

*Minutes*

City Council Chambers, Lower Level  
May 10, 2011

**Board Members Present:**

Nicholas Labadie, Vice-Chair  
Diane von Borstel  
Greg Hitchens  
Cameron Jones  
Danette Harris  
Tyler Stradling

**Board Members Absent:**

Garrett McCray – excused

**Staff Present:**

Gordon Sheffield  
Angelica Guevara  
Mia Lozano-Helland  
Lesley Davis  
Wahid Alam

**Others Present:**

Robert Orsi  
Frank Quinn  
Trish Flower  
Jasbir (Jay) Luthera

The study session began at p.m. The Public Hearing meeting began at p.m. Before adjournment at p.m., the following items were considered and recorded.

**Study Session began at 4:35 p.m.**

- A. Zoning Code Update: Mr. Sheffield briefed the Board on the Planning and Zoning Board’s recommendation for approval of the Zoning code Update.
- B. Zoning Administrator’s Report: Mr. Sheffield let the Board know that hard copies of the Zoning Code Update are available to them if they would like one.
- C. The items scheduled for the Board’s Public Hearing were discussed.

**Public Hearing 5:36 p.m.**

- A. Consider Minutes from the April 12, 2011 Meeting A motion was made to approve the minutes by Board member von Borstel and seconded by Boardmember Jones. Vote: Passed 6-0
- B. Consent Agenda #1 a motion to approve consent agenda #1 as read was made by Board member von Borstel and seconded by Board member Jones. Vote: Passed 5-0-1 (Board member Stradling abstaining)

Consent Agenda #2 A motion to approve consent agenda #2 as read was made by Board member Stradling and seconded by Board member von Borstel. Vote: Passed 5-0-1 ( Board member Jones abstaining)

**Board of Adjustment Meeting  
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**Case No.:** BA11-004

**Location:** 7335 East Broadway Road

**Subject:** 7335 East Broadway Road (Council District 6) Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing church in the R1-6 and R1-7 zoning districts. (PLN2010-00361) **Continued from the March 9, 2011 meeting**

**Decision:** Continued to the June 14, 2011 meeting

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

**Motion:** It was moved by Board member von Borstel, seconded by Board member Jones to continue case BA11-004 to the June 14, 2011 meeting.

**Vote:** Passed 5-0-1 (Board member Stradling abstaining)

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**Board of Adjustment Meeting  
May 10, 2011**

**Case No.:** BA11-009

**Location:** 25 North Extension Road

**Subject:** Requesting a Special Use Permit (SUP) to allow a Commercial Communication Tower in the C-3 zoning district. (PLN2010-00405) **Continued from the April 12, 2011 meeting**

**Decision:** Continued to the June 14, 2011 meeting.

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

**Motion:** It was moved by Board member von Borstel, seconded by Board member Jones to continue case BA11-009 to the June 14, 2011 meeting.

**Vote:** Passed 5-0-1 (Board member Stradling abstaining)

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**Board of Adjustment Meeting  
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**Case No.:** BA11-014

**Location:** 454 South Pasadena

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the addition of a dwelling unit in the R-2 zoning district. (PLN2011-00027) **Continued from the April 12, 2011 meeting**

**Decision:** Approved with conditions

**Summary:** Mr. Alanis stated he had no further comments or questions regarding the case. Vice Chair Labadie asked if there was anyone present wishing to comment on the case. There was none. Staff member Guevara provided the staff report and recommendation. Hearing no further comments, Vice Chair Labadie asked for a motion.

**Motion:** It was moved by Board member Hitchens, seconded by Board member Jones to approve case BA11-014 with the following conditions:

1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
2. *Provide landscape material quantities in the rear yard as shown on sheet A-2.*
3. *Provide 2 trees in the front yard.*
4. *Provide a minimum of four (4) 9' x 18' (ea.) parking spaces, each with independent access.*
5. *New parking spaces shall be paved with concrete.*
6. *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 requested a Substantial Conformance Improvement Permit (SCIP) to allow the conversion of an existing single family home into a duplex. The request increased density on the lot and intensified the existing use on the property.
- 1.2 The requested SCIP allowed a reduction in the side building setbacks and parking screening adjacent to Pasadena. Deviations to these requirements were necessary to allow the applicant to convert the existing single-family home into a duplex without demolishing a couple of feet on each side of the existing home. The existing structure has a two-car garage and the applicant has provided two additional parking spaces. One space is in the side yard adjacent to the north property line and the second space is in front of the home accessed from the existing driveway and parallel to the street. Staff added a condition of approval requiring both new spaces be paved with concrete.
- 1.3 The improvements constitute the greatest degree of compliance with current development standards without requiring demolition of the existing structure.

