

Board of Adjustment

Minutes



City Council Chambers, Lower Level
May 13, 2008

Board members Present:

Mike Clement, Chair
Scott Thomas
Garret McCray
Linda Sullivan
Greg Hitchens

Board members Absent:

Terry Worcester (excused)
Dianne von Borstel, Vice Chair (excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Brandice Elliott
Kelly Arredondo

Dan Brock
H.M. Walthall
Bonni Canary
Michael Mills

Others Present:

Charlie Gibson
Robert Sears
Roger Plate
Michael Shontell
Anna Lauri
Joseph DeCenzo
Drew Wood

The study session began at 4:35 p.m. The Public Hearing meeting began at 5:47 p.m. Before adjournment at 8:30 p.m., the following items were considered and recorded on Board of Adjustment CD #5.

Study Session 4:30 p.m.

- A. The study session began at 4:35 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator update – none

Public Hearing 5:47 p.m.

- A. Consider Minutes from the April 8, 2008 Meeting A motion was made to approve the minutes by Boardmember Hitchens and seconded by Boardmember Thomas. Vote: Passed 5-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Sullivan. Vote: Passed 4-0-1 (Thomas abstained)
- C. Second Consent Agenda A motion to approve the second consent agenda as read was made by Boardmember Thomas and seconded by Boardmember Hitchens. Vote: Passed 5-0

**Board of Adjustment Meeting
May 13, 2008**

Case No.: BA08-022

Location: 1020 East Southern Avenue

Subject: Requesting a Special Use Permit to allow the development of a Comprehensive Sign Plan for Mesa Ranch Plaza in the C-2 Zoning District.

Decision: Continued to the June 10, 2008 hearing.

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

Motion: It was moved by Boardmember Hitchens, seconded by Boardmember Sullivan to continue case BA08-022 for 30 days to the June 10, 2008 hearing:

Vote: Passed 4-0-1 (Thomas abstained)

Findings: N/A

**Board of Adjustment Meeting
May 13, 2008**

Case No.: BA08-023

Location: 634 West Farmdale Avenue

Subject: Requesting a variance to allow a carport addition to encroach into the required side yard in the R1-6 zoning district.

Decision: Denial

Summary: Robert Sears presented the request for a variance, noting that he was unaware of the requirement for a building permit. In addition, he indicated that the carport is structurally sound and that it provides shade for his truck. It was also noted that the neighbor located south of his property had constructed a block wall that was not placed on the property line, further limiting access to his rear yard. He further stated that there are several similar structures in the neighborhood.

In response to questions from Boardmember McCray, Mr. Sears replied that the truck used to be parked on the street or in front of the house, and that relocating the structure on the property would be inconvenient in terms of access.

Boardmember McCray further asked if the location of the fence on the homeowner's property would affect the decision. Mr. McVay indicated that while the fence may not be located on the property line, the potential offset would not be sufficient to change the staff recommendation.

Chairman Clement noted that he appreciated the applicant's request, but did not feel that the request had been justified. He noted that there are potential alternatives for locating a similar structure on the property.

Motion: It was moved by Boardmember Thomas, seconded by Boardmember McCray to deny case BA08-023.

Vote: Passed 5-0

Findings:

- 1.1 The attached carport structure would result in a 1-foot side yard setback in the R1-6 district, which requires a minimum 5-foot setback with a total of both sides of 15-feet. By Code, attached structures must be located within the buildable lot area. The lot is 10,450 square feet in size and has been developed in a manner similar to surrounding properties.
- 1.2 The applicant has stated that the carport is necessary to provide covered parking for a truck. Additional justification for the carport includes that the lot is within a cul-de-sac resulting in an irregularly shaped lot.
- 1.3 While the lot is irregularly shaped, the size of the lots is over 4,000 sq. ft. larger than the minimum lot size for a R1-6 lot, providing sufficient area on the lot to locate a carport without encroaching into the required side yard.

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- 1.4** The applicant has not provided sufficient justification related to the land, which would justify the requested variance. The need for a variance stems from the property owner constructing a carport without a building permit. This need was created by the property owner and is based on a self-imposed hardship.

**Board of Adjustment Meeting
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Case No.: BA08-024

Location: 5601 East Hermosa Vista Drive

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of a golf course clubhouse and country club in the C-2 zoning district.

Decision: Approved with conditions

Summary: Dan Brock presented the request for a Substantial Conformance Improvement Permit (SCIP), noting significant site history, including termite damage and structural issues. He further discussed constraints with the budget, and presented photographs exhibiting existing landscape conditions. Further, he requested the elimination of staff recommended conditions #2 and #3.

