He explained that redesigning the site to move the parking to the rear of the site would involve tearing down an existing structure and cutting down established trees. Additionally, because of the size of the site the property owners are restricted to a daycare or a single-family residence use. He went on to explain that daycares no longer experience peak times for dropping off and picking up children. Consequently, there would be ample parking and maneuvering space so that the vehicles will not have to back out onto University Drive. The owners are concerned that moving the play area to the front will create safety hazards for the children when they are out playing. Additionally, State regulations required a minimum 4-foot fence surrounding play areas, which is taller than would be allowed by current City Code regulations.
The Board agreed that parking vehicles in the front would create hazards for the people backing out and the people driving along University Drive. Ms. Higgins expressed her concern that without a foundation base a vehicle will not be sufficiently separated from the building to provide a safe environment for the children of staff.
Mr. Carter expressed concern with granting a Substantial Conformance Improvement Permit for a proposal that does not provide a greater degree of conformance with Code than the existing use..
Mr. Lambright explained that he could see other options for the applicant and property owners. He would like to see a continuance in order for the applicant to work with staff to come up with an alternate proposal.
The Board agreed that a continuance was needed in this case for 60 days.

Motion: It was moved by Boardmember Higgins, seconded by Boardmember Clement to continue this case.

Vote: Passed 6-0

Finding of Fact: N/A

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Case No.: BA06-026

Location: 1522 West 4th Place

Subject: Requesting a variance to allow a detached accessory building to exceed the maximum height permitted in the R1-6 zoning district.

Decision: Approved with conditions

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

Motion: It was moved by Boardmember Carter, seconded by Boardmember Higgins to approve this case with the following conditions:

1. *Compliance with the site plan as submitted, including the provision of a minimum five-foot (5') building setback from the east property line.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit.*

Vote: Passed 6-0

Finding of Fact:

- 1.1 The accessory structure exists in the rear and side yard setbacks with an approximate height of 10.5 to 11 feet. The maximum height permitted for accessory structures so located is 10 feet.
- 1.2 The requested variance is relatively minor in nature. Consequently, approval does constitute a special privilege not available to other properties.
- 1.3 The accessory structure has existed in the current configuration for several years. Continued use of the structure as non-livable space is compatible with and not detrimental to the surrounding neighborhood.
- 1.4 The subject property has a nonconforming carport that encroaches approximately five feet into the required side yard setback from the east property line. Sufficient justification has not been provided to allow this additional encroachment to remain. New construction typically requires a site to be brought into conformance with current ordinance standards.

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Respectfully submitted,

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Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Lena Butterfield, Planning Assistant
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