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- 1.4** The approved deviations are necessary to accommodate the additional dwelling unit. The deviations allow improvements on the property that help bring the site into substantial conformance with code and not detrimental to, adjacent properties or neighborhoods

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**Board of Adjustment Meeting  
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**Case No.:** BA11-017

**Location:** 245 South Power Road

**Subject:** Requesting a Special Use Permit to allow an Electronic Message Display to change more frequently than once per hour in the C-2 zoning district. (PLN2011-00044)

**Decision:** Approved with conditions

**Summary:** Frank Quinn, the property owner, represented the case and provided additional exhibits related to the request.

Vice Chair Labadie asked if a driver passing by could really read a sign that changes every 5 seconds. Mr. Quinn responded that he needed a variety of displays to appeal to different types of customers.

Ms. Guevara provided the staff report and recommendation to limit the sign changes to once every 15 seconds, citing safety reasons.

Board member Stradling asked staff about safety concerns and where the 15 second rule originated. Mr. Sheffield provided a brief history of message display signs in Mesa. He further pointed out that driver distraction is the most important issue.

Mr. Quinn commented on the upcoming changes in sign technology and stated that there was no evidence that his sign was possibly dangerous.

Board member Hitchens stated that he agreed with staff's recommendation of 15 seconds for display changes. He cited his concern for safety with the popularity of these types of signs growing.

Board member Jones agreed that 15 seconds was appropriate.

Board member Harris stated that she would like to see the City gather data related to message display sign safety issues. She also suggested that staff research what other cities are doing. She agreed with the 15 second recommendation.

Mr. Sheffield suggested that staff provide the Board, at a future date, with data to allow them the opportunity to re-evaluate electronic message displays.

Vice Chair Labadie agreed that there is a need for data and agreed with Mr. Sheffield's suggestion. He further stated that he supported staff's recommendation for 15 seconds.

Board member Stradling asked Mr. Sheffield for clarification of his suggestion. Mr. Sheffield stated that the 15 second recommendation would remain and the Board could reopen the case in the future, if the study results supported it.

A motion followed.

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**Motion:** It was moved by Board member Hitchens, seconded by Board member Jones to approve case BA11-017 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Each message shall remain static for a minimum of fifteen (15) seconds.*
3. *The transitions between messages and the light intensity level of the electronic message display shall be comply with the requirements of Section 11-19-8(D)17.*
4. *Full base and architectural treatments to sides and top of sign to be provided to comply with monument sign design guidelines of Section 11-18-8(E)1b.*
5. *Compliance with all requirements of the Development Services Division in the issuance of sign permits.*

**Vote:** Passed 6-0

**Findings:**

- 1.1 The current Sign Ordinance requires electronic message displays to remain static for a minimum of one hour unless a Special Use Permit (SUP) is granted. Such SUP is granted if the sign is found to be compatible with and not detrimental to surrounding properties through the consideration of the following factors: 1) the speed and volume of the vehicular traffic visually exposed to the sign, 2) the presence of other signs or distracting influences in proximity to the sign location, and 3) the extent to which the design of the sign is compatible with other signs located on the premises.
- 1.2 Power Road has a speed limit of 45 miles an hour. Assuming a vehicle travels at a constant 45 miles per hour, a sign change of every 15 seconds happens every 990 feet of travel (One second of travel equates to about 66 feet of travel at 45 mph). A message change every 15 seconds results in 1.3 message changes during a quarter-mile (1320') approach at constant speed. The applicant requested a message change every 5 seconds, resulting in 4 message changes in the same quarter-mile.
- 1.3 The site is located on the north side of Broadway between existing commercial developments with multiple drive way access onto Power Road. The commercial developments on either side of the car wash each have one free-standing sign.
- 1.4 The applicant requested message changes at a rate of one message every 5 seconds. Staff did not support of that request. Staff supported message changes at a rate of one message every 15 seconds (Condition #2). With the conditions of approval, the request complied with the intent of the City Code, the General Plan, and is compatible with and not detrimental to surrounding properties.
- 1.5 A 15 second message display is consistent with past Board of Adjustment decisions, which have allowed message changes every 15 seconds. The basis for these decisions has been the idea of having one message visible for approximately a quarter mile as a vehicle approaches the sign. A static message for 15 seconds ensures the message is static long enough for the driver to read whatever it says quickly, in a single display, and then divert their attention back to the roadway. It also avoids distracting drivers by creating the appearance of signs being in motion.

