

Board of Adjustment

Minutes



**City Council Chambers, Lower Level
March 11, 2008**

Board members Present:

Mike Clement, Chair
Dianne von Borstel, Vice Chair
Scott Thomas
Garret McCray
Terry Worcester
Linda Sullivan

Board members Absent:

(None)

Staff Present:

Gordon Sheffield
Jeff McVay
Brandice Elliott
Constance Bachman

Others Present:

Brandon Hancock	Ana Marsh	Kathleen Frias
Patrick Tennant	Scott Mehlhoff	Marty Fifer
Brent VanDeman	Bill Gibson	Scott Hudson

The study session began at 4:46 p.m. The Public Hearing meeting began at 5:40 p.m. Before adjournment at 5:53 p.m., the following items were considered and recorded on Board of Adjustment CD #3.

Study Session 4:45 p.m.

- A. The study session began at 4:46 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator update – Mr. Sheffield discussed revision of the Staff report format, and the Board suggested that a bullet-point report would be sufficient in some cases. The longer format report would still be helpful when more explanation is needed.

Public Hearing 5:40 p.m.

- A. Consider Minutes from the February 12, 2008 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Thomas. Vote: Passed 6-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember McCray and seconded by Boardmember Worcester. Vote: Passed 6-0
- C. Second Consent Agenda A motion to approve the second consent agenda as read was made by Boardmember McCray and seconded by Boardmember von Borstel. Vote: Passed 5-0 (Thomas abstaining)

**Board of Adjustment Meeting
March 11, 2008**

Case No.: BA08-005

Location: 715 North Country Club Drive

Subject: Requesting a Development Incentive Permit (DIP) to allow development of a multiple residence complex in the R-4 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 McCray, seconded by Boardmember Worcester to continue case BA08-005 for 90 days to the June 10, 2008 hearing.

Vote: Passed 6-0

Findings: N/A

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Case No.: BA08-006

Location: The 1730 thru 1900 blocks, West Side of South Gilbert Road – Suntime Subdivision

Subject: Requesting a minor modification to allow required parking within the required front yard in the R-2-PAD 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 McCray, seconded by Boardmember Worcester to approve case BA07-055 with the following conditions:

1. *Each parcel shall maintain a minimum of one (1), nine-foot by eighteen-foot (9' x 18') parking space behind the front setback.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 6-0

Findings:

- 1.1 The requested PAD modification would allow parking to be located within the front setback of each dwelling, which would include driveways.
- 1.2 The typical dimensions of garages in this subdivision are 13' x 20', which is only somewhat larger than a required parking space of 9' x 18'. In addition, the use of the garage is further inhibited by the 7' x 13' storage and laundry area that is located in it.
- 1.3 The zoning case for this development (reference Z80-051) allowed for required parking spaces to be located in the area between driveways and provided additional parking located adjacent to recreational facilities. As there is a surplus of parking spaces, the loss of the garage as required parking will have minimal impact on the subdivision in terms of on-street parking.
- 1.4 The zoning case for this development (reference Z80-051) refers to parking that may be situated within the front setback as part of a discussion regarding the allowance for additional parking. Therefore, the request for a PAD modification to allow required parking spaces to be placed within the front setback is consistent with the intent of the PAD overlay for this subdivision.
- 1.5 It has been noted that several garages in this subdivision have been enclosed into livable areas. These conversions are not considered "legal" until a building permit has been obtained from the Building Safety Division.

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Case No.: BA08-011

Location: 5221 South Power Road

Subject: Requesting a Special use Permit (SUP) to allow development of a comprehensive sign plan for a retail development in the C-2 zoning district.

Decision: Continued to the April 8, 2008 hearing

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

Motion: It was moved by Boardmember McCray, seconded by Boardmember Worcester to continue case BA08-011 for 30 days to the April 8, 2008 hearing.

Vote: Passed 6-0

Findings: N/A

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Case No.: BA08-012

Location: 610 West Jerome Avenue

Subject: Requesting a variance to allow a reduction in the landscape setback from an adjacent property line in conjunction with an office warehouse development in the M-1 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 McCray, seconded by Boardmember Worcester to approve case BA08-012 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all current development standards unless modified by the conditions listed below.*
3. *Provision of a minimum five-foot (5') wide landscape setback from the north property line.*
4. *The addition of four (4) half-diamond landscape islands to the landscape setback from the north property line, each with one (1) minimum twenty-four inch (24") box size tree.*
5. *Compliance with all requirements of the Design Review Board.*
6. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 6-0

Findings:

- 1.1 The requested variance would allow the development of a 22,255 square foot office/warehouse building with a reduced landscape setback from the adjacent industrial property to the north. The site will comply with all other development requirements of the Zoning Ordinance.
- 1.2 The proposed development consists of approximately 6,200 square feet of office space and 16,100 square feet of warehouse space, requiring a total of 35 parking spaces. Because a portion of the required parking is located in the rear storage area, it cannot be defined as rear storage yard, and thus, allow the elimination of setback requirements consistent with the exceptions allowed by the Zoning Ordinance.
- 1.3 The depth of the lot creates a circumstance not created by the applicant that does not allow the development of the site consistent with standard development practice for office/warehouse uses. A deeper parcel would allow the provision of all required parking in front of the building while still accommodating a secured rear yard.

