

Board of Adjustment Minutes



City Council Chambers, Lower Level
March 8, 2005

Board Members Present:

Jared Langkilde, Chair	Dianne von Borstel
Roxanne Pierson, Vice Chair	Mike Clement
David Shuff	Carie Allen
Greg Lambright	

Staff Present:

John Gendron
Gordon Sheffield
Krissa Hargis
Amy Veith

Others Present:

George Sarsar	Rulon Anderson
Dwayne Griffin	Bob Gould
Bruce Shapiro	Ron Moore
Sam Labrizi	Others

The study session began at 4:45 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:25 p.m., the following items were considered and recorded on Board of Adjustment Tapes # 324 and # 325.

Study Session 4:45 p.m.

- A. The study session began at 4:45 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the February 8, 2005 Meeting
It was moved by Boardmember Allen and seconded by Boardmember von Borstel, that the minutes of the February 8, 2005 Board of Adjustment meeting be approved. **Vote:** Passed 7-0
- B. Consent Agenda
It was moved by Boardmember Clement and seconded by Vice Chair Pierson, that the Consent Agenda be approved, with the conditions noted in the staff reports. **Vote:** Passed 7-0

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Case No.: BA04-038

Location: 1710 South Greenfield Road

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan for a commercial development in the M-1 district.

Decision: Approved with conditions.

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

Motion: It was moved by Boardmember Clement and seconded by Vice Chair Pierson, that this case be approved subject to the following conditions:

1. Compliance with the revised "Greenfield Gateway" sign plan (stamped "Received March 1, 2005"), as submitted, except as modified by the conditions listed below:
2. With regard to the Wal-mart store, the total number of attached signs shall not exceed an aggregate sign area of 630 sqft or less, with the following attached signs specifically being deleted:
 - a. Both "Always" signs above the two primary entries (south elevation);
 - b. The "Tire and Lube Express" (with arrow) directional sign on the front (south) elevation
 - c. "Wal-mart" from the "Wal-mart Tire and Lube Express" sign on the east elevation;
 - d. Both of the two "Wal-mart Tire and Lube Express" signs from the kiosk adjacent to Greenfield Road.
 - e. The "supercenter" verbiage from the rear (north facing) "Wal-mart" sign
3. With regard to all stores and shops, any "modifier" signs (those signs used in addition to the primary identification of the store name specifically to convey products or services offered within the store) shall be less than 12 square feet in sign area (each), and shall occupy a position on the building elevation of no more that eight feet (8') high from adjacent grade;
4. The east elevation of the Wal-mart store shall not be permitted to display any modifier signage, except two each "Tires" and "Lube Express"(maximum 12" high letters) modifier signs above the bay doors on the east elevation;
5. Signage for the auto service station center pad shown on the site plan shall be reviewed and considered as part of the required Special Use Permit;
6. Minor Tenants shall be divided into two classes. Large Minor Tenants shall have a minimum floor area of 40,000 square feet or more. Small Minor Tenants shall have a floor area between 5,000 square feet and under 40,000 sqft.;
7. Stores labeled "Major A" and "Major B" on the submitted site plan shall be considered as Minor tenants for the purposes of the sign plan and the sign plan narrative;
8. All pad buildings and shop tenants less than 5,000 square feet shall be permitted attached signs in accordance with the maximums as specified in Sec 11-19-6(E) of the Mesa Sign Ordinance;
9. Shop tenant attached signs may not exceed 80% of the width of the store wall on which the sign is placed;
10. Pad tenant attached signs may not exceed 50% of the width of the store wall on which the sign is placed. The aggregate sign area may be divided into three signs, total for the building. An additional attached sign may be placed on a building elevation not visible from a public street, and this additional attached sign shall not be required to count against the official calculation for aggregate attached sign area or aggregate number of attached signs. Pad buildings demised for multiple tenants shall follow the sign plan narrative designated for shop or minor tenants, as determined by the gross floor area of the resulting suite;
11. Regarding pad, shop, or minor tenants: only one attached sign is permitted on the rear or side elevation of the building that directly faces the freeway; and

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12. The minor tenant space identified as Major A shall have the option of having either one (1) 80-sqft attached sign on the rear side of the building, **OR** two (2) 40-sqft attached signs, with one located on the rear side of the building (northwest) and one located on the (northeast) side of the building.