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- 1.6** The existing monument sign structure requires upgrades in order to comply with the current monument sign design guidelines (Condition #4). The existing sign is 12' in height and a total of 54 square feet in area. The applicant is replacing a portion of the existing reader board with an LED display.

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**Case No.:** BA11-019

**Location:** 957 South Dobson Road

**Subject:** Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height allowed in the C-2 zoning district. (PLN2011-00064) **Continued from the April 12, 2011 meeting**

**Decision:** Approved with conditions

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

**Motion:** It was moved by Board member von Borstel, seconded by Board member Jones to approve case BA11-019 with the following conditions:

1. *Compliance with the site plan submitted except as modified by the following conditions below.*
2. *The commercial communication tower shall utilize a Faux Date Palm design with a minimum of 65 palm fronds and bark cladding to resemble the bark of natural palm tree.*
3. *Palm fronds and frond growth bulb sizes and manufacturer to be separately approved by staff prior to application for a building permit to ensure palm fronds will adequately camouflage the antennas.*
4. *All antennas, radio heads, mounting hardware, and other equipment near the antennas shall be painted to match the color of the palm fronds.*
5. *The commercial communication tower shall have a maximum height of seventy feet (70') at the top of the palm canopy (65' at the top of antennas).*
6. *The antennas shall not exceed 96" in length x 12.5" in width x 7.1" in depth.*
7. *The 15' x 28' lease area containing the equipment shelter and generator shall be screened by an 8' high masonry wall and solid metal gates.*
8. *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.*
9. *Compliance with all requirements of the Development and Sustainability Department with regard to the issuance of building permits.*

**Vote:** Passed 5-0-1

**Findings:**

- 1.1** This Special Use Permit (SUP) allows for the placement of a 65-foot high monopalm at the existing Pima Medical Institute. The applicant notified all property owners within 300-feet of the project, and homeowner associations within 1,000' of the site. No comments or concerns were received from neighbors.
- 1.2** Based on the approved plans, identified as site PHO Holiday, the Commercial Communication Tower is located within a 16' x 16' lease area and the associated equipment shelter and emergency generator is located within another 25' x 28' lease area located approximately 75' to the north and east of the tower. The applicant will surround

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the shelter and generator with a wrought iron fence with wood slats. An 8' masonry wall with solid metal gates will screen the shelter, generator, and all associated equipment (Condition #7).

