



Zoning Administrator Hearing

Minutes

Mizner Conference Room
Mesa City Plaza Building, Suite 130
20 East Main Street
Mesa, Arizona, 85201

John S. Gendron
Hearing Officer

DATE October 30, 2007

TIME 1:30 P.M.

Staff Present

Jeff McVay
Jim Hash
Patrick Murphy
Constance Bachman

Others Present

Sarah Spradun Glenn Odegard
Pastor Lewis Rick Bianchina
Garrett Newland Tom Fitzgerald
Christine McRight Anita Stapleton
Stewart Lewis

CASES

Case No.: ZA07-109

Location: 2605 South Signal Butte Road

Subject: Requesting variances to allow: 1) a reduction in landscape plantings, and 2) allow phased perimeter landscaping in conjunction with the development of a church in the AG zoning district.

Decision: Continued to the November 6, 2007 hearing.

Summary: N/A

Finding of Fact: N/A

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- Case No.: ZA07-112TC
- Location: 218 West Main Street
- Subject: Requesting a Special Use Permit to allow outdoor seating in conjunction with a restaurant in the TCC zoning district.
- Decision: Approved with the following conditions.
1. *All tables and chairs shall be removed during non-operating hours.*
 2. *All tables and chairs shall be placed in the outdoor seating area as shown on the plans and no more than three tables shall be used at one time.*
 3. *The approved area must be kept clean and free of debris or sidewalk stains at all times.*
 4. *A clear sidewalk pathway of six feet (6') shall be maintained at all times, for clear pedestrian access.*
 5. *The applicant shall submit a valid certificate of insurance to the Town Center Development Office annually.*
- Summary: Anita Stapleton represented the Special Use Permit request, noting that she did not have additional information to add to the record. Mr. Gendron discussed the request with the applicant and staff. Discussion included the applicant's consent to recommended conditions, the location of outdoor seating in relation to store front, and quality of outdoor furniture. Mr. Murphy provided a staff report and recommendation. Mr. Gendron agreed that the request would be compatible with and not detrimental to surrounding development.
- Finding of Fact:
- The proposed use is compatible with and not detrimental to surrounding properties.

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Case No.: ZA07-113

Location: 13 West 10th Avenue

Subject: Requesting a variance to allow a fence which exceeds the maximum height permitted in the front yard in the R1-6 zoning district.

Decision: Approved with the following conditions.

1. *Compliance with the site plan submitted.*
2. *Applicant shall remove or lower to forty-two inches (42") that portion of the existing interior six-foot (6') masonry fence located in the front setback upon completion of the new six-foot (6') masonry fence along the east property boundary.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Glenn Odegard represented the variance request, noting that he did not have additional information to add to the record. Mr. Gendron discussed the request with the applicant and staff. Discussion included the location of the existing fence, the provision of an RV gate, . Mr. Hash provided a staff report and recommendation. Mr. Gendron agreed that unique conditions that are not self-imposed existed to justify increase fence height and that the request would be compatible with surrounding development.

Findings:

- The variance allows the installation on a new six-foot masonry fence that will extend into the required front yard adjacent to a railroad right-of-way. The home has an existing six-foot masonry wall that extends into the front yard. Recently the owner acquired an abandoned alley adjacent to his parcel that extends the entire length of the eastern property boundary, historically separating the owner's property from the railroad right-of-way.
- The applicant's property is the last parcel on West Tenth before termination at the railroad right-of-way. A key purpose and intent of the height requirement for fences in the front yard is to ensure the clear view for traffic when entering or exiting the streets or driveways.
- The variance for height is justified because of the need to reduce noise and flying debris that can be produced from passing trains that present a potential hazard to the owner. The subject site is also the only single-residence lot in the subdivision and vicinity that has a front yard to the railroad right-of-way.
- The rail bed is pre-existing to the homes construction and is not and the noise and safety issues are not self-imposed. Strict compliance with today's development standards would prohibit this construction and deprive the property owner from the right to protect his family and property from the potential hazards of passing trains.
- These conditions are unique to lots that abut to rail beds and are at an end of a road. The granting of this variance does not grant special privileges over other sites with similar circumstances.
- While the applicant has proposed the construction of a six-foot masonry fence parallel to the existing six-foot masonry fence with the installation of a gate on both the north and south boundaries, the interior wall should be modified consistent with Code requirements. At minimum, that portion of the interior fence within the front yard should be lowered to 42-inches.

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Case No.: ZA07-114

Location: 8445 East Teton Circle

Subject: Requesting: 1) Minor modification of a PAD to allow a reduced rear setback; and 2) a Special Use Permit; to allow a detached accessory living quarters; both in the R1-9 DMP zoning district.

Decision: Approved with the following conditions.
1. Compliance with the site plan submitted.
2. No building encroachments shall be allowed within the setbacks identified on the site plan
3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.

Summary: Tom Fitzgerald represented the PAD modification and Special Use Permit request, noting that he did not have additional information to add to the record. Mr. Gendron discussed the request with the applicant and staff. Discussion included the recommended conditions of approval, the location of 15% slopes, relationship to neighboring properties, applicability of subdivision regulations. Mr. Hash provided a staff report and recommendation. Mr. Gendron agreed that the requested modification would be consistent with the intent of the original PAD and that the accessory living quarters would be consistent with the intent of the Code provisions ALQ. Mr. Gendron further noted the requests would be compatible with surrounding development.