Vote: Passed 7-0

Note: The intent of condition 3, approved by the Board last month, is that it would be applicable to the entire sign plan, not just the Wal-Mart store. For clarification, Conditions 3 and 4 apply to Wal-Mart modifier signs such as "optical", "1-hour photo", "produce", "meat", "deli", "bakery" and "pharmacy". Signs regarding "food center", "garden center" and "low prices" would be permitted in the locations, numbers and sizes designated in the sign plan.

Finding of Fact:

- 1.1 This site was approved by the City Council, by means of a Council Use Permit, as an appropriate location for large retail buildings. The Council also required the applicant to seek a Comprehensive Sign Plan to address signage needs for the center. This application addresses that condition of zoning approval.
- 1.2 The case site is relatively large (43.58 +/- acres) for a retail or commercial development. It has limited arterial street frontage, and it backs up to a freeway off-ramp. Primary access to most of the site is by way of a secondary street (Juanita Ave).
- 1.3 Because of the orientation of the site, most of the pad buildings and most of the stores and shops buildings are located a considerable distance from the arterial street, Greenfield Road. The sign plan addresses this distance by permitting the larger stores to have additional attached sign area, standard sized detached signs adjacent to Greenfield Road.
- 1.4 The proposed sign plan deviates from the maximums permitted for commercial sites in the amount of total sign area permitted for larger "major" stores.
- 1.5 The proposed development deviates from standard commercial development because the size of the anchor or "major" tenant will be in excess of 200,000 square feet under roof.
- 1.6 The development also backs up to a freeway off-ramp. Reasonable visibility of store names attached to the backs of the individual store buildings will not demonstrably add to sign clutter because a side of the building not typically seen from the street will be visible. Limited signage used to identify the commercial store within the center will help in way finding to the site from the freeway.
- 1.7 The Board found that the proposed Comprehensive Sign Plan was well suited for the development, particularly because of the unique layout of the approved site plan in comparison to other typical commercial developments.

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Case No.: BA05-007

Location: 66 South Dobson Road

Subject: Requesting a Substantial Conformance Improvement Permit in conjunction with the redevelopment of an existing facility in the C-3 district.

Decision: Approved with conditions.

Summary: This case was taken off the consent agenda because the owner of the property south of the case site (George Sarsar) wanted to make a statement regarding access agreements between the two properties. The applicant, Dwayne Griffin, spoke first. He said that George Sarsar wanted to discuss easements and access concerns. He stated that he had just received a fax from staff that day, which included several of Mr. Sarsar's property deeds, one of which described shared access and easements between and over the two properties.

Sam Labrizi and Bruce Shapiro of Arizona Partners also spoke on behalf of the project. They said that they had brought a copy of the survey for the property with them, and that it showed a 50' x 100' easement, which was located in part on the case site and in part on Mr. Sarsar's property. Mr. Shapiro asked how the easement agreement worked. He said that they had purchased the property with the existing curved driveway that provides access to their property only, but that is located within the easement area, as described in the deed.

Mr. Sheffield responded that the access could be provided through a shared driveway (off Dobson), or via a drive aisle on the case site that provides access into Mr. Sarsar's property, or through different design mechanisms. He said that a condition could be added to the recommended conditions of approval for the case stating that the shared access agreement will be designed and agreed upon by both parties.

Mr. Sarsar then spoke. He said that he owned the property south of the case site and that he thought the access easement meant that the entire south property line had to be left undeveloped, to allow for ingress to and egress from his property. He also stated that he and the applicants had come to an amicable agreement, wherein there would be two points of access along the south property line into his property. He said that there was already one driveway in, and that he would have his own driveway too. Finally, he stated that he was in agreement to working with staff to arrive at a solution.

Mr. Griffin noted that they were going to keep the one point of access to Mr. Sarsar's property, as shown on the site plan already, and that they would add another one near the southeast corner of the site.