- 1.3** The monopalm is 65-feet high and will resemble a date palm. The monopalm array consists of three sectors, each with three antennas, for a total of nine antennas. The dimensions of the antennas are 96" in length x 12.5" in width x 7.1" in depth
- 1.4** The applicant's plans indicated that 65 palm fronds would be provided to screen the antennas and that the antennas would be painted to match the color of the fronds. In order to achieve maximum screening of the antennas There is an added a condition of approval requiring manufacturer specifications for the palm fronds and growth bulb otherwise known as the pineapple (Condition #3). Longer and quality palm fronds, the installation of a larger growth bulb, and cladding the stealth pole with a material that resembles the bark of a natural date palm will make the monopalm appear more realistic.
- 1.5** The monopalm did not completely comply with the Commercial Communications Towers (CCT) Guidelines. The tower is 461' from the right-of-way, where only 65' is required. It is 78' from the adjacent eastern property line and approximately 171' from the multi-residence structure located on the site to the east. The tower is 96.5' from the south property line and approximately 129' from the multi-residence structure located on the site to the south. The Guidelines require a 2:1 setback ratio from adjacent residences. Since the tower meets the setback requirements from the actual multi-residence structure for both developments to the east and south, There is no concern with the location.
- 1.6** The site has more than 15 existing mature palm trees minimizing the visibility of the monopalm. In addition, the conditions of approval ensure the materials used to conceal the antennas also minimize its visibility. As a result, the monopalm is compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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- Case No.:** BA11-020
- Location:** 1510 South Country Club Drive
- Subject:** Requesting: 1) a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit (SUP) to allow the expansion of an auto service station; and 2) a Special Use Permit (SUP) to allow a car wash, all in the C-3 zoning district. (PLN2011-00006) **Continued from the April 12, 2011 meeting**
- Decision:** Approved with conditions
- Summary:** This case was on the consent agenda and not discussed on an individual basis.
- Motion:** It was moved by Board member von Borstel seconded by Board member Jones to approve case BA11-020 with the following conditions:
1. *Compliance with the site, landscape, and sign plans submitted except as modified by the conditions below.*
  2. *Install screen walls along Holmes Avenue per Mesa City Code (MCC) Section 11-15-4(B)10.*
  3. *Retention Basins shall be designed per MCC Section 11-15-3(D)1-9*
  4. *Provide plant materials per MCC Section 11-15-3(A) and Section 11-15-4(B)*
  5. *Provide enhanced material replacing painted stripes for the pedestrian connection from the C-store to the sidewalk along Holmes Avenue.*
  6. *Any detached sign along Country Club Drive shall not exceed twelve-feet (12') in height and eighty square feet (80 square feet) in area. The number of attached signs shall not exceed 3.*
  7. *All signs, attached and detached, shall require review and approval by Planning Division staff prior to the issuance of building permits.*
  8. *"Pump topper" signs greater than three square feet, and all exterior mounted point-of-sale signs shall not be permitted within the development. Pump topper signs shall not be illuminated.*
  9. *All conditions related to signs (Condition # 6 through 8, inclusive) may be modified only through the review and approval of a Special Use Permit for a Comprehensive Sign Plan.*
  10. *Compliance with all conditions of the Design Review Board.*
  11. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Vote:** Passed 5-0-1 (Stradling abstaining)
- Findings:**
- 1.1 This site located at the NWC Country Club and US 60 is currently an operating gas station with a kiosk.
  - 1.2 The proposed facility will include a convenience store of 2,625 square feet, a carwash of 925 square feet with 10 parking spaces.

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- 1.3** The site is approximately 35,703 square feet or 0.82 acres. The existing facility is a gas station operating with 9 dispensers and a small kiosk under the canopy. The site is currently accessible by four curb cuts from both Country Club Drive and Holmes Avenue.
- 1.4** The approved site plan provides a 9'-6" wide foundation base along front of the C-store, a 15' wide landscape yard along Country Club Drive, a 15' wide landscape yard along the south property line (US 60), and a 3'-6" wide landscape setback along the west property line.
- 1.5** The applicant eliminated a conflict in front of the c-store by separating the head on parking spaces in front of the C-store and the existing gas pumps with a 34' (24' wide driveway aisle plus 10' wide drive area for pumping gas). Also eliminated was a single lane drive aisle adjacent to the gas pumps along Country Club, providing a minimum 15' wide landscape yard along Country Club Drive. This eliminates the safety concern for the existing single service lane accessible from both north and south driveways on Country Club Drive.
- 1.6** The location of the car wash to the north of the C-store allows site plan efficiency by eliminating 12' wide car wash driveway along the rear of the C-store and providing the required separation of the C-store and the existing gas canopy.
- 1.7** The property owner desired to upgrade the current condition of the facility and build a contemporary convenience store with a car wash. However, due to the economic conditions, the owner requested to redevelop the site in phases. The first phase will include the building of the C-store and car wash. The existing canopy over the gas pumps will be retained. The kiosk will be removed and new landscaping will be installed for the entire site. The second and final phase is a realignment of the gas canopy (45'x96') facing parallel to Country Club Drive.
- 1.8** This project is beneficial for both the City and the applicant as a viable redevelopment project that improves the site. The site plan is well designed and meets the applicant's desire to accommodate a c-store with a car wash and future redevelopment of a new canopy design.

