



Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2017033 – Max Taylor & Co. LLC Property

Hearing Date: October 12, 2017

Agenda Item: 8 – Regular

Supervisor District: 4

**Applicant /
Property Owner:** Adam Baugh / Max Taylor & Co. LLC

Request: **Variance to the development standard of the Maricopa Zoning Ordinance to permit:**

- 1) Proposed separation between offsite advertising (billboard) signs of 118' where 1,000' is the minimum permitted per MCZO, Art. 1403.3.1.2
- 2) Proposed offsite advertising (billboard) sign area of 420 sq. ft. where 300 sq. ft. is the maximum permitted per MCZO, Art. 1403.3.2.1

Site Location: APN 200-41-602 @ 9420 W. Bell Rd. – Lindgren Ave. & Bell Rd., in the Sun City area

Site Size: 0.92 Acres

Current Use / Zoning: Shopping Center and Medical Marijuana Dispensary/ C-2 zoning district

Open Violation: **No Violation on property**

**Citizen
Support/Opposition:** No known opposition

Background:

1. **June 30, 2000:** The current owner took possession of the subject property with a special warranty deed via docket **20000502087**.
2. **March 27, 2009:** A building permit for an off-site billboard was submitted(**B200901552**)
3. **October 3, 2009:** The Board denied the appeal of an administrative determination to revoke a permit (B200901552) for an off-site advertising sign **BA2009047**.
4. **September 3, 2014:** An as-built Plan of Development for a commercial shopping center and medical marijuana dispensary was approved under **LU20140059**.
5. **March 14, 2017:** A building permit for a new off-site billboard was submitted (**B201702167**).
6. **Date:** A building permits was submitted for the subject off-site billboard.
7. **September 19, 2017:** The subject variance request was submitted.

Reviewing Agencies Comments:

8. **Engineering (Transportation, Drainage, and Flood Control):** No objection to the request, see attached memo dated August 30, 2017.
9. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated August 28, 2017.

Existing On-Site and Surrounding Zoning/Land Use:

10. On-site: C-2 /Commercial
North: R1-6 SC/Single-family residence
South: Bell Rd. then C-2 /Commercial
East: R1-6 SC/Single-family residence
West: Lindgren Ave. then C-2 /Commercial

Site Analysis:

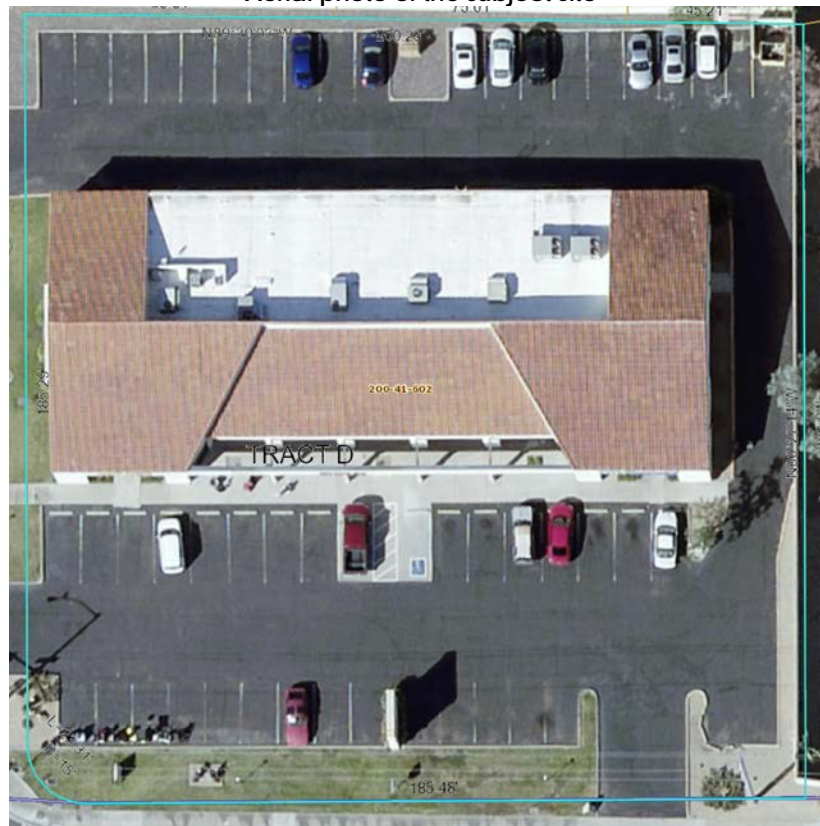
11. The site primary use on the subject site is a typical single story shopping and commercial center. The site is essentially level and free of any topographical features as the ground is an asphalt parking lot. The property owner had submitted a building permit (B200901552) for an off-site advertising sign in 2009. Staff had determined that the proposal did not meet the standards of the MCZO, due to the same distance separation issue that is now subject of this variance.
12. The current proposal is for an off-site billboard with separation of 118-feet where 1000-feet is required from another off-site billboard. The sign in question is due west of the subject site and is an offsite sign that is owned by Del Webb. Although it isn't designed as a traditional billboard, the site is zoned C-2, and it advertises master planned community development elsewhere in the valley. The Board, per paragraph 3, previously made a determination for the exact request in 2009 where the request was denied as an appeal

of an administrative determination to revoke a permit (B200901552) for an off-site advertising sign (**BA2009047**).