Motion: It was moved by Boardmember Lambright, and seconded by Boardmember von Borstel, that this case be approved with following conditions:

1. Compliance with the site plan as submitted, except as modified by the conditions listed below;
2. Phase I improvements, as shown on the site plan, shall be completed prior to occupancy of the new in-line shops building;
3. Phase II improvements, as shown on the site plan, shall be completed prior to occupancy of the 102,008-sqft (old Target) building;
4. Any existing non-conforming detached (monument) signs shall be removed;
5. The landscaped areas shown on the site plan shall be landscaped according to Section 11-15-3, except as noted below;
 - a. The minimum required number of plants within the landscape setback areas along Dobson

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Road is 1 tree and 4 shrubs per 25 linear feet of street frontage (Phase I).

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- b. The minimum required number of plants within the landscape setback areas along the south property line is 2 non-deciduous trees and 6 shrubs per 100' linear feet of adjacent property line (Phase II). All existing dead and decaying landscape shall be replaced.
 - c. The minimum required number of plants within the approx. 10' wide landscape setback area along the west approx. 250' of the north property line (north of a row of parking stalls) is 3 non-deciduous trees and 12 shrubs per 100' linear feet of adjacent property line (Phase II). All existing dead and decaying landscape shall be replaced.
- 6. Three landscape islands shall be added to the parking area north of the 102,008-sqft (old Target) building;
 - 7. The foundation bases of the new in-line shop building and the old Target building shall meet all requirements as outlined in Section 11-15-3(C). The widths of foundation bases on the existing furniture store are approved as shown on the site plan;
 - 8. Compliance with all Design Review Board requirements;
 - 9. Compliance with all PPRT (Preliminary Plan Review Team) requirements;
 - 10. Compliance with all Building Safety requirements, with regard to the issuance of building permits; and
 - 11. Provide two full-sized copies of a revised site plan showing compliance with the conditions of approval of this case to the Board of Adjustment staff for review and approval prior to submitting building permit applications; and
 - 12. The site plan shall be modified to provide cross access or a common driveway within that portion of the site described in an access easement agreement, recorded under Maricopa County Recorder Docket # 88-295091. The modification shall be reviewed and approved by the Planning Director before construction documents are submitted for initial review to the Building Safety Division for a building permit.

Vote: Passed 7-0

Finding of Fact:

- 1.1 Presently the site is developed with one large, vacant big box retail style building and one stand-alone furniture store. The remainder of the site is a sea of parking stalls without any landscape islands; the site is over-parked for the existing building area. There is very little landscaping on the site.
- 1.2 The project site is far from meeting current site development standards (Chapter 15) and design guidelines (Chapter 14). The project also has to be approved by the Design Review Board.
- 1.3 The Board agreed with staff in that the improvements proposed by the applicant for the center constituted a great degree of compliance with current site development provisions, considering the present state of the existing center.

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Case No.: BA05-008

Location: 7435 East Main Street

Subject: Requesting an interpretation of Section 11-6-2(A)(3) of the Mesa City Code.

Decision: Withdrawn.

Summary: The applicant requested that this case be withdrawn. This case was on the consent agenda and was not heard on an individual basis.

Motion: It was moved by Boardmember Clement and seconded by Vice Chair Pierson that this case be withdrawn.

Vote: Passed 7-0

Finding of Fact: N/A

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Case No.: BA05-009

Location: 4801 East Brown Road

Subject: Requesting a Special Use Permit for a commercial communication tower (monopalm) in the R1-9/O-S-PAD district.

Decision: Approved with conditions.

Summary: This case was removed from the consent agenda because two neighbors had shown up at the hearing and wanted to speak in opposition to the request. The applicant, Rulon Anderson, spoke first. He stated that the proposed communication tower is a stealth design; it is a monopalm. He said that personally he was an advocate of the monopalm and that the monopalm is a huge improvement over the cell towers typically seen.

Mr. Anderson explained why the site was chosen for the location of a new cellular tower (monopalm). He said that currently there were approximately eight cellular carriers in the valley and that each of those carriers has their own design. He explained that there is a problem in the industry with providing cell phone service to people in their residences. People want to be able to use their cell phones in their home, he said. Given that, where would be a good place to put the cell towers, he asked. He said that they find locations using established methodology. If you live within a half-mile of this site, he said, you would be serviced by it. That is the challenge we have to face and that is why we chose this location, he added. He stated that he believed people would rather see a monopalm than a pole. Finally, Mr. Anderson explained that they had come to an agreement with the church, which is located in a primarily residential area.