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**Case No.:** BA11-021

**Location:** 2457 South Signal Butte Road

**Subject:** Requesting a Special Use Permit to allow an assisted living facility in the R-4 zoning district. (PLN2011-00047)

**Decision:** Approved with conditions

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

**Motion:** It was moved by Board member von Borstel seconded by Board member Jones to approve case BA11-021 with the following conditions:

1. *Compliance with the site plan submitted.*
2. *Compliance with all condition of approval of zoning case Z11-06.*
3. *Compliance with all requirements of the Development and Sustainability Department in the issuance of building permits.*

**Vote:** Passed 5-0-1 (Stradling abstaining)

**Findings:**

- 1.1 The first phase consists of a 30,570 square-foot, 48 bed memory care facility on the north portion of the property
- 1.2 Phase two is still in the conceptual stages, but is projected to be an assisted living facility with 80 units. This site was previously approved for residential townhouses as part of Sunland Springs Village Phase Two.
- 1.3 Primary access to the property is from Signal Butte Road. The entrance to the building is also along Signal Butte at the south end of the building. A courtyard area has been created in the center of the building to provide some open space for the residents in a secured location.
- 1.4 The building design is residential in nature and the colors and materials are consistent with the homes in the Farnsworth development.
- 1.5 The Design Review Board reviewed the elevations and landscape plan at a 'Work Session' on February 2, 2011 and had no concerns with the project. The applicant was working with staff to finalize their Design Review approval.
- 1.6 The rezoning from R1-6 PAD DMP to R-4 PAD DMP and the Site Plan Review were approved by City Council on May 2, 2011.
- 1.7 The Special Use Permit allows the assisted living facility in the R-4 zoning district.

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- 1.8** The site is zoned R-4 PAD DMP, is 7.3 acres and is largely surrounded by residential development, including the adjacent Sunland Springs Village Development, which is a large master planned retirement community
- 1.9** The Assisted Living Facility is compatible with adjacent developments, as it is complimentary to existing surrounding uses. The Assisted Living Facility will be compatible with, and not detrimental to, surrounding properties.

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**Board of Adjustment Meeting  
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**Case No.:** BA11-022

**Location:** 1665 South Alma School Road

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing restaurant/outdoor seating area in the C-2 DMP zoning district. (PLN2011-00087)

**Decision:** Approved with conditions

**Summary:** Mr. Brian Westin represented the case and stated that he had no further comments.

Trish Flower residing at 1138 W. Isabella stated that she has concerns regarding the possibility of noise, disturbances and overflow parking affecting the neighborhood. She also stated that the patio will be visible to the property owners to the east of the project.

Mr. Westin commented that there is a 8-foot fence and landscaping at the rear of the site. He further stated that there is ample parking. Staff member Alam clarified the site plan and addressed the required amount of parking.

Vice Chair Labadie asked about operating hours for the business. He stated that the distance from the restaurant to the residences is sufficient especially with the additional landscaping.

Board member Hitchens asked for the amount of seating on the patio. Mr. Westin responded there would be less than 50 and 3-4 televisions suspended from the ceiling. Mr. Hitchens further asked about maximum decibel levels. Mr. Sheffield commented on a recently adopted noise ordinance that gives a police officer discretion in determining whether there is a disturbance of the peace.

Board member Jones agreed that there was reasonable distance from the restaurant to the residences.

**Motion:** It was moved by Board member Stradling seconded by Board member von Borstel to approve case BA11-022 with the following conditions:

1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
2. *Provide at least 10'-0" wide landscape buffer yard along the north patio seating area including defined pedestrian path connecting the main entrance of the restaurant facing Alma School Road to the parking lot.*
3. *Provide landscape materials quantities consistent with full Code (Section 11-15-3) requirements within the perimeter landscape yards, foundation base around the building and the patio, and within the parking lot.*
4. *Replace all dead and dying trees and shrubs including enhancing the landscape material per current code Section 11-15-3.*
5. *Compliance with all requirements of the Design Review Board.*
6. *Compliance with all requirements of the Board of Adjustment.*
7. *Compliance with Administrative Site Plan Review.*

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8. *Compliance with DR95-02, DR 92-011, Z94-080, Z92-057.*
9. *Signage location and size needs approval by separate permit process.*
10. *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 approved Substantial Conformance Improvement Permit (SCIP) allows the re-use of a vacant restaurant building with another restaurant use on a developed site zoned C-2 DMP. Building and landscape setbacks are required to be measured from future width lines on arterial streets (65-foot future right-of-way for Alma School Road). The existing building setback is 35' and landscape setback varies from 30'-35' along Alma School.
- 1.2** The parcel is less than 2.5 acres in size. The current code requires only 20' landscape setback from adjacent single residence zoned R1-6 to the east. The existing setback is more than 80'. The applicant is maintaining the existing setback.
- 1.3** The improvements to the site constitute the greatest degree of compliance with current development standards that could be attained without causing or creating addition demolition at the site while accommodating the re-development of this site with a viable use. The deviations that were approved allow the re-development of the site in a manner consistent with development at other sites throughout the city. The approved site plan meets the intent of current development standards, while allowing the re-use of a building near the Fiesta Mall area.