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- 1.4** Increased area and frequency for landscape islands adjacent to the rear property line are included to mitigate the reduced setback. Conditions of approval require a minimum five-foot wide landscape setback and the addition of four half-diamond landscape planters for the landscape setback from the north property line. The half-diamonds would be located at a rate of two per 10 parking spaces, twice the required minimum and would include one minimum 24-inch size box tree centered in each half-diamond.
- 1.5** The applicant has provided sufficient justification to support the requested variance. The proposed development still requires the review and approval by the Design Review Board for building architecture and landscape design.

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Case No.: BA08-013

Location: 111 South Dobson Road, #108

Subject: Requesting a variance to allow a reduction in the number of required on-site parking spaces in conjunction with a shell commercial center in the M-1 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 McCray, seconded by Boardmember Worcester to approval case BA08-013 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *No additional restaurant or similar users shall be permitted within the overall development.*
3. *The nightclub shall be open to the public only after 6:00 PM on any given day, and shall close by 2:00 AM the next morning.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 6-0

Findings:

- 1.1 The requested variance would allow a reduction in the number of required parking spaces for a nightclub located in a retail development. While a total of 66 parking spaces would be required for the proposed use, only 61 parking spaces have been provided.
- 1.2 The case site is located within the West Main Street Area Plan in the Transit-Oriented Development (TOD) Corridor Area. All sites within that area are located within 1,320-feet from the light rail station to encourage pedestrian activity. It is anticipated that the light rail will generate more foot traffic in the corridor and discourage automobile-oriented development. Policy LUP33 supports a reduction in overall parking for mixed-use developments to encourage more efficient use of land in the corridor.
- 1.3 There are no existing reciprocal parking agreements that would allow shared parking between existing users. A variance would not be required if an agreement could be negotiated, but the applicant has not been successful in reaching an agreement with adjacent property owners.
- 1.4 The parking study provided by the applicant indicates that few spaces are utilized during day and evening hours, and that the proposed nightclub would not be a negative impact on existing tenants. Letters from these tenants confirm that they are supportive of the proposed use.
- 1.5 There is an overlap of two hours between the hours of operation of the proposed nightclub and the existing tenants between 6:00 pm and 8:00 pm. It is anticipated that this contrast will result in adequate parking during peak hours for all tenants.

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- 1.6** The property is unique in that it is located within the West Main Street Area Plan. The character of the Transit-Oriented Development (TOD) Corridor Area is intended to encourage pedestrian activity through design to facilitate greater use of the future light rail and a reduction in automobile-oriented development. Therefore, the character of this area is a unique condition that justifies the need for a variance.

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Case No.: BA08-014

Location: 1435 South Power Road

Subject: Requesting a modification of an existing Special Use Permit (SUP) for a Comprehensive Sign Plan and a Special Use Permit (SUP) to allow a commercial statuary, both in the C-2 DMP 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 McCray seconded by Boardmember Worcester to approve case BA08-014 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by the conditions listed below.*
2. *The sign and sign area associated with the chili pepper statuary shall not be transferable to existing or future signs should the statuary be removed.*
3. *Compliance with all requirements of the Building Safety Division in the issuance of sign permits.*

Vote: Passed 6-0

Findings:

- 1.1 The approval allows the modification of an approved CSP as it applies to a Chili's restaurant. The existing CSP (BA93-016) allows Chili's two attached signs with an aggregate sign area of 160 square feet. The requested modification permits Chili's two new signs for a total of four attached signs with an aggregate sign area of 143.4 square feet.
- 1.2 One 3.3 square foot sign is intended to identify the location of the carry-out area and associated parking may be considered a directional or wayfinding sign. The second sign is intended for advertising and is 63.1 square feet in area. While this sign would be visible from Power Road, the primary purpose of the sign is to attract customers from within the commercial development.
- 1.3 An Administrative Review (ADR07-036) of updates to the building architecture included the proposed signage and Design Review staff has noted the compatibility with the building architecture. The approved CSP does not allow the Chili's to have a detached sign along Power Road, which provides justification for an additional attached sign.
- 1.4 As proposed the aggregate sign area would be less than could be allowed by the approved CSP. Further, given the immediately adjacent and surrounding commercial developments, the additional attached signage would be consistent with and not detrimental to neighbors.
- 1.5 An additional SUP request would allow the use of a 29.4 square foot chili pepper commercial statuary. Recent reviews of new Chili's by the Design Review Board have included the chili pepper statuary. The Board felt the statuary provided a sense of "whimsy" to the building and has consistently recommended approval. The Administrative Design Review (ADR07-036) included the proposed statuary.