Next, Bob Gould spoke. He said that his property is located directly south of the proposed site. He stated that there are no other palm trees within at least a quarter mile of the site. He said that a new cell tower was just put in at Brown and Higley at the SRP substation near the canal. Chairman Langkilde asked Mr. Gould if his concern was with the monopalm specifically and not the tower, and if he would be okay with having say either a flagpole or a cactus. Mr. Gould responded that whatever it is, it would block his view. He said that it would be the tallest thing in the neighborhood. He asked why the applicant couldn't co-locate instead and said that there are towers a half-mile east and west of this site.

Chairman Langkilde asked Mr. Anderson if co-location had been explored. Mr. Anderson answered that this site was "Site D" meaning that they had already gone through three other candidates (A, B & C) to arrive at this candidate. He said that the owner of the nearby Bashas lived out of state and would not cut a lease with them. When you seek co-location, Mr. Anderson explained, you have to consider the aesthetics. Do you want to stack antennas on an existing tower or do you want to build a new stealth tower? He stated that they had explored co-locating on the existing monopoles at the SRP substation and Bashas. He said that for what T-Mobile wants from a radio frequency (RF) prospective, they could not have on those particular poles.

Chairman Langkilde asked Mr. Anderson if the height of the proposed monopalm could be reduced. Mr. Anderson replied that the height could probably be reduced by 5' but, he asked, would a reduction of five feet even help? He stated that they could probably drop the monopalm to 60,' and that there are existing, surrounding eucalyptus trees that are about 50' tall. To put out RF waves, he explained, there cannot be buildings and trees in the way. Now they down tilt antennas but the antennas are tighter on the pole, he said. He also explained that calls are dropped because of the quantity of calls being received at the same time. He said they have to look at both infill and capacity in finding a location and have to do it the best way possible. He added that pine tree towers do not look as good as monopalms.

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Chairman Langkilde asked Mr. Gould if there was anything the applicant could do to mitigate some of his concerns. Mr. Gould answered not really, and asked if what Mr. Anderson was saying was that eventually they are going to have to put towers in every half mile? Mr. Anderson said that the reality is that technology is here and that citizens command it.

Ron Moore spoke next. He stated that he lives at 4858 E. Fountain, which is directly south of the site, and that the view of the monopalm will be centered in his kitchen window. He said that he would not be able to see the top of it. He said that he was concerned about his property values decreasing. He also stated that the church owner has constantly and consistently not told the neighbors the truth about their plans. First there was just going to be parking lot, he said. Then they added a building, then a school and then parking lot lights. Finally they raised the wall so that they couldn't see into their (the neighbors to the south) back yards. Every two or three months they find a way to make more money and don't care how it affects the neighbors, he said. He also stated that there were no other trees as tall as the proposed monopalm in that area, and that the concern is a matter of aesthetics. Surely there must be some other place to locate the monopalm in a commercial area nearby, he said.

Chairman Langkilde asked Mr. Anderson to discuss the other companies that he had tried to enter into leases with regard to this project. Mr. Anderson said that price is not the issue but that they need a willing landlord. He explained that when they look for a site they first look for City property so the revenue will go to the City. They look for school property next and then churches. He said that cellular communication facilities provide a revenue stream for the landowner, and that that's whom they prefer to give money to, not commercial landowners. He said that there is a small commercial development near the church and that they might be able to go there. Chairman Langkilde asked Mr. Moore if the commercial area would be preferable. Mr. Moore answered that it would not because it consists of a one-story dentist office and a one-story daycare center which are not visible from his property.

Chairman Langkilde asked if there were any other options. Boardmember Shuff said that with regards to the Special Use Permit (SUP), both property owners opposed talked only about there not being any other palm trees in the area. He said that in the past, the Board has required that other trees or landscaping be provided and asked if that option was available to the Board. Mr. Sheffield stated that the Board could add any condition to make the SUP request more compatible and less detrimental to the surrounding areas. Boardmember Shuff asked if the church or T-Mobile would be responsible for putting in the landscaping/trees. Mr. Sheffield answered that when Mr. Anderson comes in for a building permit, the plan would have to show the landscaping/trees, if that were a condition of approval of the SUP. Whether the church or Mr. Anderson's company pays for the trees is not up to us, our only concern is that the trees are installed.