Aerial of subject site and surrounding environs

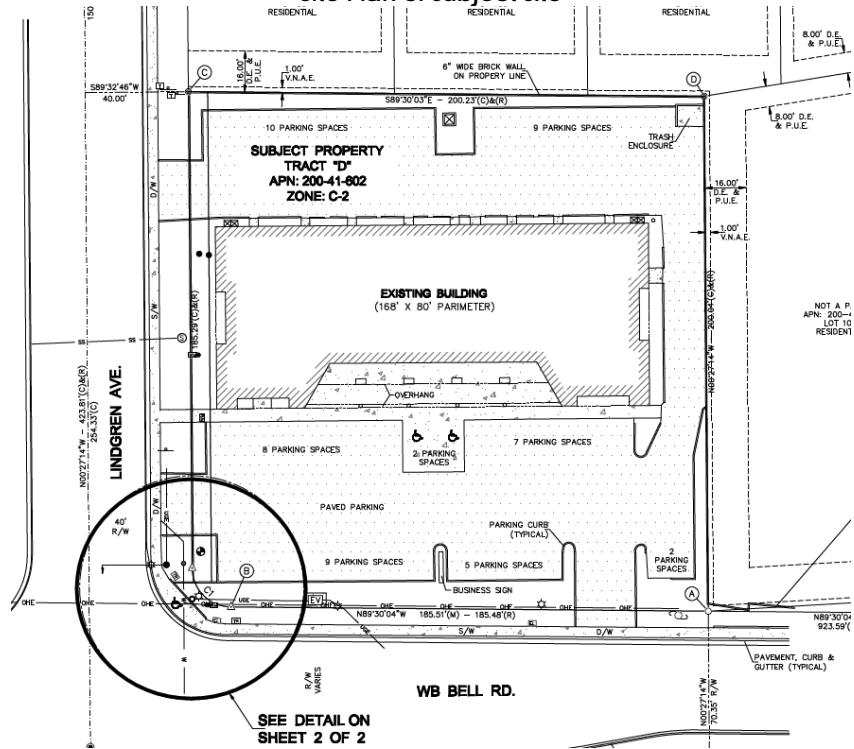


Aerial photo of the subject site

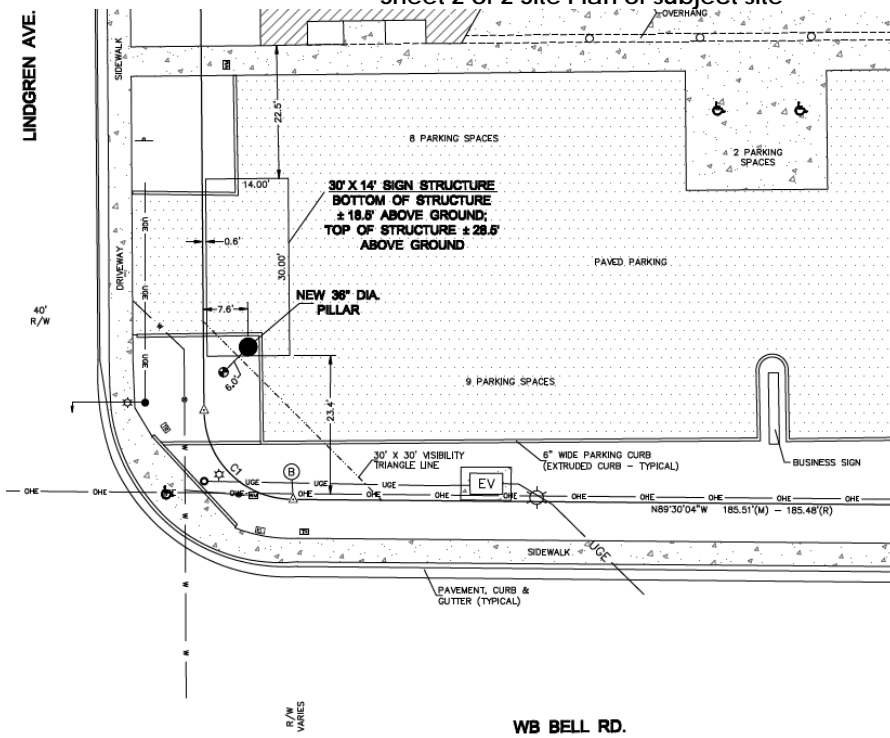


13. The applicant did not supply staff with a billboard elevation illustrations that could be reviewed and staff could not clearly determine if the sign is to be illuminated, its height, whether single or double faced; including related apex angel, its actual face area, and the sign orientation. It should also be noted that the site plan lists the sign structure as 420 sq. ft. The top of the structure at 28.5' (h) and the bottom of the structure 18.5' (h). Staff can only assume, in the case of the sign area, that it greater than permitted by the MCZO. Staff finds that the conditions for the proposal, have not changed since 2009 and as such staff is unable to lend support to the applicants' requests.

