

# **Board of Adjustment Minutes**

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**City Council Chambers, Lower Level  
January 10, 2006**

**Board members Present:**

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

**Staff Present:**

Gordon Sheffield  
Jeff McVay  
Lena Butterfield

**Board members Absent:**

(None)

**Others Present:**

Gerald M Cook  
Ed Turner  
Steve Nielson  
G.A. Estrada  
John Crotty  
Michael Sinclair  
Christine Sinclair  
Jim Phillips  
Ken Brands  
Marney Frye  
John Smales

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:02 p.m., the following items were considered and recorded on Board of Adjustment Tape #339.

**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 December 13, 2005 Meeting A motion was made to approve the minutes by Boardmember Lambright and seconded by Boardmember Carter. Vote: Passed 7-0
- B. Consent Agenda A motion was made by Boardmember Higgins to approve the consent agenda as read and seconded by Boardmember von Borstel. Vote: Passed 7-0

**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA05-039

**Location:** 905 North Country Club Drive

**Subject:** Requesting a Substantial Conformance Improvement Permit to allow the development of an office building in the O-S district.

**Decision:** Continued to February 14, 2006

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

**Motion:** It was moved by Boardmember Higgins, seconded by Boardmember von Borstel continue this request for 30 days.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA05-048

**Location:** 1210 East Southern Avenue

**Subject:** Requesting a Development Incentive Permit to allow the development of a retail building 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. Please note condition of approval # 8 was revised from an 8,700 square foot building to a 6,000 square foot building during the study session.

**Motion:** It was moved by Boardmember Higgins, seconded by Boardmember von Borstel to approve this case, conditioned up on the following:

1. *Compliance with the site 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. *In regards to landscaping requirements:*
  - a. *Landscaping within parking lot landscape islands shall comply with the provisions of Section 11-15-3 (B).*
  - b. *A minimum seventeen (17) trees and fifty-three (53) shrubs, which meet the minimum requirements for size of plant materials identified in Section 11-15-3 (A) shall be provided in the landscape setbacks along Southern Avenue and Stapley Drive.*
  - c. *A minimum two (2) twenty-four inch (24") or larger box trees, four (4) five (5) gallon size or larger shrubs, and three (3) one (1) gallon size or larger shrubs shall be provided within the setback from the east property line.*
  - d. *A minimum two (2) twenty-four inch (24") or larger box trees, five (5) five (5) gallon size or larger shrubs, and four (4) one (1) gallon size or larger shrubs shall be provided within the setback from the north property line.*
5. *The proposed handicapped accessible route identified on the site plan shall be appropriately marked for pedestrian traffic through use of stamped concrete, brick pavers, or other material approved by the Design Review Board.*
6. *The site plan shall conform to all requirements of the Environmental Management Division with regards to the location of the trash enclosure.*
7. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit.*
8. *Application for building permits that include a building less than six thousand square feet (6,000 s.f.) in floor area, which may include a basement, shall require reapplication for a Development Incentive Permit.*

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The parcel is the site of a vacant automobile service station that will be razed.
- 1.2 The proposed retail use (Cash & More III) is a permitted use in the C-2 District and conforms to the General Plan.

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- 1.3 A 9,000 square foot building is proposed. Half of the building area will be a basement that will be used for storage.
- 1.4 The application for a Development Incentive Permit (DIP) did not include a landscape plan. Based on the setbacks provided, staff has prepared conditions of approval that addresses landscaping needs.
- 1.5 The two vehicle access points closest to the intersection of Southern Avenue and Stapley Drive will be removed, creating safer traffic circulation.
- 1.6 The improvements proposed with the site plan, including the Board approved conditions, will bring this site into a higher level of conformance with current Code, which would be comparable to, or exceed similar commercial properties located in the vicinity of this site.

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA05-049

**Location:** 2020 East Brown Road

**Subject:** Requesting a Special Use Permit to allow the modification of a Special Use Permit to allow a Commercial Communication Tower in the O-S zoning district.