Boardmember Hitchens noted that new landscaping would be installed adjacent to Hermosa Vista Drive, and felt that the applicant had taken additional steps to include a sufficient number of trees.

Mr. McVay explained that the request is for the expansion of a nonconforming site, and recommended conditions #2 and #3 relating to parking lot landscape islands would allow greater conformance with current Code.

Boardmember McCray clarified the location of landscape islands recommended by the conditions, and discussed a compromise.

Boardmember Hitchens discussed the addition of shrubs in existing parking lot landscape islands as a compromise, noting that shrubs could add considerable aesthetic value. Further discussion ensued concerning the elimination of conditions #2 and #3.

Motion: It was moved by Boardmember McCray, seconded by Boardmember Sullivan to approve case BA08-024 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *Compliance with current Code in regards to the number and size of shrubs in landscape islands.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1** The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of the Apache Wells golf course clubhouse and country club building. The existing approximately 19,000 square foot clubhouse and country club will be demolished and replaced with a new 14,292 square foot building. The new building will include an additional 2,000 square feet of outdoor patio and will continue to utilize the existing 6,307 square foot basement, which is primarily utilized for storage of golf carts.

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- 1.2** As justification for the SCIP, the applicant has noted: 1) the reduced setbacks requested are existing; 2) the application of current setback requirements would eliminate additional on-site parking and disrupt existing circulation patterns; 3) an additional 220 golf cart parking spaces have been provided; and 4) many residents of the development use golf carts in lieu vehicles.
- 1.3** In addition to the applicant's justification, staff further notes: 1) full compliance with current Code development standards would require significant alteration of the existing development site, including elimination of on-site parking and the disruption of vehicular circulation; 2) the proposed reconstruction represents an improvement in the building architecture, provides foundation base in excess of Code requirements, and provides new parking lot landscape islands.
- 1.4** The primary request relates to the elimination of a 20-foot wide landscape setback current Code would require from Hermosa Vista Drive and 56th Street. Compliance with this requirement would require the existing drive aisle adjacent to 56th Street be relocated 20 feet east. In doing so, a large number of on-site parking spaces would be eliminated resulting in a greater degree of site non-conformance. The installation of shrubs, consistent in quantity and size with current Code, within the landscape islands will bring the site into a greater degree of conformance with current Code requirements and further justifies the SCIP.
- 1.5** The proposed site plan shifts the easternmost drive aisle slightly west to accommodate improved building foundation base, drop-off areas, and a revised building footprint. In doing so, the proposed site does eliminate a few existing parking spaces. To address this issue the applicant has provided additional golf cart parking. Given that the site is primarily for the use of residents of Apache Wells, and evidence from site visits, the substitution of some parking spaces with golf cart parking is reasonable and responds to the existing condition. The shifting of this drive aisle also results in shorter parking rows and a frequency of parking lot landscape islands on greater conformance with current Code requirements. The applicant has additionally provided seven handicapped parking spaces.
- 1.6** The requested deviations allow the architectural improvement of an existing building without creating additional non-conformances on the site. The proposal will also result in improved compliance with foundation base requirements and frequency of parking lot landscape islands. Sufficient justification has been provided to review the requested SCIP. The applicant proposed site plan, including recommended conditions of approval, provides substantial conformance with current development standards and will be compatible with and not detrimental to the surrounding neighborhood.

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Case No.: BA08-025

Location: 1126 West Main Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an automobile service facility in the C-3 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 Thomas, seconded by Boardmember Hitchens to approve case BA08-025 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *Compliance with the phasing plan contained within the Staff Report, within two-years of the date of approval.*
3. *Replacement of the existing nonconforming detached sign with a conforming detached monument sign prior to, or in conjunction with, the issuance of building permits consistent with the phasing plan.*
4. *The removal of existing nonconforming roof-mounted signs consistent with the phasing plan.*
5. *Provision of a minimum five-foot (5') wide at-grade foundation base along the west elevation of the proposed building that utilizes brick pavers, stamped or colored concrete, or other material approved by the Administrative Design Review.*
6. *No outdoor activities or outdoor storage shall be permitted. Existing outdoor storage shall be removed or placed within an enclosed structure consistent with the phasing plan.*
7. *Chain link fencing shall be removed or replaced with wrought iron or block fencing consistent with the phasing plan.*
8. *Compliance with all requirements of an Administrative Design Review.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1 This request would allow the expansion of an existing tire sales and installation use on a C-3 zoned property bounded by similar automotive uses on the east and west. The expansion includes a new 600 square foot service building, addition of building foundation base, and addition of on-site landscaping, and the provision of formal on-site parking.
- 1.2 Concerns relate to existing nonconforming signs, outdoor activities and storage, existing chain link fencing, and existing building colors and proposed building architecture. Conditions of approval address each of these concerns.