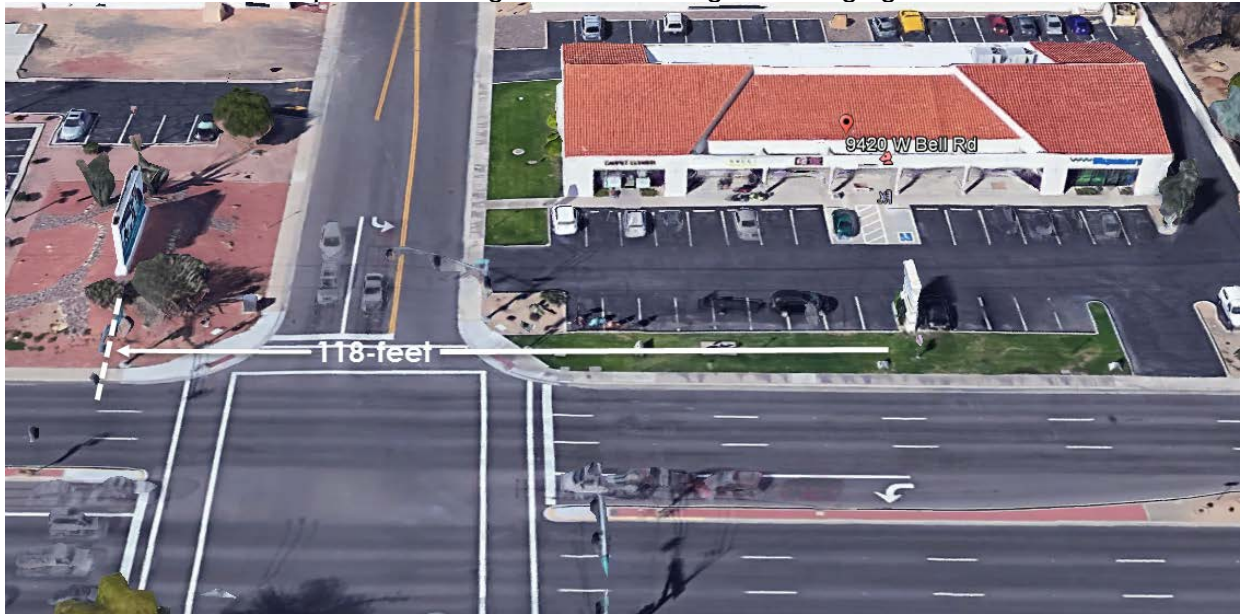
Site Plan of subject site



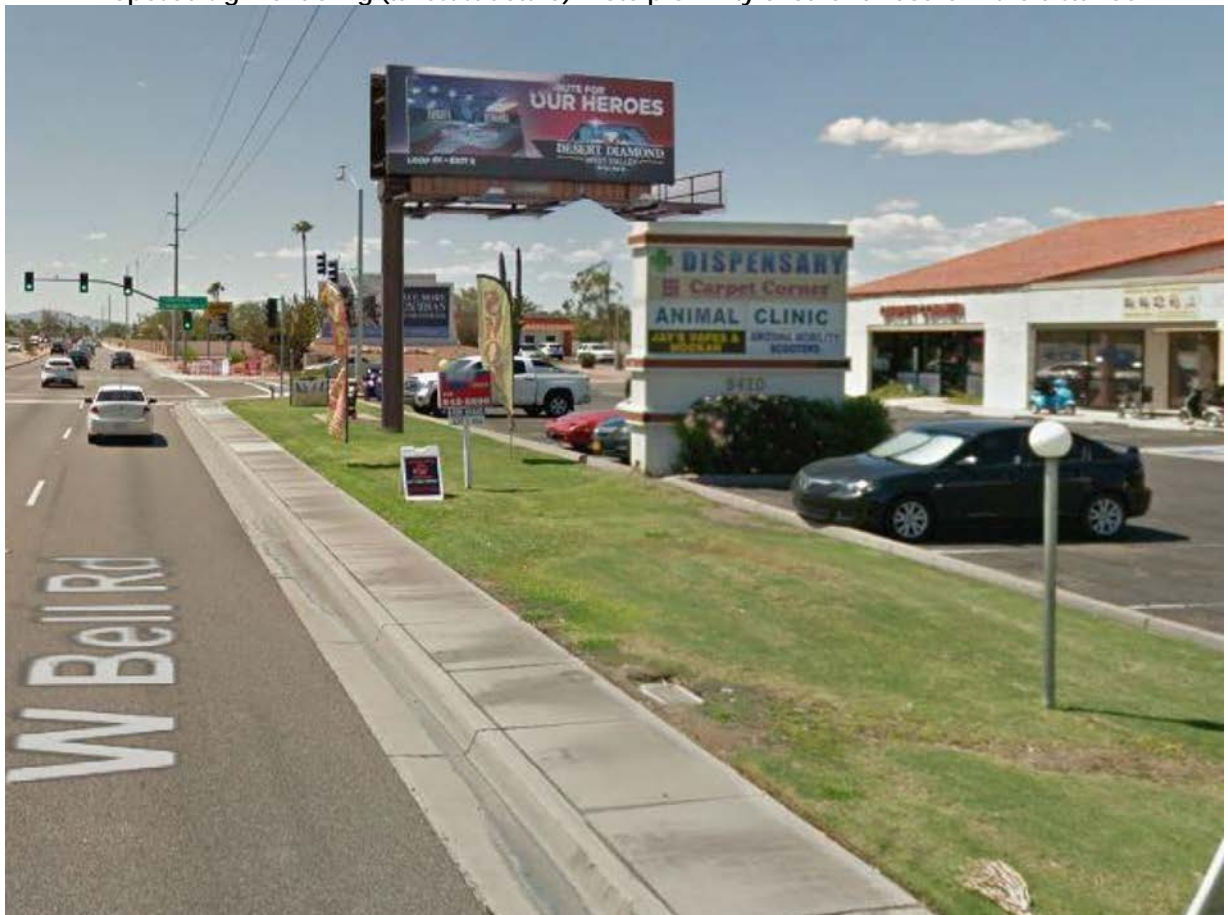
Sheet 2 of 2 Site Plan of subject site



Aerial photo illustrating context to existing advertising sign



Proposed sign rendering (tallest structure). Note proximity of other billboard in the distance



The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	C-2 Zoning District	Proposed Standard
Billboard Sign Separation distance	1,000-feet	118-feet

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

14. **Statutory Test -1 Peculiar conditions** – Explain and discuss the peculiar conditions on the property and include reference to the Maricopa County Zoning Ordinance Regulations or Development Standards to be varied. Explain the proposed use of the property with the variance request. Explain how enforcement of the Zoning Regulations or Development Standards would impose a hardship on the property owner.

"Section 303.2.2 of the Maricopa County Zoning Ordinance is modeled after the state statute and relief may be granted by a variance when: 1."Owing to peculiar conditions, 2."A strict interpretation would work an unnecessary hardship"; 3."If in granting such variance the general intent and purposes of the Zoning Ordinance will be preserved. Variance relief is warranted in this instance. The special circumstances of a non-permitted sign prohibiting an otherwise compliant off-premise sign is a peculiar condition indeed, if not questionable."

15. **Statutory Test 2 – Unnecessary Hardship** – Explain the unnecessary hardship the peculiar conditions on the site create with respect to the existing Regulations and Standards of the Maricopa County Zoning Ordinance.

"This peculiar condition is not self-imposed, rather, it is created by a mistaken determination that an invalid sign can convert to a valid off-premise sign without any application submittal, permit, or final inspection. Secondly, even if the Del Webb sign had been permitted, it still does not function as an off-premise sign. The more correct interpretation is that the Del Webb sign is a development marketing sign just like all the other homebuilder signs across the valley which advertise their development communities on other parcels. A strict interpretation of the code creates an unnecessary hardship because it restricts a landowner's private property rights and prevents an otherwise conforming sign."

16. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance** - Explain and discuss how this variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

"The granting of the variance is consistent with the intent and purpose of the sign code which is to adequately space one billboard sign from another billboard. In this case, the Del Webb sign is not a true off-premise sign for the intent and purposes of the sign code."

It is not owned nor managed by any billboard company, nor has it displayed any advertising copy other than Del Webb's own community marketing. The variance request will have no impact whatsoever on the adjacent and surrounding properties. As a result, the relief granted by this application will not substantially impair the purpose of the sign ordinance."

17. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.** Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permits or as-built permits currently filed with the Planning and Development Department and the current review status. Specify the permit numbers. If no permits have been filed, please provide a timeline for building permits submittal and projected timeframe for construction.

The question was not addressed.

Findings:

18. If the Board determines the variance request as discussed in the Analysis section of this report, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2 - owing to peculiar condition, a strict interpretation of the MCZO **would not** work an unnecessary hardship on the property; and further, in granting the variance, the general intent and purposes of the zoning ordinance **will not** be preserved based upon the applicant's responses for the statutory tests; then, the Board would need to **make findings and conclusions with a motion of Denial.**
19. However, if the Board determines the variance request as discussed in the analysis section of the report in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2 – the peculiar conditions, a strict interpretation of the MCZO **would** work an unnecessary hardship on the property; and further, in granting the variance the general intent and purpose of the MCZO **will** be preserved based upon the applicant's responses for the statutory tests; then the Board must make findings and motion with a recommendation for approval.

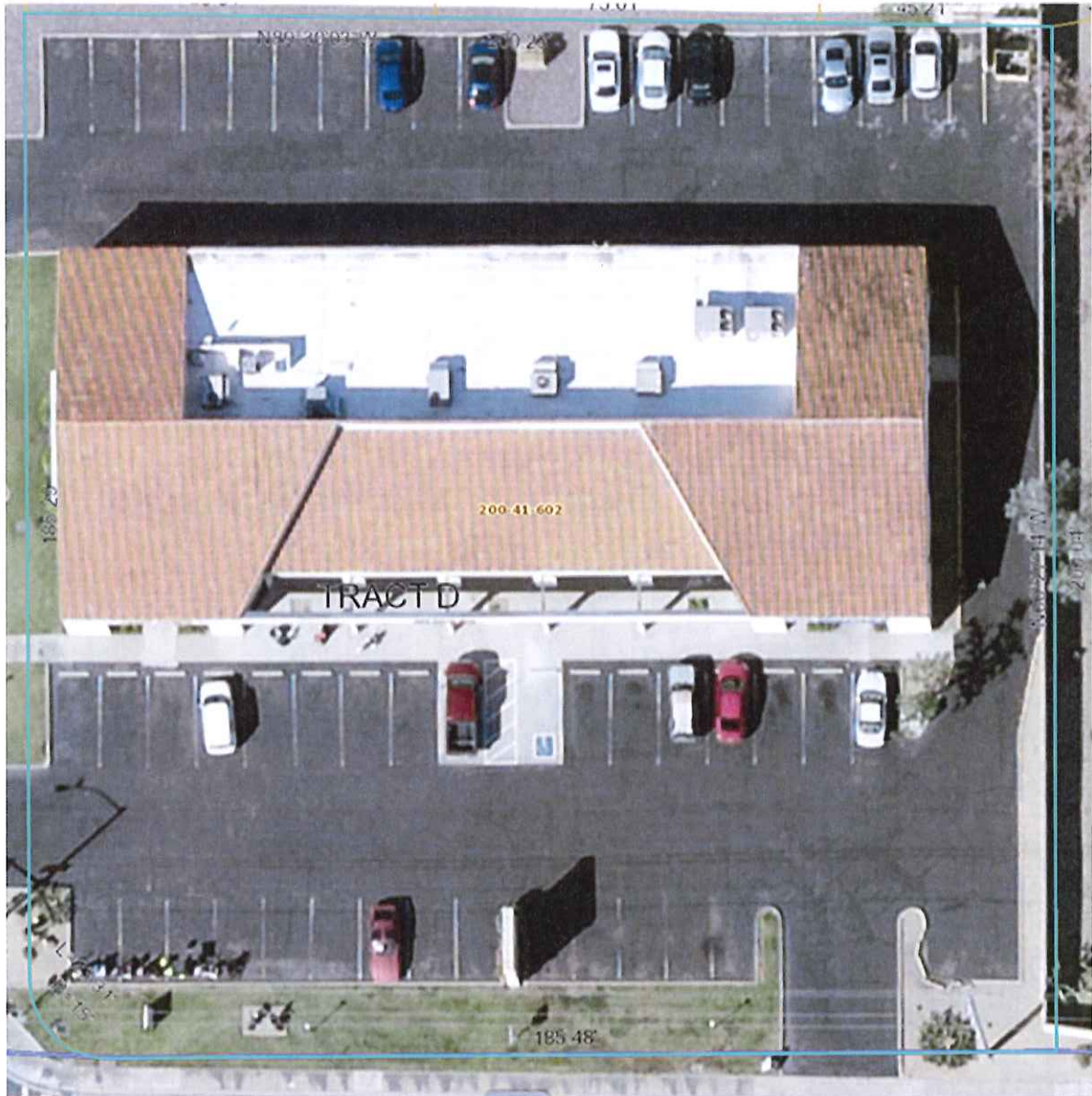
In such event staff offers the Board the following **Conditions of Approval:**