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**Case No.:** BA11-023

**Location:** 1365 South Gilbert Road

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of an existing office building to a daycare center in the OS zoning district. (PLN2011-00088)

**Decision:** Approved with conditions

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

**Motion:** It was moved by Board member Stradling seconded by Board member von Borstel to approve case BA11-023 with the following conditions:

1. *Compliance with the site plan and landscape plan submitted.*
2. *Compliance with all City development codes and regulations.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

**Vote:** Passed 5-0-1 (Board member Jones abstaining)

**Findings:**

- 1.1 This Substantial Conformance Improvement Permit allows a change in occupancy from office to daycare. The applicant was approved for a Substantial Conformance Improvement Permit (SCIP) to allow the intensification of the site without providing full compliance with development standards
- 1.2 The deviations from the current Code are related to the building and landscape setback adjacent to all four property lines. Reductions were allowed in the amount of landscaping, foundation base at the building entrance, and a minor deviation to the requirement for a parking landscape island at the northeast corner of the site. The applicant showed that full compliance with current Code would require significant alterations of the existing site conditions.
- 1.4 The applicant is also providing the following improvements to the existing site: 1) the provision of parking consistent with Code requirements; 2) provision of full right-of-way dedication for Gilbert Road; 3) maintenance of existing mature landscaping; 4) improvements to the building elevations; 5) Removal of asphalt parking and drive aisles to accommodate a landscaped play area for the children.
- 1.5 The site plan submitted, combined with the conditions of approval, provided substantial conformance with current Code requirements that justify the approved SCIP. Additionally, the use and improvements are compatible with, and not detrimental to, adjacent properties in the area.

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- Case No.:** BA11-024
- Location:** 801 East Broadway
- Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of an existing office building to a restaurant in the C-2 zoning district. (PLN2011-00092)
- Decision:** Approved with conditions
- Summary:** This case was on the consent agenda and not discussed on an individual basis.
- Motion:** It was moved by Board member von Borstel seconded by Board member Jones to approve case BA11-024 with the following conditions:
1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
  2. *Provide a method of screening all parking spaces from Horne and Broadway Road.*
  3. *Provide a minimum of 9' x 18" parking spaces.*
  4. *Provide a minimum of 24' wide drive aisles.*
  5. *Provide a 10'-0" landscape yard adjacent to the west property line.*
  6. *Replacement of the north most parking space along the north property line with landscape.*
  7. *Screen trash enclosure from street and parking area to comply with screening standards.*
  8. *Provide landscape material quantities as follows:*
    - a. *Adjacent to the south property line provide 5 trees and 12 shrubs.*
    - b. *Adjacent to the east property line provide 1 tree and 18 shrubs.*
    - c. *Within the parking lot landscape islands provide 4 trees and 12 shrubs.*
  9. *Landscape islands within parking area shall be a minimum of 8' in width and 15' in length with a 4' radius curb.*
  10. *All landscape material within the current and future right-of-way shall e low-water using and/or drought tolerant.*
  11. *Existing non-conforming pole sign shall be removed or brought into compliance with current code requirements prior to occupancy of building.*
  12. *Compliance with all requirements of an Administrative Design Review.*
  13. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Vote:** Passed 5-0-1 (Board member Stradling abstaining)

**Findings:**

- 1.1** The approved Substantial Conformance Improvement Permit (SCIP) allows the re-development of a vacant office building for a restaurant use. The applicant is remodeling the existing building and providing landscape improvements at the perimeter of the site and within the parking area.

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- 1.2** The approved SCIP allows reductions in the building and landscape setbacks, landscape material quantities adjacent to Horne and Broadway Roads, and allows a reduced foundation base width around the building.
- 1.3** The applicant is providing improvements as follows: 1) landscaping adjacent to the street frontages; 2) landscaping within the parking area; 3) removal of two parking spaces to accommodate additional landscape adjacent to Broadway Road; 4) install a pick-up window to reinstate the use of the existing drive-thru lane; 5) install a covered patio over the existing outdoor seating area adjacent to Broadway Road; 5) repaint the existing building; and 6) removal of the non-conforming pole sign.
- 1.4** The approved improvements with the conditions of approval constitute the greatest degree of compliance with current development standards without requiring demolition of the existing building, the existing outdoor seating area or other significant improvements at the site.

