

# Zoning Administrator Hearing

## *Minutes*



**John S. Gendron  
Hearing Officer**

**May 5, 2009 – 1:30 p.m.**

View Conference Room, 2<sup>nd</sup> Floor  
55 North Center Street  
Mesa, Arizona, 85201

**Staff Present**

Angelica Guevara  
Mia Lozano-Helland

**Others Present**

Jeff Rogers  
George Fulton  
Jerry Wilson  
Michael Stevenson  
Andrew Furgia  
Doris Furgia  
Pamela Warren

**CASES:**

Case No.: ZA09-016

Location: 8458 East Vista Canyon

Subject: Requesting a Special Use Permit (SUP) to allow accessory living quarters that are not directly accessible from the dwelling unit in the R1-35-PAD zoning district.

Decision: Approved with the following conditions.

- 1. Compliance with the site plan submitted except as modified by the conditions below.*
- 2. The accessory living quarters shall not be leased or rented.*
- 3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Jeff Rogers represented the case and answered questions from the Mr. Gendron regarding the proposed accessory living quarters. A staff report was presented and was followed by a brief discussion. There were no comments from attendees. Mr. Gendron approved the request with conditions.

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Finding of Fact:

- 1.1** The SUP allows the construction of accessory living quarters (ALQ) not directly accessible to the primary residence. The structure will be the only one on the property and will not be served by separate utility services. In addition, the structure is 600 square feet in area, which is 4% of the roof area of the primary dwelling.
- 1.2** The ALQ meets all requirements of the Zoning Ordinance with the exception of being directly accessible to the primary residence.
- 1.3** The subdivision consists of larger properties with higher-priced homes, and detached ALQs are typical in this area to accommodate guests and family. Further, the applicant has provided elevations that show that the ALQ will be architecturally integrated with the primary dwelling. As a result, the ALQ will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.
- 1.4** The applicant has provided written documentation of the Las Sendas Community Association approval and staff has not received any calls from any of the adjacent neighbors regarding this request.

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Case No.: ZA09-017

Location: 1449 North 62<sup>nd</sup> Street

Subject: Requesting a Variance and Special Use Permit (SUP) to allow a detached accessory living quarter to encroach into a required rear yard in the R1-9 zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The accessory living quarters shall not be leased or rented.*
3. *The accessory living quarters shall be serviced by the same utility services as the primary dwelling.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Andrew and Doris Furgia represented the case and provided a history of the existing structure and their proposal. Mr. Gendron discussed the request with the applicant and staff. Mr. Gendron approved the request as recommended in the staff report.

Finding of Fact:

- 1.1 This request involves an existing detached accessory building, which the property owner will remodel into a detached Accessory Living Quarters (ALQ) that meets the required 7' side yard setback, but is located within the 25' rear setback. This is allowable for a detached accessory building, but not for livable space within that building. A variance is required to accommodate the livable area within the rear setback. The existing building is 4' from the rear property line.
- 1.2 The existing structure is 389 square feet in area, which is 15% of the roof area of the primary dwelling. In addition, the structure would be the only one on the property and would not be served by separate utility services. The height of the structure is lower than the primary dwelling, the ALQ would not have an entry visible from the public street, and the applicant has stated in the Justification/Compatibility Statement that it will not be leased or rented.
- 1.3 The detached garage/storage building was constructed by the previous property owner in 1991 with a building permit that was reviewed and approved by the Planning Division. The current property owner has submitted this request for a Special Use Permit for ALQ in that existing building rather than constructing something new on the property.
- 1.4 The proposed detached accessory living quarters requires a Special Use Permit because it is not directly accessible from the primary dwelling. However, it is architecturally integrated with the primary dwelling in that it utilizes similar architecture, materials and finish.
- 1.5 The structure to be converted to an ALQ is currently a garage/storage building. Permits would

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be necessary to convert it into an ALQ. The property has sufficient parking without the benefit of the detached garage. Sufficient measures will also need to be taken to comply with barrier requirements for the existing swimming pool.

- 1.6** Staff has not received any calls from any of the adjacent neighbors regarding this request.
  