- a) General compliance with the site plan stamped received September 19, 2017, which will include, within 30 days, an illustration of the sign and whether the sign is to be illuminated, height, whether single or double faced, including related apex angel, face area, and sign orientation.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Eric R. Smith, Planner
Reviewed by: Darren V. Gerard, AICP, Deputy Director

Attachments:	Case Map (1page)	MCESD Comments (1 page)
	Vicinity Map (1 page)	Historical determination BA2009047 (1 page)
	Site Plan (1 pages)	Staff report BA2009047 (2 pages)
	Application / Narrative (3 pages)	
	Engineering Comments (1 page)	

MARICOPA COUNTY



Date: 9/27/2017 Legal Description: T04N R01E 33

Applicant: Adam Baugh

Phone: 602-230-0600

Case Address: 9420 W. Bell Rd.

Parcel: 200-41-602

BA2017033

Aerial Date: 2017

SUPERVISORAL DISTRICT NO 4

Variance for proposed separation between signs less than 1000' where 1000' is the minimum permitted in the zoning district.

MARICOPA COUNTY



Date: 9/27/2017 Legal Description: T04N R01E 33

Applicant: Adam Baugh

Phone: 602-230-0600

Case Address: 9420 W. Bell Rd.

Parcel: 200-41-602

BA2017033

Aerial Date: 2017

SUPERVISORAL DISTRICT NO 4

Variance for proposed separation between signs less than 1000' where 1000' is the minimum permitted in the zoning district.

PARCEL INFORMATION

APN: 200-41-602

ADDRESS:
1420 W. BELL RD.,
SUN CITY, AZ 85301

AREA:
±40,002 SQ. FT. / ±0.9185 ACRES

ZONE: C-2

OWNER INFORMATION

MAX TAYLOR AND COMPANY, LP

5737 E. INGRAM SCHOOL RD.,
PHOENIX, AZ 85018

CLIENT INFORMATION

LAMAR ADVERTISING

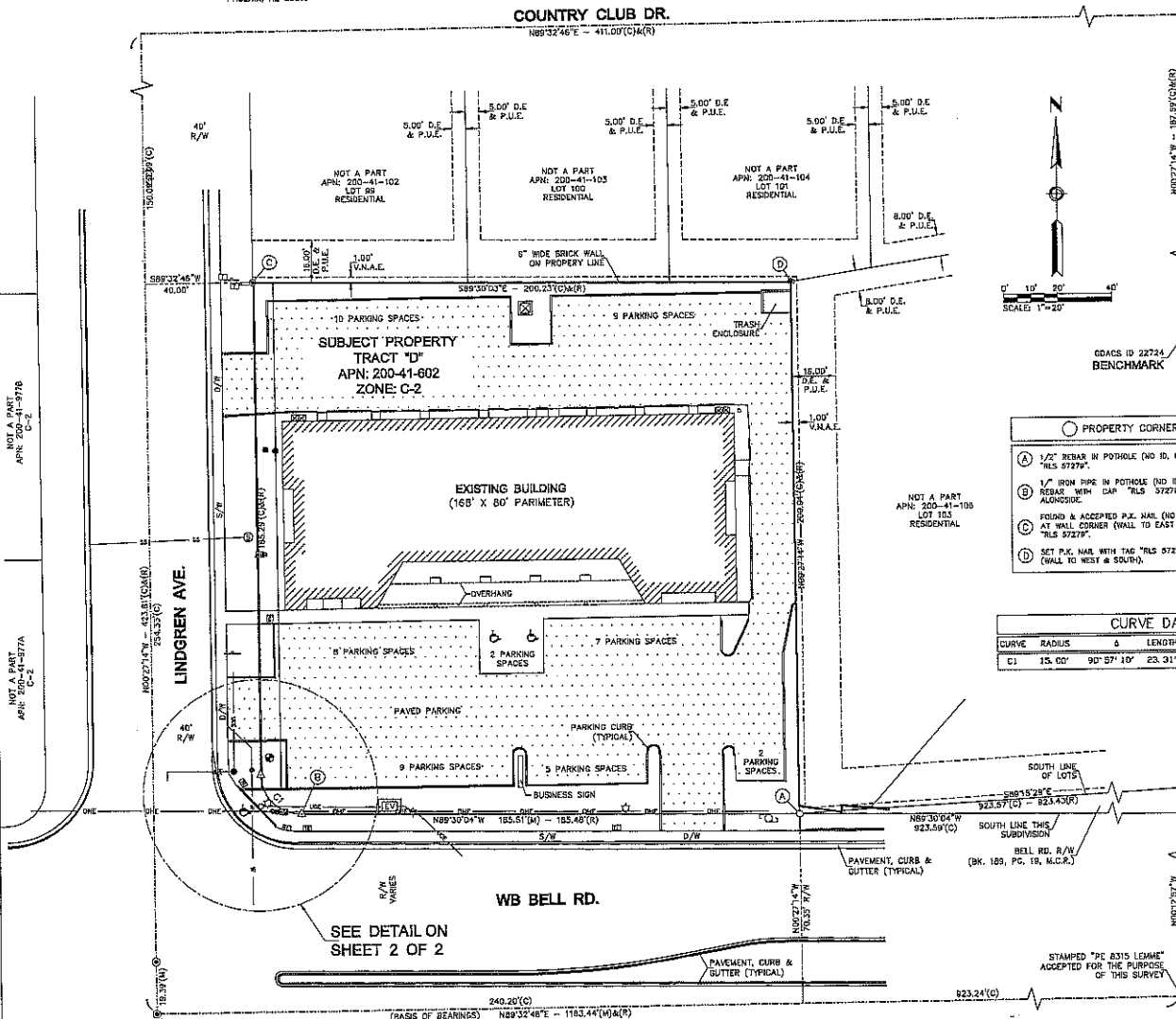
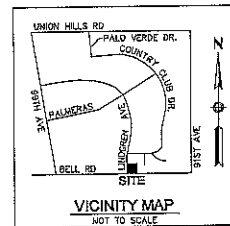
1661 E. CAMELBACK RD. STE. 3320
PHOENIX, AZ 85018