Mr. Sheffield stated that the Council had adopted, by resolution in 1997, the Commercial Communication Tower Guidelines (CCTG), and that the purpose was to create a policy document. The CCTG, he said, basically gives first priority to co-location, second priority to locating on a commercial site or development, and last priority to locating on residential property. He said that church institutions are considered quasi-commercial. Mr. Sheffield said that the monopalm has come along way and that there are many in areas that already had palm trees. Another option available to Mr. Anderson, Mr. Sheffield stated, would be to locate on the church's steeple, but in this case they could not because the First Baptist Church has a uniquely designed steeple. They could build another steeple, which would look odd, and so the next alternative is a stealth monopalm. All carriers want to build more towers, he added, and it has been predicted that the towers would get smaller. Mr. Sheffield also stated that Council had recently adopted standards for locating towers in City parks. For lack of a better option, he said, we are back to the church site. The proposal meets the CCTG, he said; the design of the tower is a palm tree, which is a good aesthetic alternative, and that is why staff recommended approval of the request.

Mr. Gould stated that if the applicant were to put some palm trees in, they would be okay with the

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monopalm. Mr. Anderson said that they refer to the companion palm trees as friends. He said that T-Mobile has to lease a 20' x 30' area for ground equipment and the monopalm, and that an increase in that area, to include palm trees, would have to be okay by the owner. He said that they have shied away from adding friends (palm trees) because the monopalm in itself is a stealth design. To disguise it even further, he said, goes beyond what is required. How do we encourage carriers to co-locate sites, he asked. Should they be in retention basins shrouded by eucalyptus trees? You would still see the trunk of the monopalm in the backdrop of eucalyptus trees, he said.

Chairman Langkilde asked Mr. Anderson if he was saying that he was against adding friends. Mr. Anderson answered that they were not required to do that as part of the SUP for a monopalm at Garden Lakes Church. It sometimes occurs, he said. Then he stated that it is much cheaper to simply put up a monopole. In five years they may have a fake eucalyptus monopole design but right now they don't, he said. That is T-Mobiles position, he concluded.

Boardmember Shuff said that he understood the concerns but that he was moving to approve the case. Carrie Allen seconded the motion. Chairman Langkilde stated that he was against the request and in favor of the residents. He said that he believed a little American ingenuity could find a resolution. He said that the residents have lived there for a while and that the monopalm would affect their quality of life. The applicant doesn't want to compromise, Chairman Langkilde stated. If I vote no, he added, then I believe the applicant would find a solution. Boardmember Lambright stated that he thought the applicant would be getting special privilege if the request were granted and that he would not want to look out his back window at the monopalm. Boardmember Allen stated that she believed from time to time those in the minority will have to experience detrimental effects to benefit the majority. She said that we can't make the applicant wait ten years until the stealth eucalyptus tree monopole is available. A lot more people could potentially be affected without the monopalm, she stated. I have one in my neighborhood, she said, and it is the only thing that is that tall, and I hardly notice it anymore. You have to balance the good with the bad, she said. Boardmember Shuff added that he was in support although trying to be sensitive to the neighbors, but that there is progress and change that won't stop.

Motion: It was moved by Boardmember Shuff, and seconded by Boardmember Allen, that this case be approved in accordance with the site plan as submitted.

Vote: Passed 5-2 (Chairman Langkilde and Boardmember Lambright voting nay).

Finding of Fact:

- 1.1 The monopalm will be located within a church parking lot, and be screened from Brown Road by an existing day care center.
- 1.2 A majority of the Board found that the monopalm meets the intent of the Zoning Ordinance and meets the Commercial Communication Tower Guidelines.
- 1.3 The monopalm should be compatible with and not detrimental to surrounding properties.

Respectfully submitted,

Gordon Sheffield, AICP
Senior Planner

Minutes written by Amy Veith, Planner I

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G/Board of Adjustment/Minutes/2005/03 March