- 1.7** The conversion of the existing building for the ALQ allows the lot coverage to remain at 28%. The R1-9 Zoning District allows up to 40% lot coverage. Given the larger properties in the area, additional square footage will not be added to the lot, similar existing detached structures in the neighborhood, and the applicant's statement that it will not be leased or rented, the proposed detached accessory living quarters is compatible with and not detrimental to the surrounding properties.

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Case No.: ZA09-018

Location: 3520 East Brown Road

Subject: Requesting a Special Use Permit (SUP) to allow a daycare center in conjunction with an existing church in the AG zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted except as modified by the condition below.*
2. *Compliance with the justification and compatibility statement submitted with this application.*

Summary: Pam Warren represented the case and provided a short summary of the proposal. Mr. Gendron discussed the request with the applicant and staff. Mr. Gendron approved the request as recommended in the staff report with an address correction from 3544 to 3520 East Brown Road.

Finding of Fact:

- 1.1 The Special Use Permit (SUP) allows the existing weekend daycare service of the Living Word Bible church to expand to the entire week.
- 1.2 The church wishes to expand daycare services to its congregation and community from weekend to daily service. The expanded daycare service will occupy the same area of the building and facilities, 14, 923 square feet that it currently occupies for weekend service. The church daycare facility has twelve class rooms along with storage, office and TV room. The daycare will serve children ranging from 6 months to 6<sup>th</sup> grade.
- 1.3 The facility has an existing fire alarm and fire suppression system. The church has a total of 596 parking spaces, which are sufficient for the day care facility.
- 1.4 The applicant has notified all property owners within 300-feet of the request. To date, no comments or concerns have been received from neighbors.
- 1.5 The Mesa 2025 General Plan category designation for this area is Low Density Residential 1-2 du/ac and a church facility is an allowed land use in this category.
- 1.6 Currently the church provides day care service to its members on weekends.
- 1.7 The church complex has direct access to two arterial streets (Brown and Val Vista).
- 1.8 The outdoor children play area is isolated from the nearest residences by intervening mechanical equipment and a 100 feet setback.
- 1.9 For these reasons, the request is compatible with and not detrimental to surrounding sites.

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Case No.: ZA09-019

Location: 6210 East McKellips Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of a non-conforming restaurant in the C-2 DMP zoning district.

Decision: Approval with the following conditions.

- 1. Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
- 2. Foundation base landscape material to be provided in quantities sufficient to comply with current Ordinance requirements.*
- 3. Screen parking areas and drive aisles from the street with masonry wall and/or berms with supplemental shrubs and ground covers.*
- 4. Compliance with all requirements of the Building Safety division with regard to the issuance of building permits.*

Summary: Jerry Wilson represented the case and provided information on the proposed project. Mr. Gendron discussed the request with the applicant and staff. Mr. Gendron approved the request as recommended in the staff report.

Finding of Fact:

- 1.1** The Substantial Conformance Improvement Permit (SCIP) allows a 1,543 s.f. single-story outdoor dining patio addition at the existing 14,321 s.f. Painted Mountain Golf Clubhouse. The parcel is approximately 2.85 ± acres. The SCIP facilitates the expansion on the site with an addition to the existing building without having to demolish existing improvements on the site in order to comply with full development standards.
- 1.2** The site was developed years ago under previous code requirements. According to the property owner, in the summer of 2007 the Painted Mountain Golf Resort made improvements to the parking area and landscape surrounding the clubhouse. They replaced the automatic irrigation system, provided new trees and shrubs, replaced eroded curbing, and added boulders and 60 tons of decomposed granite to the site. A year later, in the summer of 2008 they repainted the clubhouse.
- 1.3** The applicant has already made significant improvements to the site. To require full improvements that comply with current code would require the demolition of recently installed landscape material and curbing. The property owner would also have to eliminate required parking spaces, drive aisles, and maneuvering areas which would further make the site non-compliant with current code.
- 1.4** The applicant has made improvements to the existing site which are proportionate to the percentage of the addition (1,543 s.f. addition) compared to the existing square footage (14,321 s.f. existing building) of the existing Golf Club.