SITE SURVEY

OF TRACT D, SUN CITY UNIT FIFTY-THREE, AS RECORDED IN BOOK 189 OF MAPS, PAGE 19, M.C.R.
A PORTION OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 4 NORTH, RANGE 1 EAST
OF THE GILA AND SALT RIVER BASE & MERIDIAN, MARICOPA COUNTY, ARIZONA

LEGEND

- FOUND 3" MARICOPA COUNTY BRASS CAP FLUSH
- FOUND 1-1/2" ALUMINUM CAP FLUSH AS NOTED
- △ FOUND & ACCEPTED 1/2" REBAR AS NOTED
- ⊙ FOUND OR SET P.K. NAIL AS NOTED
- △ SET 1/2" REBAR & CAP "RLS 5727" FLUSH WITH GROUND
- STREET CENTERLINE
- SUBJECT PROPERTY LINE
- EASEMENT LINE
- TIES
- M.C.R. MARICOPA COUNTY RECORDS
- R/W RIGHT OF WAY
- (M) MEASURED
- (C) CALCULATED
- (R) RECORD BOOK 189 OF MAPS, PAGE 19, M.C.R.
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- V.N.A.E. VEHICULAR NON-ACCESS EASEMENT
- D/W DRIVEWAY
- S/W SEWER VAULT (FLUSH WITH GROUND)
- SV SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- ELECTRIC J-BOX
- POWER POLE
- ELECTRIC CABINET
- ★ STREET LIGHT
- ★ PARKING LIGHT (7' TALL)
- TRAFFIC SIGNAL
- OVERHEAD ELECTRIC LINE
- UNDERGROUND ELECTRIC LINE
- WATER LINE BLUE STAKE
- SEWER LINE BLUE STAKE
- BACKFLOW PREVENTER
- TRAFFIC J-BOX
- TELEPHONE J-BOX
- HANDICAP RAMP / PARKING
- TRAFFIC SIGN
- BOLLARD
- CONCRETE
- PAVEMENT
- TRAFFIC SIGNAL WITH MAST ARM



BASIS OF BEARINGS

THE MONUMENT LINE OF BELL RD. BETWEEN MARICOPA COUNTY BRASS CAP FLUSH AT THE INTERSECTION OF BELL RD. & UNDER AVE. (SOUTHERLY BRASS CAP OF TWO) AND 1-1/2" ALUMINUM CAP FLUSH STAMPED "LEMMIE PE 8315" AS SHOWN HEREON, SAID BEARING BEING NORTH 89°32'46" EAST (PLAT).

LEGAL DESCRIPTION

(PER DEED AS RECORDED IN DOCUMENT No. 2000-0502087, M.C.R.)

PARCEL NO. 2:

TRACT D, SUN CITY UNIT FIFTY-THREE, ACCORDING TO BOOK 189 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA.

BENCHMARK

MARICOPA COUNTY BRASS CAP FLUSH IN CURB-OUT-LET OF GOLD DUST CT. AS SHOWN HEREON. GDACS PUBLISHED ELEVATION = 1024.337' (NAVJO 1988 DATUM).

REFERENCE DOCUMENTS

- DEED AS RECORDED IN DOCUMENT No. 2000-0502087, M.C.R.
- RESULTS OF SURVEY AS RECORDED IN BOOK 1312 OF MAPS, PAGE 40, M.C.R.
- PLAT OF SUN CITY UNIT FIFTY-THREE AS RECORDED IN BOOK 189 OF MAPS, PAGE 19, M.C.R.

SURVEYOR'S NOTES

- ALL MEASUREMENTS ARE AS MEASURED ON THE GROUND UNLESS INDICATED OTHERWISE.
- THIS SITE SURVEY MAP IS BASED ON RESULTS OF SURVEY AS RECORDED IN BOOK 1312 OF MAPS, PAGE 40, M.C.R. AND IS NOT INTENDED FOR RECORDING.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, EASEMENTS, RIGHTS-OF-WAY OR OTHER ENCUMBRANCES MAY EXIST.
- THIS IS SURVEY OF PARCEL NO. 2 AS DESCRIBED IN DEED OF SUBJECT PROPERTY ONLY. PARCEL NO. 1 OF SAID DEED IS ON THE SOUTH SIDE OF BELL ROAD, ACROSS SUBJECT PROPERTY.
- EASEMENTS AS SHOWN HEREON ARE AS SHOWN ON THE PLAT OF SUN CITY UNIT FIFTY-THREE AS RECORDED IN BOOK 189 OF MAPS, PAGE 19, M.C.R.
- THERE IS A TOTAL OF 50 REGULAR PARKING SPACES & 2 HANDICAP PARKING SPACES.
- ALL AREAS OF SUBJECT PROPERTY ARE LANDSCAPED.
- ACCESS TO SUBJECT PROPERTY IS VIA TWO DRIVEWAYS ALONG UNDER AVE. AND ONE DRIVEWAY ALONG WESTERN OF BELL ROAD.
- OVERHEAD ELECTRIC LINE SHOWN HEREON IS MOST NORTHERLY WIRE.
- SEE DETAIL ON SHEET 2 OF 2 OF THIS SURVEY FOR PROPOSED BILLBOARD LOCATION.

SURVEYOR'S CERTIFICATION

THIS IS TO CERTIFY THAT I, DEAN KNEZEVIC AM A DULY LICENSED SURVEYOR IN THE STATE OF ARIZONA AND THAT THIS SURVEY WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION, I FURTHER CERTIFY THAT THESE RESULTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THESE RESULTS ARE SUFFICIENT FOR THE VERIFICATION AND RESTATEMENT BY OTHERS.

DEAN KNEZEVIC, RLS #57279
09/18/17
DATE

MILLER LAND SURVEYING

131 SOUTH 20TH STREET
PHOENIX, AZ 85034-2512
TEL. 602.243.7193
FAX 602.712.1969



DATE 09/18/2017
REVISION 12
DRAWN HC/DK
CHECKED 1BK
PROJECT # 17020512
SHEET NUMBER

1 OF 2

BA2017033

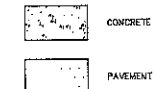
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SITE SURVEY