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- 1.3** To address the applicants concerns with the phasing of improvements, the phasing plan in the Staff Report is incorporated into the conditions of approval. The phasing plan proposed three phases of improvement (immediately, within one year, and within two years) that must occur to permit the continued use of the site.
- 1.4** The property is the subject of an open Code Compliance case (COD2007-09978). That case relates to construction activity without the benefit of a building permit and the outdoor display and storage activities. Without the benefit of the requested SCIP and the improvements associated with the SCIP, the property owner is subject to continued enforcement, fines, potential criminal charges, or required to cease doing the offending activity.
- 1.5** The subject property is located near the intersection of Main Street and Alma School Road, which has been identified as a future light rail stop. With the extension of light rail east, uses such as automotive repair will become less compatible and the land will become attractive to developers. Based on the planning for this area, it is anticipated that the subject parcel would be assembled with several surrounding properties to allow redevelopment consistent with transit-oriented design. Given this anticipated future, the expansion of this site is viewed as temporary activity that will be replaced in the future.
- 1.6** Full compliance with current Code development standards would significantly reduce the amount of buildable area and preclude the use of the site for any permitted use. A limited amount of area is available for improvement to the existing development site and to affect compliance with current development standards. Sufficient justification exists to review the requested SCIP. The applicant proposed site plan, including the 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.: BA08-026

Location: 735 West Broadway Road

Subject: Requesting a Development Incentive Permit (DIP) to allow the development of an automotive dealership in the M-1 zoning district.

Decision: Continued to the June 10, 2008 hearing.

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember Hitchens to continue case BA08-026 for 30 days to the June 10, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

**Board of Adjustment Meeting
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Case No.: BA08-027

Location: 841 East 8th Place

Subject: Requesting a variance to allow a carport to encroach into the required sideyard setback in the R1-9 zoning district.

Decision: Continued to the June 10, 2008 hearing

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

Motion: It was moved by Boardmember Thomas seconded by Boardmember Hitchens to continue case BA08-027 for 30 days to the June 10, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

**Board of Adjustment Meeting
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Case No.: BA08-028

Location: 3547 East Southern Avenue

Subject: Requesting modification of a Substantial Conformance Improvement Permit (SCIP) to allow a drive-thru addition to an existing 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.

Motion: It was moved by Boardmember Thomas seconded by Boardmember Hitchens to approve case BA08-028 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below*
2. *Replacement of all dead, dying, or removed plants within existing landscape areas.*
3. *Compliance with all requirements of the Design Review Board.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 5-0

Findings:

- 1.1 The original SCIP approval allows redevelopment of a vacant Osco Drugstore building located on the southwest corner of Southern Avenue and Val Vista Drive. The original request identified the location of a drive-thru along the south building elevation. With that review, concern with the drive-thru stacking distance resulted in the Board requiring the elimination of the drive-thru.
- 1.2 The anticipated tenant for the proposed drive-thru is a Dunkin Donuts. Research indicates the majority of Dunkin Donuts' business occurs through the drive-thru lane and that a large majority of this business occurs in the hours before 10:00 AM. Additional research indicated that newer Dunkin Donuts facilities throughout the country were approved with stacking distances that ranged from 8 to 12 cars.
- 1.3 To accommodate the necessary stacking distance the applicant has modified the site plan to include the elimination of the previously approved automotive repair facility. That removal allows the drive thru lane to be wrapped around the building resulting in an approximately 190-foot long queuing lane, which exceeds the minimum distance required by current Code.
- 1.4 The approved site plan has been further modified to show compliance with the conditions of approval for case BA07-070, which approved the SCIP. Minor modifications to the drive thru lane, which includes items such as island width and drive aisle width, will be approved by staff as part of the Design Review Board process.
- 1.5 The site plan maintains substantial conformance with current development standards noted in the approval of BA07-070. To address building architecture concerns, the proposed changes to the building architecture are required to receive the review and approval of the Design Review Board.

