

Zoning Administrator Hearing



Minutes

**John S. Gendron
Hearing Officer**

August 24, 2010 – 1:30 p.m.

View Conference Room, 2nd Floor
55 North Center Street
Mesa, Arizona, 85201

Staff Present

Mia Lozano-Helland
Brandice Elliott
Angelica Guevara
Lesley Davis
Kim Steadman

Others Present

Vince DiBella
Keith Rich
Declan Murphy
Mark Anderson

CASES:

Case No.: ZA10-028

Location: 1445 West Southern Avenue

Subject: Requesting a Special Use Permit to allow a Special Event to exceed the number of events allowed in a calendar year in the C-2 zoning district. (PLN2010-00211)

Decision: Approved with the following conditions:

- 1. Compliance with the site and landscape plan submitted, except as modified by the conditions below.*
- 2. Signage visible from outside the boundaries of the site shall not be displayed prior to nor after the dates of the special event, as specified in the Special Event license.*
- 3. The Special Use Permit shall include thirty (30) days for event set-up and ten (10) days for event tear-down.*
- 4. The Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Keith Rich and Mark Anderson represented the case. Mr. Gendron asked questions regarding the events and the company history. He also asked if there would be music associated with the events. Mr. Rich replied that there would be no music,

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but that there would be limited sales of bottled water, soda and novelty items. Mr. Gendron asked about signage and a brief discussion ensued regarding signs during the construction phase.

Staff member Brandice Elliott provided the staff report and recommendation with an edit to the conditions of approval deleting condition No. 2. Mr. Gendron approved ZA10-028 with staff conditions as stated.

Finding of Fact:

- 1.1** Cryptic Illusions, Inc. specializes in the development of haunted attractions. Since 1999, the company has operated a number of haunted attractions, including The Crypt Haunted Attraction at Superstition Springs Mall, which was organized in 2004 and 2006. Cryptic Illusions will development a similar attraction at Fiesta Mall. The attraction will last for a period longer than four days at the same location, and a Special Use Permit was required.
- 1.2** The Special Event will be located at the southeast corner of Fiesta Mall, which is currently a paved overflow parking lot. All event parking will be located west of the event and Cryptic Illusions staff will be utilized as parking guides. In addition, the event will be entirely contained by a security fence and crowd control will be accomplished with the use of Cryptic Illusions staff and off-duty City of Mesa police officers. The applicant agreed that safety measures would be in place by developing an Emergency Evacuation Plan, Security Plan and Fire Plan, and enforced by security staff.
- 1.3** The event consists of two separate open-air structures with independent façades. There are two perimeter fences: one that is aligned with the front of the “Crypt” and “Asylum” that function to secure the haunted attraction, and one that secures the perimeter of the property.
- 1.4** Information concerning signs was not provided in the submittal, the applicant confirmed that all signs would be contained within the perimeter fencing. The applicant intends to utilize banners, a 12-foot high rigid sign with a character perched on top, as well as a hearse wrapped in graphics. These types of signs are consistent with current Code allowances; however, these signs may not be displayed prior to the event. A condition was included to address the use of signs for the event.
- 1.5** Special Event is given two days for construction of the event and two days to break down. The applicant indicated that 30 days are required for the construction of the event, beginning September 1st and completed prior to opening night, on October 1st. The event itself will be open for 24 nights in October and ends Halloween night. Further, the event is deconstructed between November 1st and November 10th. A condition was included to ensure the applicant has adequate time to set-up and tear-down the event.
- 1.6** The haunted attraction is closed Mondays and Tuesdays and operates Wednesday through Sunday. On Wednesdays, Thursdays and Sundays, the hours of operation are from 6:30 pm until 10:00 pm. On Fridays and Saturdays, the attraction is operated from 6:30 pm until midnight. The properties adjacent to the event are used for commercial purposes and the US 60 freeway is located south of the event. The attraction does not have a negative impact on surrounding neighbors. Further, the closest development to the event is an office building, and is closed by

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the time the event commences at 6:30 pm.

- 1.7** The location of the Special Event is fairly isolated from adjacent uses due to the expansive parking lot between it and the Fiesta Mall and its proximity to the US 60 freeway. Further, the applicant ensured the safety of those attending the event by employing experienced staff and developing emergency plans. As a result, the event does not become a safety hazard or public disturbance. The amount of time needed for set-up and tear-down as well as the duration of the event is consistent with other Special Use Permits approved for similar events. Therefore, the Special Event is compatible with, and not detrimental to, surrounding properties. However, it is important to note that this Special Event is separate and distinct from Special Events regulated by the Special Use Permit approved previously by the Zoning Administrator Hearing Officer.