SOUTHWEST CORNER OF PROPERTY DETAIL SHEET

LEGEND

- ① FOUND 3" MARICOPA COUNTY BRASS CAP FLUSH
- △ SET 1/2" REBAR & CAP "RLS 57270" FLUSH WITH GROUND
- STREET CENTERLINE
- SUBJECT PROPERTY LINE
- 30' X 30' VISIBILITY TRIANGLE LINE
- OVERHEAD ELECTRIC LINE (MOST NORTHERLY WIRE)
- UNDERGROUND ELECTRIC LINE
- WATER LINE BLUE STAKE
- SEWER LINE BLUE STAKE
- MARICOPA COUNTY RECORDS
- R/W RIGHT OF WAY
- M MEASURED
- C CALCULATED
- (R) RECORD BOOK 189 OF MAPS, PAGE 10, M.C.R.
- EV ELECTRIC VAULT (FLUSH WITH GROUND)
- WB WESTBOUND
- ② SEWER MANHOLE
- ③ FIRE HYDRANT
- WATER VALVE
- WATER METER
- ELECTRIC J-BOX
- STREET LIGHT
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- TRAFFIC SIGNAL
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- TRAFFIC J-BOX
- HANDICAP RAMP / PARKING
- TRAFFIC SIGN



NOTES

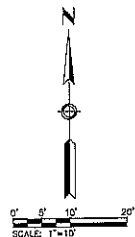
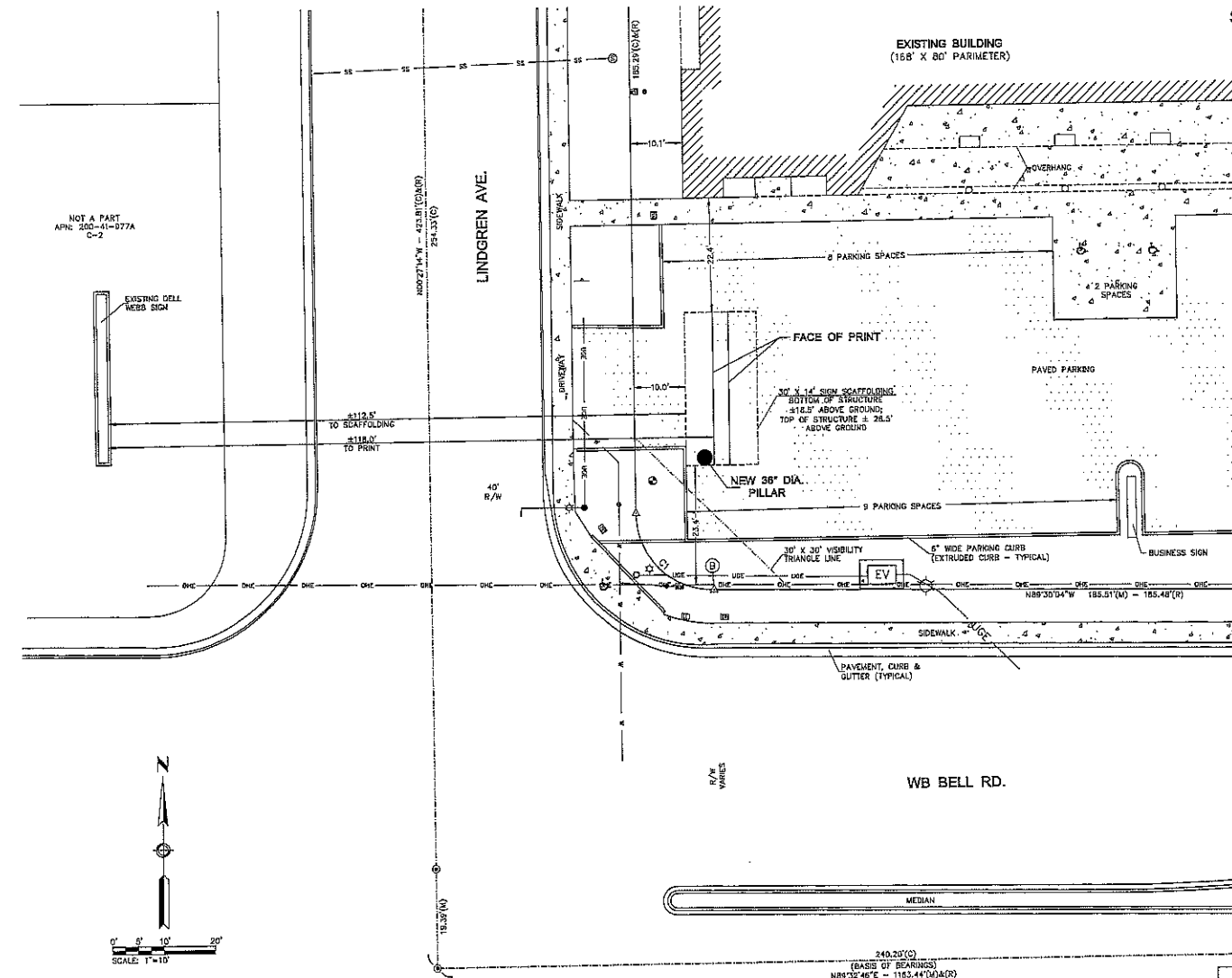
1. THE PURPOSE OF THIS DETAIL IS TO SHOW PROPOSED LOCATION OF NEW BILLBOARD STRUCTURE IN RELATION TO SUBJECT PROPERTY LINES AND EXISTING FEATURES.
2. NO IMPROVEMENTS ARE PROPOSED FOR THE EXISTING BUILDING.
3. SEE SHEET 1 OF 2 HEREON FOR BOUNDARY INFORMATION.
4. THE CLOSEST POINT OF THE PROPOSED BILLBOARD STRUCTURE IS 23.1' NORTH OF MOST NORTHERLY ELECTRIC WIRE RUNNING EAST-WEST.
5. DISTANCE BETWEEN EXISTING FIRE HYDRANT & PROPOSED BILLBOARD IS AS CALCULATED BETWEEN CETERMINES.

MILLER LAND SURVEYING
131 SOUTH 20TH STREET
PHOENIX, AZ 85034-2512
TEL 602.243.7193
FAX 602.712.1969



DATE 10/18/2017
REVISION 12
DRAWN 1 HC/DK
CHECKED 1 DK
PROJECT # 117020316
SHEET NUMBER

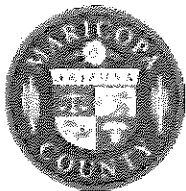
2 OF 2



NOT FOR RECORDING

BA2017033

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SAVE

PRINT

RESET

Planning & Development Department
VARIANCE / APPEAL/ INTERPRETATION APPLICATION
ALL FEES ARE DUE AT TIME OF APPLICATION AND ARE NON-REFUNDABLE