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**Board of Adjustment Meeting  
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**Case No.:** BA11-025

**Location:** 1052 South 38<sup>th</sup> Street

**Subject:** Requesting a Variance to allow a vehicle shade structure to encroach into the required side yard in the R1-15 zoning district. (PLN2011-00094)

**Decision:** Denied

**Summary:** Jose Figueroa, the property owner, represented the case and stated that he did not think the shade structure would be a problem when he built it. He uses the structure to store a boat and other items.

Board member Harris asked about rain drainage from the structure. Mr. Figueroa responded that he installed gutters and drains.

Staff member Wahid Alam clarified items in the staff report and pointed out that the structure is on the property line.

Board member Hitchens asked how the case came to be on the agenda. Staff stated that it was the result of a code compliance violation.

Board member von Borstel asked for any possibilities for some measure of compliance. Mr. Alam stated that the owner was not willing to move the structure to another location due to his financial investment.

Vice Chair Labadie stated there was nothing unique about the property to justify the variance.

Board member Harris agreed that the structure is encroaching into the entire setback.

Board member Jones stated that the project could have been built in compliance with the code in a different location on the property. He could not support approval.

Board member Stradling concurred that he could not support the location.

**Motion:** It was moved by Board member Jones seconded by Board member von Borstel to deny case BA11-025.

**Vote:** Passed 6-0

**Findings:**

**1.1** The applicant had requested to allow a 507 sq. ft. carport to encroach into the required 7 foot wide side yard by 7 feet.

**1.2** Current code requires a minimum 7 feet side yard with both sides totaling 20 feet. The carport encroached into the 7 foot side yard at the north property line and did not meet the current code.

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- 1.3** The existing residence was built with a 12 foot side yard setback at the north property line and a 20 foot side yard setback at the south property line. The carport could have been located at the south side of the residence and complied with the side yard setbacks.
  
- 1.4** The lot is 15,033 square feet and total roof coverage (house 4,621 sq. ft + 316 sq. ft) of 32.84% of the lot. The 507 square feet carport addition makes the total roof area to 36.21%. The current code for R1-15 zoning district only allows for maximum roof area for 35%.

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**Board of Adjustment Meeting  
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- Case No.:** BA11-026
- Location:** 3565 North Gilbert Road (SEC of Gilbert Road and Thomas Road)
- Subject:** Requesting a Special Use Permit to allow a sales stand for the sale of agricultural products in the R1-43 zoning district. (PLN2011-00084)
- Decision:** Approved with conditions
- Summary:** This case was on the consent agenda and not discussed on an individual basis.
- Motion:** It was moved by Board member von Borstel seconded by Board member Jones to approve case BA11-026 with the following conditions:
1. *Compliance with the site plan submitted.*
  2. *Compliance with all requirements of the Development and Sustainability Department in the issuance of building permits.*
- Vote:** Passed 5-0-1 (Board member STRADLING abstaining)

**Findings:**

- 1.1** The applicant was approved for a stand to sell Agricultural products in the R1-43 zoning district, located on the southeast corner of Thomas and Gilbert Roads. The site is 7.3 acres and is largely surrounded by agricultural and residential property.
- 1.2** The sales stand has been in existence for many years, required a Special Use Permit to accommodate a new temporary power pole for the existing refrigerator box to store products from the extreme summer heat. Previously a generator was used to power the cooler.
- 1.3** Primary access to the site is from Thomas Road. The parking area is covered with two-inches of asphalt millings to control dust in and around the parking area. The sales stand area is 20-feet by 60-feet and is located adjacent to the existing cooler at the southeast corner of the site.
- 1.4** The sales stand operates May through July each year and sells a variety of fruits and vegetables, which are grown on their property, but it is primarily for the sale of the sweet corn that they grow on site. They open at other various times throughout the year for the sale of other products that are in season.
- 1.5** The sales stand is compatible with adjacent developments, and is complimentary to the surrounding uses. Therefore, the sales stand is compatible with, and not detrimental to, surrounding properties.

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D. Other Business:

None

Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

G: Board of Adjustment/Minutes/2011/May 2011