

Board of Adjustment Minutes



**City Council Chambers, Lower Level
February 13, 2007**

Board members Present:

Dina Higgins, Chair
Mike Clement, Vice Chair
Randy Carter
Craig Boswell
Dianne von Borstel
Roxanne Pierson

Board members Absent:

Garrett McCray (Excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Jim Hash
Lena Butterfield

Others Present:

Dorotha Bowman
Pat Mahoney
Stephen Krager

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:00 p.m., the following items were considered and recorded on Board of Adjustment Tape #359, and #360.

Study Session 4:30 p.m.

- A. The study session began at 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the January 9, 2007 Meeting A motion was made to approve the minutes by Boardmember Carter and seconded by Boardmember von Borstel. **Vote: Passed 6-0**
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Boswell and seconded by Boardmember Clement. **Vote: Passed 6-0**
- C. Second Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Carter and seconded by Boardmember Boswell. **Vote: Passed 5-0**

**Board of Adjustment Meeting
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Case No.: BA06-051

Location: 6035 East Hannibal Street

Subject: Requesting a variance to allow a shade cover addition to an existing single residence to encroach into the front yard in the R1-9 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 Boswell, seconded by Boardmember Clement to approve this case with the following conditions:
1. Compliance with the revised site plan and elevations.
2. Provision of a minimum front setback of twenty-two feet-eight inches (22' 8").
3. Compliance with all requirements of the Building Safety Division in the issuance of Building permits.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The proposed attached shade structure would result in a 16-foot front setback in the R1-9 district, which requires a 25-foot setback. By Code, attached structures must be located within the buildable lot area. The lot is 10,169 square feet in size and has been developed in a manner similar to surrounding properties.
- 1.2 The applicant has proposed the shade structure to provide a "meditation and butterfly garden", as well as, a private space for exposure to sunlight, which is a treatment for the applicant's condition, Seasonal Affective Disorder.
- 1.3 Related to the land, the applicant's justification includes the location of a septic field and slope of the land. The size of the lot, excluding the septic field, still provides sufficient area to construct a similar addition without the need for a variance. Due to the type of construction, specifically the main portion (wall), the slope of the land would minimally affect construction. The original plan was revised and now involves a minimal encroachment into the front setbacks.
- 1.4 The applicant needs exposure to sunlight as a treatment for SAD. Staff has reviewed the request in relation to the Americans with Disabilities Act and Fair Housing Act and has determined that the granting of a variance is not required to provide "reasonable accommodation" for this condition, in this instance.

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Case No.: BA07-004

Location: 1951 South Signal Butte Road

Subject: Requesting a Special Use Permit for: 1) commercial statuary; and 2) the modification of a Special Use Permit for a Comprehensive Sign Plan 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 Boswell, seconded by Boardmember Clement to approve this case with the following conditions:
1. Compliance with site plan submitted.
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

Finding of Fact:

- 1.1 The future Chili's restaurant was reviewed and approved by the Design Review Board, which indicated the chili pepper statuary provided a sense of "whimsy" to the building and recommended approval. The proposed statuary has also been reviewed and approved by Diversified Partners, the developer of Superstition Gateway.
- 1.2 This chili pepper statuary is an important symbol of national brand recognition for Chili's, and is compatible with the respect to the commercial development of the property.
- 1.3 The 56 sq ft allotment will be devoted solely for the use of the chili pepper statuary, and will not be transferable to existing or future signs in the event that the Chili Pepper is removed.
- 1.4 The approved Comprehensive Sign Plan (BA05-035) would allow one attached sign per building elevation with a maximum aggregate sign area of 160 square feet. The 56 sq ft allotment, together with the additional 104 sq ft of the proposed signage is consistent with the aggregate signage area allowed by the comprehensive sign plan.
- 1.5 Where a statuary, either genuine or simulated, is used as a sign, the area of said sign shall be the three (3) vertical sides of the smallest right rectangle enclosing the figure that are most visible from the public right-of-way.

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Case No.: BA07-005

Location: 1652 & 1660 South Val Vista Drive

Subject: Requesting the modification of a Special Use Permit for a Comprehensive Sign Plan 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 Boswell, seconded by Boardmember Clement to approve this case with the following conditions:
1. Compliance with Comprehensive Sign Plan submitted, except as modified by the conditions below.
2. Major and Shop Tenants with a building elevation facing US 60, the Superstition Freeway, are allowed one (1) additional sign on the north elevation with a minimum sign area of fifty (50) square feet and maximum sign area of eighty (80) square feet, calculated at a rate of two (2) square feet of sign area per one (1) lineal foot of tenant building freeway frontage. North elevation signage shall be calculated separately from and not affect front signage.
3. Compliance with all requirements of the Building Safety Division in the issuance of sign permits.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The Board of Adjustment previously approved two Comprehensive Sign Plans for this site (BA00-033 – Phase I, BA04-012 – Phase II). This initial plan is limited to Phase One development, and was conditioned upon a new submittal for Phase II and Phase III.
- 1.2 The Comprehensive Sign Plan for Phases One and Two are not subject to any changes in association with this CSP and the Phase III CSP has been designed to match the criteria used for signs within the rest of Dana Park Village Square.
- 1.3 No new detached monument signs have been proposed with the Comprehensive Sign Plan.
- 1.4 The Comprehensive Sign Plan proposes attached signage that generally complies with current Code maximums with the exception of allowing one additional attached sign on the north elevation of buildings fronting the US 60 Freeway with a maximum sign area of 80 s.f. for tenants that front the Freeway.
- 1.5 The proposed Comprehensive Sign Plan has been justified by the existence of unique conditions related to the high quality of building architecture, the proximity of the development to Val Vista Drive, and the proximity of the

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development to the US 60 Freeway.