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Case No.: ZA10-031

Location: 230 South Country Club Drive and 458 3rd Avenue

Subject: Requesting a Substantial Conformance Improvement Permit to allow the expansion of an existing bus maintenance facility in the M-2 and TCB-2 zoning district. (PLN2010-00229)

Decision: Approved with the following conditions:

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

Summary: Carl Bloomfield represented the case and no further comments. Mr. Gendron clarified the scope of the project and asked questions regarding facility and the number of years the business has been at this location. Mr. Gendron inquired about the existing structures on the site and their future use. Discussion continued regarding existing and future signage. Mr. Gendron further discussed the conditions of approval.

Staff member Lesley Davis provided the staff report and recommendation. She also commented on an existing chain-link fence that was not included in the approval. She further stated that the use of chain-link fencing is not allowed by the City of Mesa Design Guidelines and that the applicant must apply for an Administrative Approval. Mr. Gendron approved ZA10-031 with staff conditions.

Finding of Fact:

- 1.1 The site is located on the west side of Country Club off of the frontage Road just south of 2nd Avenue (230 S Country Club Dr). The site also has access off of 3rd Avenue (458 W 3rd Ave). It currently has two different zoning districts with the front piece along Country Club zoned TCB-2 and the back portion that fronts on 3rd Avenue zoned M-2. It is an existing bus maintenance facility and both zoning districts accommodate the existing use.
- 1.2 This is a minor expansion of the existing use, to construct a covered area on the north side of the existing building off of 3rd Avenue. This canopy is utilized to wash the buses.
- 1.3 The surface for the bus parking area is identified as a dust proof surface. The applicant is using a material called "Durasoil" for the remainder of the circulation areas. The Zoning Ordinance requires asphalt, concrete, paving stone or masonry surface for parking and maneuvering areas. Staff did not support the use of the "Durasoil" material in the bus circulation areas, but supported the dust proof surface for the areas utilized for bus parking.
- 1.4 Compliance with current Code requirements results in significant alteration or demolition of the site and the existing office building at the southeast corner along the Country Club frontage road. Consequently, the allowed setbacks are commensurate with existing setbacks for the area

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and on this site.

- 1.5** With the exception to the setbacks and foundation base for the small office building along the Country Club frontage road and some additional minor deviations to landscape in the rear and the parking surface for buses, this development does comply substantially with current Code requirements.
- 1.6** The applicant provided code required amounts of landscape plant material along both street frontages.
- 1.7** The applicant is utilizing the existing chain link fence with slats along the 3rd Avenue frontage and is adding tan slats to the existing chain link fence adjacent to the Country Club frontage road. This chain link fence does have razor wire at the top, and appears to be in compliance with code that the razor wire be above 6-feet in height, however the Design Guidelines state that chain link fencing is not allowed. Staff did not support the use of chain link fencing material with slats because the rear is a storage yard. The applicant will submit a separate Administrative Design Review request to the Planning Director for consideration of the chain link in lieu of a masonry wall.
- 1.8** The project, as modified by the recommended conditions of approval, provided substantial conformance with current Code.

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Case No.: ZA10-032

Location: 2640 East Southern Avenue

Subject: Requesting a Substantial Conformance Improvement Permit to allow the change of occupancy from a home to a church in the O-S zoning district. (PLN2010-00268)

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The applicant shall obtain an encroachment permit for the fence located in the right-of-way. If an encroachment is not granted, the fence shall be removed or relocated out of the right-of-way.*
3. *A parking area screening device shall be provided adjacent to Southern Ave in the form of a masonry screen wall and/or shrubs to comply with 11-15-4-B-10.*
4. *Provide one landscape island containing one tree and three shrubs within the row of parking spaces adjacent to the west property line.*
5. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Vince Di Bella represented the case and explained the issues related to the property. He noted that the property was rezoned from R1-43 to OS in 2001, but the property owner at that time did not complete the requirements for that zoning case. Discussion ensued regarding the existing parking spaces and the additional spaces that will be added, as well as an existing screen fence at the Southern Ave side of the property. It was agreed to modify condition 3. A questions regarding the addition of a landscape island was clarified. Mr. Gendron asked Mr. Di Bella if he had been contacted by any of the neighbors. Mr. Di Bella replied that he had not received any contact from the surrounding property owners.

Staff member Angelica Guevara provided the staff report and recommendation. Mr. Gendron approved ZA10-032 with modified conditions or approval.

Finding of Fact:

- 1.1 In 2001, the former property owner rezoned the site from R1-43 to O-S (Z01-041) which included a site plan for redevelopment of the existing home for a wedding and reception facility. The site has an existing one-story home with a swimming pool in the rear yard.
- 1.2 After rezoning to O-S, the former property owner operated the reception center without formally converting the site into the commercial use. The necessary permits and improvements that are typically required were not installed. The site was purchased by a new property owner wishing to convert it to a church. Since the commercial site improvements were never completed and a building permit for the change of occupancy was never obtained, the change of occupancy from single family residence to a church invoked compliance with current code.