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Case No.: BA08-029

Location: 1052 East McKellips Road

Subject: Requesting a Special Use Permit (SUP) in conjunction with the development of a carwash 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 Thomas seconded by Boardmember Hitchens to approve case BA08-029 with the following conditions:

1. *Compliance with the site plan, landscape plan and elevations as submitted, except as modified by the conditions listed below.*
2. *Noise abatement of the vacuums and wash tunnel equipment shall be installed to achieve a maximum noise level of 60 Ldn at the rear property line when the equipment is in use. Such noise abatement may be achieved either through the use of noise attenuation measures in the building design, building materials and site planning, or through the use of wash and vacuum equipment designed to generate less sound, such as the use of "screw-blade" style fans for drying vehicles in the wash tunnel.*
3. *Provide a total of eleven (11) 24" or greater box trees along the McKellips frontage in lieu of the 8' screen wall.*
4. *The Proposed detached sign is not approved by this case. Signage must comply with current Zoning Ordinance requirements and be approved by separate submittal.*
5. *Dedication of 10' of additional right-of-way to achieve a 65' half-street width for the north side of McKellips Road*
6. *Compliance with all the requirements of Z99-4, except as modified by this case and the Administrative Approval dated February 12, 2007.*
7. *Compliance with all requirements of the Design Review Board.*
8. *Compliance with all requirements of the Building Safety Division as related to the application for and the issuance of a building permit.*

Vote: Passed 5-0

Findings:

- 1.1 The applicant has proposed to build a new automated car wash facility. The facility will be located within a group commercial development that is currently under construction. The surrounding sites to the east, west and south are all zoned for commercial uses. The property to the north is zoned R1-9 for residential use but the parcel immediately adjacent to the proposed site is developed as an open space tract.
- 1.2 With the conditions of approval, noise generated from the car wash will be attenuated by either design or building methods. This may include the use of a masonry wall set perpendicular to the wash line within the wash tunnel to redirect blower noise back toward the street and away from the residences to the north, and the use of a common motor vacuum system, with the mechanical equipment set within an enclosed sound attenuated room. Additional conditions designed to attenuate noise include the use of sound absorption materials on the interior of the wash bay, the use of "screw-type" fan or blower blades.

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- 1.3** The applicant provided a sound study at a site with a similar facility that indicates the sound levels generated by the carwash system were in compliance with the residential noise requirements of HUD and EPA. A condition of approval will limit sound levels to a maximum noise level of 60 Ldn at the rear of the property when the equipment is in use.
- 1.4** The approved site plan and conditions of approval insure that the automatic bay car wash will be compatible with and not detrimental to surrounding properties.

**Board of Adjustment Meeting
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Case No.: BA08-030

Location: 4000 East Palm Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow expansion of an existing wedding reception center in the M-1-PAD zoning district.

Decision: Approved with conditions.

Summary: Michael Shontell presented the request for a Substantial Conformance Improvement Permit (SCIP), noting the retention basins located north of both the west and east parking lots. In addition, several photographs were presented supporting the request. He indicated that conditions #3 and #4 were not favorable.

Mr. Sheffield presented the staff response to the Board, noting that the applicant's justification for the SCIP was that their neighbors had provided more landscape than necessary; however, there was no guarantee that the retention basins would remain in perpetuity.

Boardmember Thomas inquired of the purpose of the landscape buffer. Mr. Sheffield responded that landscaping facilitates dust control, mitigates heat island effect, and provides a buffer between uses. He further clarified that the Code specifies the minimum amount of landscaping required in a setback and how it should be distributed.

Boardmember Hitchens felt that a compromise for condition #3 included the proposed landscape setback requirement for shrubs within the setback, and landscaping consistent with other staff recommendations.

Motion: It was moved by Boardmember McCray seconded by Boardmember Thomas to approve case BA08-030 with the following conditions:

1. *Compliance with the landscape plan submitted, except as modified by the conditions listed below.*
2. *A minimum fifteen-foot (15') landscape setback shall be provided adjacent to the east property line.*
3. *A minimum four-foot (4') landscape setback shall be provided from the north property line adjacent to the west parking lot. One (1) shrub placed every three-feet (3') on center shall be provided within this setback.*
4. *Provision of landscaping along the west property line in compliance with the landscape plan submitted and dated October 23, 2007.*
5. *Provision of a minimum of one (1), fifteen (15) gallon box tree within the omitted parking space located in the northwest corner of the east parking area, in addition to the landscaping identified on the landscape plan.*
6. *Provision of a minimum of four (4), fifteen (15) gallon box trees within the landscape setback adjacent to the east property line in addition to the landscaping identified on the landscape plan.*
7. *Ten percent (10%) of the required trees shall be thirty-six-inch (36") box or larger.*
8. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