- 1.6 The proposed Comprehensive Sign Plan does not provide any approvals for a proposed Freeway Landmark Monument Sign. That sign requires approval of a Council Use Permit and has been included in this submittal for informational purposes only.

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Case No.: BA07-006

Location: 230 South Mulberry

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the development of an office/warehouse use in the M-2 zoning district.

Decision: Approved with conditions

Summary: Mr. Krager, architect, presented the proposal, explaining that this is the third phase of an ongoing industrial project. Additionally, the Design Review Board has reviewed and approved the site plan and buildings. He further explained that the requested reductions would enable larger trucks to utilize the site more efficiently. Additionally, the site has limited visibility from the public right-of-way and has a panhandle shape that limits the need for landscaping within the site.

Mr. Mahoney, owner, explained that this site will have a lower density than the earlier phases while accommodating a more intense use. The primary reason that the reductions are requested is to allow large trucks to maneuver more freely around the site.

Mr. McVay explained that the site does not meet the tests for a SCIP, noting that the size of the lot is sufficient to support the proposed use and while meeting Code requirements. He further stated that staff is in support of the reductions inside the truck maneuvering area because it is a unique condition that justifies minor deviation to current Code requirements. However, staff does not support the other requests.

Mr. Carter explained that he agrees with staff's assessment of the site and believes the buildings could be reduced in size or reoriented, making the SCIP unnecessary.

Mr. Boswell explained that while some of the Code requirements may seem unnecessary the site is large enough to comply with the current requirements.

Ms. Higgins and Mr. Clement explained that they would like to see more landscaping than what is proposed on the site.

The Board agreed that the employee break areas should provide some sort of permanent shade structure and seating area.

Motion: It was moved by Boardmember Higgins, seconded by Boardmember Pierson to approve this case with the following conditions:

- 1. The employee break area's shall be improved to include a shaded cover or landscaping and concrete raised bed planters to be approved through Administrative Design Review.*
- 2. Provision of a minimum fifteen foot (15') landscape setback adjacent to the north property line, to include the standard plantings as set by the Zoning Code of the City of Mesa.*
- 3. Provision of a minimum five-foot (5') foundation base along exterior north walls of Buildings 5 and 6.*
- 4. Provision of a minimum five-foot (5') foundation base along the entire length of the exterior walls adjacent to drive aisles of Buildings 4 and 6.*
- 5. Provision of a minimum fifteen-foot (15') foundation base along exterior walls with a public entrance and in all areas with and without doorways.*

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6. Foundation base required by conditions of approval numbers 4, 5, and 6 shall comply with all foundation base-landscaping requirements.

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- 7. Compliance with all requirements of the Design Review Board case DR07-007*
- 8. Changes required by the conditions of approval to the proposed site plan and building elevations shall require approval of an Administrative Design Review.*
- 9. Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 6-0

Finding of Fact:

- 1.1** Mulberry Business Park Phase Three consists of three buildings totaling 58,534 s.f. The gross area of the site is 4.215 acres and the proposed lot coverage will be 31.88%.
- 1.2** This request is the last of three phases for the Mulberry business park. The first phase was developed under the previous Zoning Ordinance requirements and is a legal but non-conforming site.
- 1.3** The second phase consisted of two buildings that are located north of phase one and south of the proposed phase three. Building two of phase two was vested as part of phase one regarding perimeter and foundation base landscaping due to the timing of approval, construction, and Zoning Ordinance update. Building three of phase two was held to the current development standards and required a Substantial Conformance Incentive Permit.
- 1.4** The proposed development is consistent with the General Plan, Specific Area Plans, and the permitted uses as specified in the Mesa Zoning Ordinance.
- 1.5** With the exception of the requested deviation to the landscape setback from the north property line and reduction in foundation base requirements adjacent to the north elevations of Buildings 5 and 6, the proposed site is commensurate with the existing developments within the City of Mesa.
- 1.6** The proposed site, at 4.215 acres has sufficient room to meet current Code requirements for the proposed use, and fails to meet the intent of the provisions of the Design Guidelines Chapter of the Mesa Zoning Ordinance regarding landscaping and foundation setbacks.
- 1.7** Justification for the proposed deviations to Code requirements primarily relates to the applicant's desire to maximize building square footage and, due to the size of the lot, not to the challenges related to the expansion of an existing development.
- 1.8** Compliance with current Code requirements would not require the demolition or reconstruction of an existing building, would not cause the cessation or preclusion of a conforming use, and would not create new non-conformities within Phases 1, 2, or 3.

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Case No.: BA07-007

Location: 356 E 9th Drive

Subject: Requesting variances to allow: 1) encroachment into the side yard; 2) encroachment into the rear yard; 3) encroachment into the front yard; and 4) exceed the maximum lot coverage allowed; all in conjunction with the construction of several additions to a single residence in the R1-6 zoning district.

Decision: Continued to the March 6, 2006 hearing

Summary: Due to a conflict declared by Boardmember von Borstel, this case was pulled off the first consent agenda and added to a second consent agenda. This case was on the second consent agenda and not discussed on an individual basis.

Motion: It was moved by Boardmember Carter, seconded by Boardmember Boswell to continue this case to the March 6, 2006 hearing .

Vote: Passed 5-0

Finding of Fact: N/A

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Respectfully submitted,

Jeff McVay, AICP
Senior Planner

Minutes written by Lena Butterfield, Planning Assistant

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