**Decision:** Continued to February 14, 2006

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

**Motion:** It was moved by Boardmember Higgins, seconded by Boardmember von Borstel to continue this case for 30 days.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA05-050

**Location:** 1142 West Guadalupe Road

**Subject:** Requesting a Special Use Permit to allow a modification of a Comprehensive Sign Plan in the C-2 zoning district.

**Decision:** Continued to February 14, 2006

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

**Motion:** It was moved by Boardmember Higgins, seconded by Boardmember von Borstel to continue this case for 30 days.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA06-001

**Location:** 3449 East Hermosa Vista Drive

**Subject:** Requesting a variance to allow a fence to exceed the maximum height in the R1-35 zoning district.

**Decision:** Approved with conditions

**Summary:** Mr. Turner, owner of lot 4 of the R&R Ranch, explained that he and the owners of lots 5,6,and 7 are requesting a 6-foot fence height in the required front yard setback because of the high traffic volume along Hermosa Vista. He added that the surrounding neighborhood has 6-foot fences and he did not know that he could not build a fence over 3 1/2 feet in the front setback until notified by Code Compliance. He described the other fences in the neighborhood as being constructed from wrought iron with electric gates. Mr. Sinclair, owner of lots 2 and 3 of the R&R Ranch, explained that they were the first people to build in the subdivision and have been against the increased fence height for all lots in the subdivision. He has concerns about visibility when people back out of his driveway. He stated that he had expressed concern about the fence on lots 4 and 5 to Code Compliance at the time they were being constructed. He has concerns about the way code compliance has handled his complaints. Mr. Crotty, the owner of lot 7 of the R&R Ranch, explained that the fences are set back far enough to provide the proper site triangles consistent with Mesa City Code. He added that the property values in the neighborhood have not decreased because of the increased fence heights. Mrs. Sinclair, owner of lots 2 and 3 of the R&R Ranch, explained that they did not install a high fence so that the children in the area could come to the house if they needed to. She also expressed concern with the discrepancy between their fence height and the fence height of Mr. Turner. Boardmember Higgins expressed concern that the case does not meet the justification for a variance and stated her opinion that if the variance is approved the Board would be giving special consideration to these properties. Boardmember Carter requested clarification of neighborhood condition and if it was a valid justification for a variance. Mr. Sheffield, staff, replied that neighborhood condition describes the existing condition on Hermosa Vista. Additionally; he stated that when staff made its recommendation, they were not looking at the other nonconforming fences in the R&R Ranch subdivision. Rather staff advises the fences of the subdivisions to the west and north. These fences were allowed at 6-feet because the homes back up to Hermosa Vista. Also Hermosa Vista is a collector street, which has a higher volume of traffic.

**Motion:** Boardmember Higgins made a motion to deny case BA06-006 with Boardmember Pierson seconding the motion. The motion failed 2-5. Shuff, Lambright, von Borstel, Carter, and Clement voted Nay. Boardmember Higgins expressed concern that the fence along the property line of lots 4 and 3 would not have a design that was compatible with each other.

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Mr. McVay, staff, explained that condition three (3) insured that the owner of lot 4 would finish his proposed fence consistent with the fence along lot 3, and the fence would be setback back 7 feet from the right away of Hermosa Vista.

Boardmember Clement and Boardmember Lambright expressed concerns that moving the fence back 7 feet would interfere with the circular drive on lot 4.

Boardmember Lambright clarified with staff that the request was for lot 4. Mr. McVay replied that the request involves lots 4, 5, 6, and 7.

Please note that during the study session it was made clear that the responsibility for integrating the fence along the property line between lots 3 and 4 (condition of approval #3) was with the owner of lot 4.