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- 1.3** The applicant was granted a SCIP to allow the change of occupancy and the improvements to remain without bringing the entire site into conformance with current code.
- 1.4** Compliance with current Code requirements would have resulted in significant demolition of the existing improvements on the site. An analysis of the surrounding office developments adjacent to Southern Ave. indicated that existing developments provided similar improvements to those of this project. This applicant was able to provide lush existing mature landscape to buffer the church from the adjacent residences.
- 1.5** The applicant is leaving the existing mature landscape around the perimeter of the building and the site. The applicant would have been required to remove approximately 20 of the 36 required parking spaces for the site to comply with current building and landscape setback requirements. The applicant provided pictures showing the existing mature landscape at the site. The pictures demonstrated that the existing landscape was lush and mature; the existing quantities around the perimeter of the site were equivalent to or greater than minimum code requirements.
- 1.6** Staff added a condition of approval requiring the addition of one landscape island containing one tree and three shrubs midpoint of the row of parking spaces adjacent to the west property line. The addition of the landscape island provides landscape within the parking area to comply with minimum landscape requirements.
- 1.7** There is an existing fence adjacent to Southern Avenue which is currently located within the right-of-way. An encroachment permit shall be obtained to allow the fence to remain in its current location. If the applicant is unable to obtain an encroachment permit, the fence must be removed or relocated out of the right-of-way.
- 1.8** The site requires 36 parking spaces and the approved site plan provides 36 parking spaces. The existing and recently approved improvements reflect the greatest possible degree of compliance without requiring the demolition of existing buildings, landscape material and parking spaces.
- 1.9** This project, including the conditions of approval provides substantial conformance with current Code. In addition, the improvements to the site result in a development that is compatible with, and not detrimental to, adjacent properties.

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Case No.: ZA10-033

Location: 738 South Longmore

Subject: Requesting a Special Use Permit to allow a Commercial Communication Tower in the R1-6 zoning district.

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The monopalm shall have a maximum height of sixty-five (65') to the top of the antennas.*
3. *The antennas shall not exceed 4'-8" in length, 1'-1" in width, and 3" in depth.*
4. *The antennas will be screened with a minimum of 55 palm fronds .*
5. *The antennas shall be painted to match the color of the palm fronds.*
6. *The antenna standoff assembly shall not extend more than 18" from the pole.*
7. *The operator of the monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problems.*
8. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Declan Murphy presented the case and explained that a communication tower was approved in 2008, but not built at that time due to budget. He also stated that he had received no contacts from the surrounding neighbors. Mr. Gendron asked about the height of the monopalm and Mr. Murphy responded that at 65' it was the industry standard. He also asked if there were any existing opportunities for co-location. Mr. Murphy responded that due to the residential nature of the area there were none. There was further discussion regarding the

Staff member Kim Steadman provided the staff report and recommendation. A brief discussion ensued regarding co-locations on monopalms. Mr. Gendron approved ZA10-033 with staff conditions of approval.

Finding of Fact:

- 2.1 The Special Use Permit (SUP) allows the placement of a 65-foot high commercial communication tower on an existing Mesa Public Schools property. The applicant is installing a Monopalm rather than a typical monopole to reduce the impact on the neighborhood.
- 1.2 The applicant notified all property owners within 300-feet of the request and no comments or concerns were received.
- 1.3 The Monopalm is 65' feet high and the array consists of three sectors, with three antennas each. The antennas measure 4'- 8" in length, 1'-1" wide and 3" deep. The antennas are painted to

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match the color of the faux palm branches and a minimum of 55 palm fronds are required to screen the antennas.

- 1.4** An equipment cabinet is screened with a 6' high masonry screen wall surmounted by a 4' tall wrought iron security barrier. The elevation drawing showed a steel-clad access gate through the security wall. The gate and wall are painted to blend with the surrounding buildings.
- 1.5** The monopalm and equipment yard are located on the east part of the school, inserted between the school building and existing trash enclosures. The screened yard which is roughly triangular in plan measures 14' x 20' with the third side consisting of 6' tall rear walls of the existing trash enclosures.
- 1.6** The 65' monopalm complies with the Commercial Communications Towers Guidelines in that it is about 180 feet from the nearest residential property to the south. The setback exceeds the 2:1 setback ratio from residential districts.
- 1.7** The Monopalm complies with the Commercial Communications Towers Guidelines in that it will be about 90 feet from the Right of Way. This setback exceeds the 1:1 setback ratio from the roadway.
- 1.8** The Monopalm is located adjacent to mature palm trees within the parking lot area and the school grounds. As a result, the Monopalm will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:18 p.m.

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

Respectfully submitted,

Gordon Sheffield
Hearing Officer

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