Findings:

- The subject residence is located in the Peaks subdivision of Las Sendas Mountain Master Planned Community, which is situated in the foothills northeast of the City of Mesa. The Desert Uplands area is an Upper Sonoran Desert Community with unique plants, washes and land forms which create its own identity and character. The topography of the building lots in Las Sendas is undulating and consists of many 404 classed washes that prevent conventional building setbacks.
- The applicant's property is a long and narrow lot that is bordered on the west and east sides by drainage easements that provide significant constraints on the buildable area. Desert Uplands require open space for lots. Common open space areas with slopes of fifteen percent (15%) or greater, or natural area washes that carry significant drainage as determined by the City Engineer, shall be identified and secured by an open space and/or drainage easement.
- Due to Desert Upland requirements, the applicant is requesting a reduction for a portion of the 30-foot rear setback to ten feet. The designated drainage easement along the southern boundary of the subject parcel and the northern boundary of the adjacent parcel prohibits any future building that would create a separation issue.
- The requested Special Use Permit (SUP) would allow a detached accessory living quarters (ALQ) to be built in addition to the primary residence. The applicant has provided sufficient justification for the SUP.
- The ALQ will 1) be serviced by the same utility service as the primary structure; 2) have no entrances that will be visible from the right of way; 3) will not have a roof area that is greater than 50% of the primary residence; 4) will not be leased or rented; and 5) will be architecturally integrated to the primary residence.

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- Although the ALQ will not have direct access to the primary dwelling it will remain connected to the home by a common motor court/circular drive. The applicant has provided a letter of support for the requested modification from the Las Sendas Architectural Committee.

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Case No.: ZA07-115

Location: 5540 East Main Street

Subject: Requesting a Special Use Permit to allow an electronic message display to remain static for a period of less than one hour in the C-2 zoning district.

Decision: *Approved, conditioned upon message changes occurring no more frequently than once every fifteen (15) seconds, with transitions between messages and light intensity complying with the requirements of Sec 11-19-8(D)17.*

Summary: Stewart Lewis represented the Special Use Permit request, noting that he did not have additional information to add to the record. Mr. Gendron discussed the request with the applicant and staff. Discussion included the rate of message change, how message is changed, and the need for more frequent changes. Mr. Hash provided a staff report and recommendation. Mr. Gendron agreed that a 15 second change rate would be compatible with surrounding properties and would represent a distraction to vehicular traffic.

Findings:

- Current Sign Ordinance requires electronic message displays to remain static for a minimum of one hour unless a Special Use Permit is granted. Such SUP may be found compatible with and not detrimental to surrounding properties through the consideration of the following factors: 1) the speed and volume of the vehicular traffic visually exposed to the sign, 2) the presence of other signs or distracting influences in proximity to the sign location, and 3) the extent to which the design of the sign is compatible with other signs located on the premises.
- Main Street has a speed limit of 45 miles an hour at this location. Assuming a vehicle travels at a constant 45 miles per hour, a sign change of every 15 seconds would happen every 990 feet of travel (One second of travel equates to about 66 feet of travel at 45 mph). A message change every 15 seconds would result in two message changes during a quarter-mile approach (1320') at constant speed. Such a change rate is reasonable given the traffic speed.
- The sign is located in an area of the City that is dominated by commercial uses. Many of these uses have detached signs, however, the placement of a sign with an electronic message display that changes every 15 seconds will not present a distracting influence to motorist.
- A 15 second message display is consistent with past Board of Adjustment decisions, which have allowed message changes every 15 seconds. The basis for these decisions has been the idea of having one message be visible for approximately a quarter mile as a vehicle approaches the sign.

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Case No.: ZA07-116

Location: 1455 West Southern Avenue

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

Decision: Approved with the following conditions.
1. Compliance with the sign plan submitted.
2. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.

Summary: Garrett Newland represented the Comprehensive Sign Plan request, noting that he did not have additional information to add to the record. Mr. Gendron discussed the request with the applicant and staff. Discussion included the current request and how that request compares to the existing CSP and the future freeway sign. Mr. Hash provided a staff report and recommendation. Mr. Gendron agreed that the request represented an improvement to signage consistent with the existing CSP. Mr. Gendron further noted the CSP would be compatible with surrounding development.

Findings:

- The Fiesta Mall Comprehensive Sign Plan was most recently modified by case ZA98-138. It allows for a Primary Mall ID Sign (B-1). Sign B-1 of the current CSP permits 12'-6" tall detached monument sign with 120 sf in sign area. The proposed new Primary Mall ID Sign (B-1) will be much smaller with a sign area of 46 sf and a height of 12'-0".
- This request is part of an overall renovation of the Fiesta Mall site, and shall include a freeway landmark monument sign. The center is updating signage and facades to revitalize the centers appearance and marketability of the mall to national retail brands.
- The proposed detached monument sign displays architecture consistent with that of the current center and will be compatible with, and not detrimental to surrounding properties. The proposed sign is commensurate with all development standards for the City of Mesa regarding detached monument signs as well as those approved through The Fiesta Mall Comprehensive Sign Plan.

There being no further business to come before the Zoning Administrator, the hearing adjourned at 02:08 p.m.

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

Respectfully submitted,

John Gendron
Hearing Officer

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