**Motion:** It was moved by Boardmember Carter, seconded by Boardmember von Borstel to approve case BA06-001, conditioned upon the following:

1. *The proposed six-foot (6') high fence on Lot 4 shall be setback a minimum of seven feet (7') from the right-of-way for E. Hermosa Vista.*
2. *Adjacent to E Hermosa Vista the proposed six-foot (6') high fence on Lot 4 shall be constructed entirely of wrought iron or similar view fence material, excluding necessary pilasters.*
3. *Adjacent to the west property line the west side of the proposed six-foot (6') high fence on Lot 4 shall be finished to match the existing fence to the west on Lot 2.*

**Vote:** Passed 4-3 (Higgins, Pierson, and Lambright voting Nay)

**Finding of Fact:**

- 1.1 The fences on the subdivision to the west and north are allowed because the lots back up to Hermosa Vista, creating a disadvantage for the remaining along Hermosa Vista.
- 1.2 Hermosa Vista is a collector street, which has a higher volume of traffic.
- 1.3 Requiring future fences to utilize only wrought iron or similar view fence material and to be setback from the right-of-way by a minimum of seven feet will provide sight triangles consistent with the current engineering and design standards used for new subdivisions.

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA06-002

**Location:** 107 North Ellsworth Road

**Subject:** Requesting a Substantial Improvement Conformance Permit to allow for the expansion of a storage facility 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 Higgins, seconded by Boardmember von Borstel to approve case BA06-002 conditioned upon the following:

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 or an administrative design review.*
4. *A total of twenty (20) twenty-four inch (24") box trees or ten-foot (10') saguaros and seventy (70) shrubs, barrel cactus, or prickly pear cactus shall be provided within the landscape area adjacent to Ellsworth Road.*
5. *A total of thirteen (13) twenty-four inch (24") box trees or ten-foot (10') saguaros and fifty-four (54) shrubs, barrel cactus, or prickly pear cactus shall be provided within the landscape area adjacent to Sleepy Hollow Road.*
6. *A total of twenty (10) twenty-four inch (24") box trees and forty (40) shrubs shall be provided within and adjacent to the existing retention basin.*
7. *The existing retention basin shall be covered in decomposed granite, crushed rock, or other material approved by Design Review staff.*
8. *Existing attached and detached signage shall be brought into conformance with current Sign Code requirements.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit.*

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The subject parcel is the site of the Central Self Storage facility, a permitted use in the C-2 district.
- 1.2 The applicant is proposing the development of a 10,000 square foot building with a maximum height of 10 feet, which will replace open storage of recreational vehicles at that location.
- 1.3 The applicant will bring attached and detached signage into conformance with current Code requirements.

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- 1.4 The applicant will supplement existing landscaping adjacent to Ellsworth and Sleepy Hollow Roads and provide landscaping adjacent to the south property boundary within the existing retention basin. Staff recommendations for additional landscaping in these areas will provide a greater level of conformance with current Code requirements.
- 1.5 The development proposed with the site plan will have a minimal impact on surrounding properties and the neighborhood. Improvements to signage and landscaping will offset any impacts.
- 1.6 The proposed development could not be reasonably accomplished under current Code requirements. The strict application of current Code requirements would require the demolition of existing buildings and create additional non-conformities.
- 1.7 Including the Staff recommended stipulations, this site will be brought into substantial conformance with current Code requirements, which would not otherwise be possible.

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**Board of Adjustment Meeting  
January 10, 2006**

**Location:** 506 through 710 West Broadway Road

**Subject:** Requesting a Special Use Permit for a modification to a Comprehensive Sign Plan for a group commercial industrial center in the M-1 and M-2 zoning districts.

**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 Higgins, seconded by Boardmember von Borstel to approve this case conditioned upon the following:

1. *Attached tenant signage that do not meet current Code requirements shall be removed or brought into conformance with current Code requirements under any of the following conditions:*
  - a) *The quality of the signs cannot be maintained through normal maintenance or repair, or*
  - b) *A sign permit is required, or*
  - c) *The tenant space is leased to a new tenant, or*
  - d) *A new Certificate of Occupancy is required for an existing tenant.*
2. *Detached signage existing prior to approval of this case shall be removed or brought into conformance with current Code requirements within one (1) year of approval of this case.*
3. *Any new, detached signs shall comply with the provisions of Sections 11-19-8 (D) and 11-19-8 (E) of the Zoning Code, and shall be subject to review by Design Review staff prior to issuance of a sign permit.*

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The subject site has a Special Use Permit for a Comprehensive Sign Plan that was approved by the Board of Adjustment through case BA85-158.
- 1.2 The applicant is requesting repeal of the Special Use Permit to allow removal and replacement of the existing attached and detached signs with signs that meet current Code requirements.
- 1.3 Existing attached signs shall be removed or replaced with conforming signs once the quality of the sign cannot be maintained through normal maintenance or repair.
- 1.4 Existing detached signs shall be removed or replaced with conforming signs within one year of approval of this case.