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- 1.5** The SCIP will also prevent the demolition of an existing non-conforming parking lot at a site that currently does not have any excess parking spaces. Not all existing end cap landscape islands meet the required 8' in width and 15' in length, islands or diamonds are also not provided and spaced to meet current code requirements.
- 1.6** The foundation base around the existing building does not currently meet code. In order for the width of the foundation base around the existing building to meet code, the applicant would have to remove portions of the building or the existing drive aisles and parking spaces. The proposal for the most part, is to leave the existing landscape areas as they are; three sides of the existing building are currently surrounded by landscape areas and the golf course. The applicant will add landscape material within the existing landscape areas and planters surrounding the building in quantities which comply with Code.
- 1.7** The existing parking area is visible from the street as no screen wall or sufficient landscape material has been provided to screen parking spaces from the street. Staff has added a condition of approval #3 to require a masonry wall and/or berm with supplemental shrubs to screen the parking area from the street.
- 1.8** This development qualifies for a Substantial Conformance Improvement Permit, as demolition of the existing parking lot and the existing building would have to occur to bring the site into full compliance with current site development standards. Further, the previous installation of landscape material enhanced the streetscape along McKellips Road, the interior perimeter of the site, and within the parking lot. Additional landscape material around the building will further enhance the landscape at the site. As a result, the site plan, including the recommended conditions of approval, achieves substantial compliance when considering the percentage of the expansion compared to the existing square footage of the building.
- 1.9** The expansion is consistent with the General Plan designation of Medium-Density Residential 4-6 du/acre, and is an allowed use in the C-2 DMP zoning district. The approved deviations are necessary to accommodate the outdoor dining patio expansion. The project presents reasonable improvements to a non-conforming site. Consequently, the site plan, including staff recommended conditions of approval represents compliance with the intent of the development standards of the Zoning Ordinance and the use would be compatible with and not detrimental to surrounding properties.

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Case No.: ZA09-020

Location: 1220 South Pasadena

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of a non-conforming industrial use in the M-1 zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: George Fulton represented the case and provided information related to the proposed canopy and existing canopies. Mr. Gendron discussed the request with the applicant and staff. Mr. Gendron approved the request as recommended in the staff report.

Finding of Fact:

- 1.1 The SCIP allows modifications to the Zoning Code in order to legitimize an existing canopy on this developed site. The 1,080 canopy is attached to the south side of Building 'A' as indicated on the site plan and is screened by the office for Building 'A' as well as by an 6' masonry wall with gates to access the area. The canopy is used for a staging area for materials. 780 s.f. of this canopy is within the front half of the lot in an M-1 Zoning District and will be used for open storage. The applicant has indicated through an e-mail that this storage will not exceed 5'.
- 1.2 The existing building was completed in 1985 and was constructed with a 0' setbacks along the north, west and south sides of the building with a 30' setback along Pasadena.
- 1.3 The site plan provided indicates a number of deviations to building and/or landscape setbacks by current standards. It is important to note that the setbacks along these property lines exist and compliance with current Code requirements would result in significant alteration or demolition of the existing building. Consequently, the setbacks are commensurate with existing setbacks for the area.
- 1.4 The applicant has recently completed a project to improve the landscaping on the site. The existing building and property are well maintained and do not need additional enhancement. The landscape improvements have improved the quality of development on the site and have served to improve the character of the surrounding properties in general. The design of the canopy is consistent with the building elevations and other canopies on site that comply with ordinance requirements. The site plan indicates that a portion of one existing canopy on the north side of Building 'C' that is located in the front half of the lot will also be removed to bring the project closer to compliance .
- 1.5 An additional 12 parking spaces would be required to comply with Ordinance Standards, however the site met the required parking at the time it was constructed. Additional landscape

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improvements to the parking area would further restrict the number of parking spaces available on this site. Also, the majority of the parking spaces are provided behind the 6' masonry wall and gates. The subject canopy does not provide a need for additional parking on the property, nor is situated in a location that would gain the property additional parking.

- 1.6** Planning staff has received two calls from adjacent property owners requesting clarification on the request. Once staff explained the proposal, those owners each expressed that they had no concerns.
  
- 1.7** The expansion is compatible with surrounding development and the reduced setbacks are existing. A storage canopy within the front half of the lot, with a 6' masonry screen wall, will not adversely impact surrounding properties. Additionally, with the upgraded landscaping and removal of the illegal portion of the canopy adjacent to Building 'C', the expansion represents substantial conformance with current Code development standards.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:31 p.m.

The cases for this hearing were digitally recorded and are available upon request.

Respectfully submitted,

John S. Gendron  
Hearing Officer

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