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- 1.6** Given the immediately adjacent and surrounding commercial developments, the proposed statuary would be consistent with and not detrimental to the surrounding commercial properties. The chili pepper must be used solely as statuary, and cannot be transferable to existing or future signs in the event the Chili Pepper is removed.

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Case No.: BA08-015

Location: 1137 South Crismon Road

Subject: Requesting a Special Use Permit (SUP) to allow a comprehensive sign plan for an office/retail development in the C-2-DMP 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 McCray seconded by Boardmember Worcester to approve case BA08-015 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *The number of attached signs for medical/professional condominium tenants shall not exceed the aggregate sign areas and quantities specified in §11-19-6(E).*
3. *Detached sign 'G' shall not exceed twelve-feet (12') in height.*
4. *All detached sign elevations must be reviewed and approved by Design Review Staff.*
5. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: Passed 6-0

Findings:

- 1.1 In total for all street frontages, the Zoning Ordinance would allow an aggregate of 90-feet in height and 1,371 square feet in area for detached signs.
- 1.2 In total for all street frontages, the proposed Comprehensive Sign Plan proposes an aggregate of 71.5-feet in height and 452 square feet in sign area, distributed between eight detached signs. No single street frontage would have aggregate sign height or area in excess of current Code maximums.
- 1.3 With the exception of sign 'G,' no single detached sign would exceed 12-feet in height or 80 square feet in area. Recommended conditions of approval limit sign 'G' to 12-feet in height.
- 1.4 The Comprehensive Sign Plan proposes attached sign area for all tenants consistent with current Code.
- 1.5 The Comprehensive Sign Plan proposes number of signs for all tenants that is consistent with current Code, with the exception of medical/professional condominium tenants, where the number of signs is not specified. To address this concern, a condition of approval has been included that limits sign quantities to current Code maximums.

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- 1.6** The Comprehensive Sign Plan proposes a high quality of detached and attached signage. The design criteria for office buildings proposes to allow only reverse pan channel letters that may be halo-illuminated, and restricts their placement to the designated areas identified on the elevations. In many cases, this sign area is smaller than what the tenant would be allowed by current Code. In addition, retail tenants are limited to the use of pan channel letters and modified cabinets with sign areas that are consistent with current Code requirements. Detached signs would utilize materials and colors that are compatible with the proposed design of the development, and will be reviewed by the Design Review Board for comment.

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Case No.: BA08-016

Location: 10720 East Southern Avenue

Subject: Requesting a Special Use Permit (SUP) to allow a comprehensive sign plan for a retail development in the C-2-DMP-PAD 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 McCray seconded by Boardmember Worcester to approve case BA08-016 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Major Tenants (Hobby Lobby) shall be allowed a total of five (5) attached signs.*
3. *No attached signs shall be allowed on the west or north building elevations of Major A, Minor A, or Shops A.*
4. *Pad tenants shall be limited to one sign per elevation with a maximum aggregate sign area consistent with current Code requirements.*
5. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: Passed 6-0

Findings:

- 1.1 The Zoning Code would allow an aggregate total of 48.5 feet in height and 485 square feet in sign area for detached signs along Southern Avenue and an aggregate total of 33.75 feet in height and 337.5 square feet in sign area for detached signs along Signal Butte Road.
- 1.2 The proposed Comprehensive Sign Plan proposes an aggregate total of 40.5 feet in height and 253 square feet in sign area between five detached signs along Southern Avenue and 26.7 feet in height and 153.5 square feet in sign area between four detached signs along Signal Butte Road. No detached sign would exceed 12 feet in height or 80 square feet in sign area.
- 1.3 The Comprehensive Sign Plan proposes attached sign area for a Major Tenant (Hobby Lobby), which is greater than would be allowed by current Code. Increased sign area has been justified by the scale of the building, the need for signs to be in proportion to the building elevation, the distance from Southern Avenue, and detached signage under what could be allowed by Code.
- 1.4 Staff recommended conditions of approval would allow five attached signs with an aggregate sign area of 250 square feet for the Major Tenant. Shop and Pad Tenants will have aggregate sign areas consistent with current Sign Ordinance, however, end cap users within multi-tenant buildings and Pad Tenants would be allowed a total of three attached signs.

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- 1.5** The Design Review Board has previously reviewed and approved the building architecture for the overall development. Included in this review were proposed attached sign bands similar to the elevations provided with the CSP and the Pad Tenant monument signs. Design Review staff has further reviewed and approved the multi-tenant detached sign design for consistency with the approved building architecture.

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Case No.: BA08-017

Location: 1606 South Signal Butte Road

Subject: Requesting a modification of a Special Use Permit (SUP) for a comprehensive sign plan in conjunction with an existing commercial development in the C-2-DMP zoning district.

Decision: Continued to the April 8, 2008 hearing

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

Motion: It was moved by Boardmember McCray seconded by Boardmember von Borstel to continue case BA08-017 for 30 days to the April 8, 2008 hearing.

Vote: Passed 5-0 (Thomas abstaining)

Findings: N/A

Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Minutes written by Brandice Elliott, Planner I

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