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA06-004

**Location:** 240 West Baseline Road

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

**Decision:** Continued to February 14, 2006

**Summary:** Ms. Frye, representing Wal-Mart, explained that the modifier signs needed to be placed higher than the 10 feet that staff is recommending because the signs would then interfere with the placement of the windows. Landscaping reduce the visibility of the modifier signs. She added that the City had allowed modifier signs at the Wal-Mart on Signal Butte/ Highway 60 that were placed higher on the building. Boardmember Higgins explained that she views modifier signs as advertisement and as such should not be allowed. She feels that Wal-Mart should be setting a higher standard of architecture for the City's shopping centers. Mr. Sheffield, staff, explained that the Wal-Mart on Signal Butte and Highway 60 has some differences that allowed for the placement of the signs: 1) the Wal-mart building is perpendicular to the road; 2) the site is 600 feet from the road, while the Wal-Mart in question in this case is 400 feet from the road; and 3) there are other places on the building to place the modifier signs. Boardmember Carter expressed a concern that Zoning Administration staff is not working closely enough with Design Review staff on Comprehensive Sign Plans, given the Design Review Board reviews the plans including the signs shown on the architecture of the building elevations. Boardmeber Lambright explained that he felt that people going into Wal-Mart know what they have to offer so the modifier signs are unnecessary. Boardmember Clement disagreed and thought that the modifier signs are necessary for people to navigate around the outside of Wal-Mart. Boardmember Shuff expressed a need for a continuance for Wal-Mart to provide a sign plan that reduced or removed the modifier signs.

**Motion:** It was moved by Boardmember Clement, seconded by Boardmember Lambright that case BA06-004 should be continued for 30 days. In addition, a revised sign plan should be filed including the removal of modifier signs 5 through 11,12, and 13 as shown on the building elevation exhibit of the Comprehensive Sign Plan.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA06-005

**Location:** 1051 North Dobson Road

**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for a group commercial center in the C-2 and C-3 zoning districts.

**Decision:** Continued to February 14, 2006

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

**Motion:** It was moved by Boardmember Higgins, seconded by Boardmember von Borstel to continue this case for 30 days.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 10, 2006**

**Case No.:** BA06-006

**Location:** 2130 West Southern Avenue

**Subject:** Requesting a Development Incentive Permit to allow the redevelopment of an existing restaurant with a drive-through window and lane in the C-2 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 Higgins, seconded by Boardmember vonBorstel to approve caseBA06-006, conditioned upon the following:

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. *Paved areas identified on the site plan with pavement striping (pedestrian route, handicap accessible landing, and drive-thru landscape island extension) shall utilize stamped concrete, brick pavers, or other material approved by the Design Review Board.*
5. *Three (3) additional twenty-four inch (24") box trees shall be provided within the landscape setback adjacent to S. San Jose.*
6. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit.*

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The subject parcel is the site of a 4,600 square foot McDonalds restaurant, a permitted use in the C-2 district. The existing McDonalds will be razed to allow redevelopment of a new 4,100 square foot McDonalds.
- 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 meet or exceed the intent of the Code design guidelines.
- 1.3 The redevelopment of the site with a use currently existing will have a minimal impact on surrounding properties and the neighborhood. Improved site planning, landscaping, and architecture will offset any impacts.
- 1.4 The proposed site plan, including staff recommended stipulations, will bring this site into a greater degree of conformance with current Code. It will be comparable to, or exceed similar commercial properties located in the vicinity of this site.

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Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator

Minutes written by Lena Butterfield, Planning Assistant

G:Board of Adjustment/Minutes/2006/01 January