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Vote: Passed 5-0

Findings:

- 1.1** The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow reduced landscape setbacks adjacent to the north, east, and west property lines. The setback reduction would allow for the expansion of an existing parking lot adjacent to the west property line, and the development of a new parking lot adjacent to the east property line.
- 1.2** The improvements to both parking lots have been completed without the benefit of a building permit. Although the construction improvements have already been made to both parking lots, the Board should review this case as if it were still just a plan on paper, giving neither penalty or concern for having to maintain the applicant's investment.
- 1.3** Stonebridge Manor was a dwelling that was remodeled into a wedding reception center in 1998, and is unique in that it is located within The Commons Industrial Park. Some of the properties in the industrial subdivision were developed prior to the adoption of the revised design guidelines and site development standards in 2002, which resulted in landscape setbacks smaller than current Code requirements. While current Code requires a landscape setback of 15-feet for both side and rear yards of properties in industrial districts, the prior Code permitted landscape setbacks of 10-feet for both side and rear yards.
- 1.4** The site and landscape plans provided by the applicant are inconsistent in that the landscape plan identifies larger landscape setbacks than the site plan. As a result of the increased landscape setback, there are slightly fewer parking spaces provided in the landscape plan in comparison with the site plan. In general, the landscape plan complies more substantially with current Code with respect to landscape setbacks, where the site plan complies more with current Code in regards to parking spaces.
- 1.5** Stonebridge Manor was converted into a wedding reception center prior to the adoption of the revised design guidelines and site development standards, and is therefore considered a legal-nonconforming property. The proposed site improvements would be expanding a nonconforming site, qualifying the development for a Substantial Conformance Improvement Permit (SCIP). The applicant has requested deviations from current Code requirements related to landscape setbacks and parking spaces as identified on the site plan.
- 1.6** The proposed expansion of the parking lot located adjacent to the west property line would contribute 25 parking spaces to the development. The applicant is proposing to apply the existing 15-foot side yard to the new parking area located north of the existing lot. In addition, a reduced landscape setback of 3-feet is proposed adjacent to the north property line, where current Code requires a landscape setback of 15-feet adjacent to both the west and north property lines. In order to bring the site closer to compliance with current Code where parking spaces are concerned, a 4-foot landscape setback should be maintained and landscaped with shrubs planted every 3 feet on center.
- 1.7** The request also considers the development of a new parking lot adjacent to the east property line, which would add 24 parking spaces to the development. The applicant has proposed a reduced landscape setback of 5-feet along the north property line, where current Code requires a landscape setback of 15-feet. In addition, the site plan provided identifies a 15-foot landscape setback adjacent to the east property line for this new parking lot. The narrative provided by the applicant indicates that a lot line adjustment will be made to insure the 15-foot landscape setback is provided along this property line.

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- 1.8** The development does not comply with current Code requirements in regard to parking spaces. While 171 spaces are required for all assembly areas, 118 have been provided, which includes the proposed parking areas. As a result, there is still a shortage of 53 spaces for the existing uses.
- 1.9** The applicant has proposed increased landscape quantities to bring the site closer to compliance with current Code.
- 1.10** In order to bring the site closer to compliance with current requirements, a condition of approval requires one tree adjacent to the north property line within the eliminated parking not large enough to accommodate a vehicle, that will be converted into a landscape island.
- 1.11** The applicant has indicated that the east property line will be adjusted to provide a 15-foot setback to comply with current Code requirements. As a result, the landscape adjacent to the east property line should also comply with current Code in regards to quantities, which includes 12 trees and 46 shrubs. Given that the applicant has identified 52 shrubs on the landscape plan, a condition of approval requires 12 trees and 52 shrubs along the east property line.
- 1.12** As justification for the requested SCIP, the applicant has noted that there are large retention basins located adjacent to the north property line near both proposed parking areas, which serve as buffers from the adjacent developments. In addition, the applicant has proposed landscape adjacent to the new parking areas that, in some cases, exceed current Code requirements. Further, the landscape plan indicates that 10% of the trees to be installed in the parking area will be 36-inch box or larger, which will be a substantial improvement to the overall development.
- 1.13** The applicant has attempted to negotiate a landscape easement agreement with the property owners located north of the site to insure that the retention basins would remain in perpetuity to act as a buffer between the two sites. Unfortunately, the property owners were not agreeable to the easement agreement, and it has not materialized. However, the retention basin located north of the parking lot adjacent to the west property line (4049 E. Presidio St.) is dedicated retention and may not be modified.
- 1.14** The proposed modifications to the site have been reviewed and approved by The Commons Industrial Park at Falconview Owner's Association, noting that the improvements comply with the development's CC&Rs.
- 1.15** The site plan provided demonstrates a greater degree of compliance with current Code in regards to parking spaces. While the landscape setback would be reduced substantially adjacent to the north property line, additional parking spaces are necessary to support the current use. The retention basins located north of the property in conjunction with additional landscaping addressed in the conditions of approval provide a greater buffer between uses.
- 1.16** The submitted landscape plan and conditions of approval provide substantial conformance with current Code requirements, which justify the requested Substantial Conformance Improvement Permit (SCIP). In addition, the proposed use and improvements will be compatible with, and not detrimental to, adjacent properties in the area. Further, the conditions of approval requiring additional landscaping in the east parking area, as well as the applicant's initiative to increase landscape quantities beyond current Code minimums, mitigate the impact of reduced landscape setbacks to adjacent property owners.