**ONE
STOP
SHOP**

Is this Design Build? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Is this Residential? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Please select the type of Board of Adjustment application from the checkboxes below.			
<input type="checkbox"/> Residential variance	<input checked="" type="checkbox"/> Non-residential variance	<input type="checkbox"/> Appeal	<input type="checkbox"/> Interpretation
<input type="checkbox"/> BA Blanket Variance			
Is this subject property within an area of 15% or greater hillside slopes? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
REQUEST			
Description of Request: Off-premise advertising sign			
Use of Property: Office			
Existing Zoning District: C-2			
Related Case Number/s: unknown			
PROPERTY INFORMATION			
Address (if known): 9420 W BELL RD SUN CITY 85351			
General location (include nearest city/town): NEC of Bell Road and Lindgren Avenue			
Size in Acres: .91	Square Feet: 40,002	Assessor's Parcel Number: 200-41-602	
Legal Description Section: 33	Township: 4N	Range: 1E	
Subdivision Name (if applicable): N/A			
APPLICANT INFORMATION			
Name: Withey Morris PLC		Contact: Adam Baugh	
Address: 2525 E. Arizona Biltmore Cr. A-212			
City: Phoenix		State: AZ	Zip: 85016
Phone #: 602-230-0600		Fax#: 602-212-1787	
E-mail Address: adam@witheymorris.com			
PROPERTY OWNER INFORMATION			
Name: MAX TAYLOR AND COMPANY LLC		Contact:	
Address: 3737 E INDIAN SCHOOL RD STE 106			
City: PHOENIX		State: AZ	Zip: 85018
Phone #:		Fax#:	
E-mail Address:			
PROPERTY OWNER AND APPLICANT AUTHORIZATION			
I (property owner) <u>MAX TAYLOR AND COMPANY LLC</u> authorize (applicant's name) <u>Withey Morris PLCs</u> to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of to file this application on all matters relating to this request with Maricopa County. By signing this form as the property owner I hereby agree to abide by any and all conditions that may be assigned by the Maricopa County Board of Supervisors, Maricopa County Planning and Zoning Commission, or Maricopa County Planning and Development Department staff as applicable, as part of any approval of this request, including conditions, development agreements, and/or any other requirement that may encumber or otherwise affect the use of my property.			
PROPOSITION 207 WAIVER			
The property owner acknowledges that the approval being sought by this application may cause a reduction in the existing rights to use, divide, sell or possess the private property that is the subject of this application. The property owner further acknowledges that it is the property owner who has requested the action sought by the filing of this application. Therefore, pursuant to A.R.S. §12-1132 through 1138, the property owner does hereby waive any and all claims for diminution in value of the property with regard to any action taken by Maricopa County as result of the filing of this application.			
Property Owner Signature: <u>[Signature]</u>		Date: <u>7/31/17</u>	
INSPECTIONS			
By submitting this application, I am inviting County staff to conduct all site inspections they deem necessary.			
VERIFICATION OF APPLICATION INFORMATION			
I certify that the statements in this application and support material are true. Any approvals or permits granted by Maricopa County in reliance upon the truthfulness of these statements may be revoked or rescinded.			
Property Owner Signature: <u>[Signature]</u>		Date: <u>7/31/17</u>	
ARS § 1605 TIMEFRAME EXTENSION			
I authorize a 50% timeframe extension for the review of my application as adopted by the Board of Supervisors per ARS § 1605 and as amended.			
Property Owner Signature: <u>[Signature]</u>		Date: <u>7/31/17</u>	

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BA20170333



PHONE: 602-230-0600

FAX: 602-212-1787

2525 E. Arizona Biltmore Circle, Suite A-212, Phoenix, AZ 85016

August 16, 2017

Board of Adjustment
Maricopa County Planning & Zoning Commission
501 N 44th Street, Suite 100
Phoenix, AZ 85008

Re: Variance / 9420 W. Bell Road

Dear Board of Adjustment,

This firm represents Lamar Advertising who proposes to locate an off-premise billboard sign on the property located at 9420 W. Bell Road in Sun City, Arizona (the "Property"). See attached aerial map at **Tab 1**. The property is a commercial parcel fronting Bell Road and zoned C-2.

Maricopa County Zoning Ordinance Section 1403.3 permits off-premise advertising signs in the C-2 zoning district subject to certain development standards:

- 1000' spacing from another off-premise sign;
- Non-illuminated within 150' of residential homes;
- 500' spacing from a park or school;
- 300 square feet of sign area;
- 30' in height;
- Maintain same property line setbacks as the underlying zoning district;
- Shall be freestanding;
- Maximum angle shall be no greater than 45 degrees.

The applicant believes this site is able to comply with every one of the required development standards. Based on the understanding of the sign code and this site's compliance, the applicant applied for a sign permit with the Planning & Development Department on March 14, 2017. After an initial review, staff informed the applicant it did not meet the 1,000-foot spacing from another sign and that a variance would be required.

We respectfully disagree with staff's characterization of the other sign. The sign in question is located on the parcel to the west as shown in the photographs at **Tab 2**. This is a Del Webb sign, advertising a Del Webb community, located on a parcel owned by Del Webb.

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BA2017033

The sign is not owned or managed by any billboard company. The sign is advertising another Del Webb community "Sun City Festival" located in the West Valley. Historical aerials indicate the sign was constructed sometime between 1979 and 1986.

Upon further inquiry, staff acknowledged the county has no record of ever permitting this sign for off-premise advertising purposes. Staff indicated a zoning violation case for an unpermitted billboard was previously issued but was subsequently closed based on a belief that the illegal sign "converted" into an off-premise sign. However, there is still no record of any permitting for the original sign or its "conversion".

An unpermitted sign cannot become a legal off-premise simply by being in existence. There are mandatory permit applications, staff reviews, building permits, and final inspections. To our knowledge, none of those items exist in this circumstance.

The more likely explanation is the sign was originally built by Del Webb, on their own parcel in the Sun City area, to advertise their own Del Webb Sun City development. Indeed, the sign is at the entrance to the Sun City community which is a logical place for a monument or marketing sign of this type. While the sign currently depicts the next Del Webb community – Sun City Festival – that does not automatically convert it into a permitted and lawful off-premise sign. In actuality, it functions similar to a temporary marketing sign much like other homebuilder marketing signs that are posted across the valley which lead prospective buyers to new developments. In no circumstance would the county consider a developer's marketing sign for a new development akin to an off-premise sign. This sign should be afforded the same considerations.

Arizona Revised Statutes § 11-807.B.2 states the authority of the Board of Adjustment to grant a variance:

Allow a variance from the terms of the ordinance when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the zoning ordinance will be preserved.

Section 303.2.2 of the Maricopa County Zoning Ordinance is modeled after the state statute and relief may be granted by a variance when:

1. "Owing to peculiar conditions,";
2. "A strict interpretation would work an unnecessary hardship";
3. "If in granting such Variance the general intent and purposes of the Zoning Ordinance will be preserved."

Variance relief is warranted in this instance. The special circumstances of a non-permitted sign prohibiting an otherwise compliant off-premise sign is a peculiar condition indeed, if not questionable.

This peculiar condition is not self-imposed, rather, it is created by a mistaken determination that an invalid sign can convert to a valid off-premise sign without any application submittal, permit, or final inspection. Secondly, even if the Del Webb sign had been permitted, it still does not function as an off-premise sign. The more correct interpretation is that the Del Webb sign is a development marketing sign just like all the other homebuilder signs across the valley which advertise their development communities on other parcels.

A strict interpretation of the code creates an unnecessary hardship because it restricts a landowner's private property rights and prevents an otherwise conforming sign.

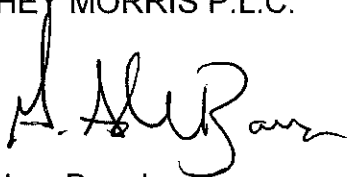
The granting of the variance is consistent with the intent and purpose of the sign code which is to adequately space one billboard sign from another billboard. In this case, the Del Webb sign is not a true off-premise sign for the intent and purposes of the sign code. It is not owned nor managed by any billboard company, nor has it displayed any advertising copy other than Del Webb's own community marketing. The variance request will have no impact whatsoever on the adjacent and surrounding properties. As a result, the relief granted by this application will not substantially impair the purpose of the sign ordinance.

For the reasons outlined above, the variance request is justified and meets the test set forth in the Zoning Ordinance.

Very truly yours,

WITHEY MORRIS P.L.C.

By



Adam Baugh



Maricopa County

Planning & Development Department

Simon Edwards
Planning & Development
501 North 44th Street, Suite 200
Phoenix, Arizona 85008
Phone: (602) 372-0850
Fax: (602) 506-3282
www.maricopa.gov/planning
Email address:
SimonEdwards@mail.maricopa.gov

Date: August 30th, 2017

Memo To: Darren Gerard, AICP, Deputy Director,
Department of Planning & Development

Attn: Eric Smith, Planner, Planning & Development Services

From: Simon Edwards, Engineering Associate,
Planning & Development Services

cc: Michael Norris, P.E., Drainage Engineering Manager,
Planning & Development Services

Subject: BA2017033 – Commercial Variance
Increased Sign Height & Illumination for x1 Off-Site
Advertising Signs – E1 Memo

Job Site Address: 9420 West Bell Road, Sun City, AZ 85351

APN(s): 200-41-602

Drainage has no objection to the proposed commercial variance to allow for x1 off-site billboard sign; submittal date stamped August 23rd, 2017.

The Flood Control District of Maricopa County has no objections or requirements; the subject parcel is not located within a regulated floodplain.

MCDOT has no objections to the requested variance. However, please note, not part of the proposed Off-Site Sign should encroach within the required 25ft x 25ft Sight Visibility Triangle.

Should the Board of Adjustment find favorable approval for the applicants request, a Drainage Clearance will need to be obtained prior to issuance of a building permit(s).

Please contact me if you have any questions or require clarification of these comments.



Maricopa County

Environmental Services Department
Water and Waste Management Division

Subdivision Infrastructure &
Planning Program
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-0376
Fax: (602) 506-5813
TDD 602 506 6704

DATE: August 28, 2017

TO : Eric Smith, Planning & Development Dept.
Planner

FROM: Souren Naradikian, P.E.
Senior Civil Engineer

SUBJECT: Variance for Off-premise sign. BA2017033

The Maricopa County Environmental Services Department (MCESD) has reviewed information concerning the above referenced project provided by the Maricopa County Planning & Development Department. This project is a request for Off-premise sign at APN # 200-41-602.

The variance should not impact water and sewer utilities.

Stormwater - The parcel is located in the urbanized unincorporated area, but the disturbed soil is estimated to be much less than one acre, and therefore, the project is not regulated by the Maricopa County Stormwater Quality Program.

Based on the above, MCESD **raised no objection** to the Planning & Development Department in Accela Automation on August 28, 2017 and will allow the project to proceed at this time subject to the following stipulations:

Stipulations: None

It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.



MARICOPA COUNTY
PLANNING & DEVELOPMENT
BOARD OF ADJUSTMENT



October 15, 2009

Relay Outdoor, LLC
Nema Lankarani
1711 West University Drive
Suite 155
Tempe, AZ 85281

Dear Mr. Lankarani:

SUBJECT: Maricopa County Board of Adjustment Case Number BA2009047

On October 14, 2009 the Maricopa County Board of Adjustment took the following action on your variance request located at 9420 West Bell Road in the Sun City area.

The Board **denied** the appeal of an administrative determination to revoke a permit for an off-site advertising sign.

NOTE: This action, if appealed, must be filed with the Maricopa County Superior Court within 30 days of the hearing date.

If you have any questions or need additional information, you can contact me at (602)506-7139 or e-mail me at darrengerard@mail.maricopa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darren Gerard".

Darren Gerard, AICP
Deputy Director

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2009047

Appeal of an administrative determination

Hearing Date:

October 14, 2009 (Continued from September 9, 2009)

Agenda Item:

8

Supervisor District:

4

[Changes since the September 9th report. *]

Applicant:

Nema Lankarani, Relay Outdoor, LLC

Request:

Appeal of an administrative determination to revoke a permit for an off-site advertising sign

Site Location:

9240 W. Bell Rd. – at the northeast corner of Bell Rd. & Lindgren Dr. (in the Sun City area)

Discussion:

1. The applicant is appealing an administrative determination by staff to the Board of Adjustment. This appeal is to reverse staff's revocation of issued permit B200901552 for an off-site advertising sign (billboard) on parcel 200-41-602 at the northeast corner of Bell Rd. and Lindgren Dr. Revocation was due to staff determination that it was located within 1,000 linear feet of an existing billboard along Bell Rd. on parcel 200-41-977A at the northwest corner of Bell Rd. and Lindgren Dr. Under the MCZO, billboards cannot be located within 1000 feet of each other.
2. The applicant was the complainant in violation case V200900215 in which he alleged that the existing billboard at the northwest corner was illegal in that it was permitted in 1983 as a subdivision/development identification sign (on-site advertising) and was subsequently changed to an off-site advertising sign without benefit of a Zoning Clearance. It was staff's determination from County records and information provided by the existing billboard's owner that the existing billboard appears to have been utilized for off-site advertising both prior to and since 1988 when the section in the Maricopa County Zoning Ordinance (MCZO) pertaining to billboards was amended. As there is no evidence otherwise staff believed that there were insufficient grounds to pursue the violation and the violation case was subsequently closed. Staff determined that this billboard was a valid, pre-existing billboard, precluding the location of another billboard within 1000 feet.

3. Both parcels are zoned C-2 which allows off-site advertising signs per MCZO, Art. 1404.4.1.1-13 subject to conditions including 1404.4.1.9 "...within three miles of the boundary of any incorporated city or town, it shall not be located within 1,000 feet of any other off-premise sign on the same street." The existing billboard prevents the location of any new off-site advertising sign within 1,000 linear feet.
4. Billboards have always been allowed in the C-2 zoning district, but in 1988 the MCZO was amended to include standards limiting the dimensions of billboards and, more importantly, a separation requirement between billboards. The Courts have determined the separation standards to be use regulations and, as such, relief from the standards cannot be granted by the Board of Adjustment through the variance process. Simply put, if the standards cannot be met then the use cannot be located on the site in question.
5. Attached to this report is a packet from the appellant stating his argument that staff erred in revoking his permit because the existing billboard was originally permitted as a subdivision/development sign. The applicant has asked staff to reopen the violation case against the existing billboard and allow him to pursue his construction permit of a billboard on a proximate parcel. Staff is of the opinion that the applicant's argument is anecdotal in nature without any direct factual evidence that the sign was ever utilized as anything other than off-site advertising since prior to 1988. Staff indicated that such evidence could include historic photographs of the sign and affidavits of same from the Sun City HOA.
- 6.* Also attached you will find a counter argument to that of the appellant from Pulte Corp., owner of the existing billboard. This case was continued from the September 9th hearing to give the appellant opportunity to digest this counter argument. No new information has been provided.

Planner: Darren V. Gerard, AICP, Deputy Director

Attachments: Appellant's argument (25 pages)
Counter argument from Earl, Curley & Lagarde, P.C. on behalf of Pulte Home Corp. (4 pages)
Exhibits from Earl, Curley & Lagarde P.C. (50 pages) [Provided with the September 9, 2009 packet.]

Enclosures: Exhibit booklet from Earl, Curley & Lagarde, P.C.