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- Case No.:** BA08-031
- Location:** 54, 62, 104, and 110 South Allen
- Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow a lot split in conjunction with a multiple residence development in the R-3 zoning district.
- Decision:** Approved with conditions.
- Summary:** Bonnie Canary presented the request for a Substantial Conformance Improvement Permit (SCIP), noting that she has cleaned up the properties since purchasing them. She felt that the six-foot high perimeter screen wall was unnecessary because it would not be visible from Allen. Further, she stated it would be cost prohibitive to install a screen wall.
- Mr. Walthall, the owner of an adjacent property, presented support for the project subject to the staff recommendation. He indicated that the installation of a screen wall would substantially improve the property, and requested that the wall remain a condition.
- There was some discussion concerning parking spaces on the property. Boardmember Hitchens indicated that a solution to the issue had been provided in the staff report, and that it should no longer be an issue. Mr. Sheffield further indicated that the existing parking situation would be permitted with the recordation of a cross-access and reciprocal parking agreement across all four properties.
- Boardmembers Clement and McCray noted their agreement with staff concerning the block wall. Mr. McVay added that the lot split can be deferred over time, and that the installation of the block wall would not be required until the lot split was requested. He verified that there is no time limit associated with a SCIP.
- Motion:** It was moved by Boardmember McCray seconded by Boardmember Sullivan to approve case BA08-031 with the following conditions:
1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
 2. *Parking spaces must have independent access without being lined in tandem.*
 3. *Remove all chain link fencing from the perimeter of the site and replace with a minimum 6-foot high perimeter screen wall, to be completed prior to approval of the lot split.*
 4. *Install permanent common space amenities, similar to benches or picnic tables.*
 5. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*
- Vote:** Passed 5-0

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Findings:

- 1.1** This request conforms to the conditions of case Z08-17, which allow the separation of each four-unit multi-residence building. Due to the existing residential density of the site, the desired land split required rezoning which necessitated compliance with current development standards.
- 1.2** Justification for the request include the following: 1) existing buildings on the property were built prior to current development standards; 2) the requested deviations accommodate the existing use of the site; 3) neighbors will benefit from the building facelift; 3) full compliance with current Code development standards would require significant alteration of the existing development site, including elimination of on-site parking and demolition of the existing chain link fence; 4) landscaping will be upgraded by adding trees to the landscape areas along the street frontage and shrubs between the common areas and the parking; 5) decorative paving will be installed within the common areas along the new property lines; 6) full compliance with current Code development standards in relation to the proposed development would significantly reduce the amount of buildable area and would likely preclude the use of the site for a permitted use; 7) the proposed improvements represent a significant improvement in the appearance of the site, including provisions for new landscaping, and improving the common areas with permanent common space amenities, such as benches or picnic tables.
- 1.3** To provide substantial conformance, landscape improvements have been identified adjacent to South Allen and the common areas. The construction of a perimeter barrier will help offset the zero-setback along the adjacent properties. In addition, improvements to compliance with current Building Code requirements will occur through the building permit process.
- 1.4** The approved site plan, including the conditions of approval, provide substantial conformance with current development standards and demonstrate site improvements that will benefit the property owner and surrounding neighborhood.

Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Minutes written by Brandice Elliott, Planner I

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