



Legislation Details (With Text)

File #: 18-1053B **Version:** 1

Type: Report **Status:** Passed

File created: 12/6/2018 **In control:** City Council

On agenda: 1/15/2019 **Final action:** 1/15/2019

Title: Deny the request for a major change to a conditional use to grant a variance from Section 6-2-14 in order to construct a canopy for the subject property located at 311 E. Ogden (Bill's Car Wash) - PZC 18-1-102

Sponsors:

Indexes:

Code sections:

Attachments: 1. Application, 2. Legal Description, 3. Disclosure of Beneficiaries, 4. Standards, 5. Location Map, 6. Plat of Survey, 7. Proposed Canopy, 8. 12052018 PZC Minutes

Date	Ver.	Action By	Action	Result
1/15/2019	1	City Council	approved	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Deny the request for a major change to a conditional use to grant a variance from Section 6-2-14 in order to construct a canopy for the subject property located at 311 E. Ogden (Bill's Car Wash) - PZC 18-1-102

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Gabrielle Mattingly

BOARD/COMMISSION REVIEW:

The Planning and Zoning Commission considered PZC 18-1-102 on December 5, 2018. The Commission's motion to approve the request failed (vote 3 in favor; 4 opposed). Staff concurs with the PZC's recommendation of denial.

BACKGROUND:

A conditional use for the subject property was granted in 1999 (Ordinance #99-139) to establish use of the property as a car wash (note: a variance to locate the cashier booths in the front yard was granted through this Ordinance; no variance was listed for the installation of the existing canopy). Located north of Ogden Avenue, east of Brainard Street, the subject property has a common address of 311 E. Ogden. The lot is currently improved with a car wash and is zoned B3 (General Commercial District).

The petitioner, Christian Kalischefski -WT Group, is requesting a variance to the major arterial setback requirements in order to construct a new canopy. Per Section 6-3-8:5.1.5 (changes to approved conditional uses), the variance request requires approval of a major change to the existing conditional use.

DISCUSSION:

Planning and Zoning Commission

The public hearing before the Planning and Zoning Commission (PZC) was held on December 5, 2018. No members of the public spoke on the request. The majority of the Commissioners did not support the request and found that the encroachment into the major arterial setback along Ogden Avenue was too great. Three Commissioners found the glare caused by sunlight was a hardship to the owner and supported the idea of a new awning being constructed on site finding it to be an improvement to the property. A motion was made to approve the variance request which failed (vote: 3 in favor; 4 opposed).

Revisions to Request

The petitioner submitted revised plans based upon feedback from the PZC. These revisions include an increase in canopy setback and a decrease in canopy size, as further described below. The revised request still requires a variance to Section 6-2-14. Staff has reviewed the revised plans and finds the request will still have an impact on the Ogden Avenue Corridor and is therefore, still not in support of the revised request.

Major Arterial Setback Variance

The revised request includes an increase in canopy setback from 7' 1" to 9' 10" and a decrease in canopy size from 23' by 30' (690 sf) to 22' by 21' 10" (481 sf). The canopy height will still be approximately 12'. Per Section 6-2-14 (Major Arterial Setback), a minimum setback of 70' from the centerline or 20' from the edge of the right-of-way, whichever is greater, must be maintained. Upon review of the subject property, the centerline of the right-of-way is located 30' from the property line. Therefore, the 70' setback requirement applies and the canopy must be located 40' from the property line. As proposed, the canopy is located approximately 9'-10" from the property line, extending approximately 30' into the setback.

Per the petitioner, the goal of the proposed canopy is to improve visibility for customers using the pay/touch screen by providing protection from the sun/glare. The petitioner's responses to the Standards for Granting a Variance are included in the attachments. Staff does not concur with the responses to the standards submitted by the petitioner. Staff's comments with respect to the variance standards, based upon a review of the subject property and applicable Code provisions are as follows:

Variance Standard #1: The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan.

Staff Comments: The major arterial setback requires the canopy to be located 40' from the property line. As proposed, the canopy is located 9'-10" from the property line. An approximately 30' encroachment does not maintain the intent of the major arterial setback requirement in the Municipal Code. While the proposed canopy will allow for the removal of 2 lower canopies and 2 payment kiosks to be removed, staff finds the overall size of the canopy is unnecessary for its proposed use.

Variance Standard #2: Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district.

Staff Comments: The subject property is zoned B3. It is not unique from other properties in the same zoning district and strict enforcement of the major arterial setback requirements does not result in a hardship. Staff does not find that the requested variance is necessary and finds that smaller, individual canopies over the self-service pay points could be provided as an alternative to give protection from sun/glare. In addition, the proposed canopy is more than double in size of the existing canopy.

Variance Standard #3: The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

Staff Comments: The existing canopy on the property is approximately 14' by 23' (322 square feet). The proposed canopy is 22' x 21' 10" (481 square feet). Upon review of the surrounding Ogden Avenue corridor, staff finds the proposed size and encroachment into the setback will seem out of place with the character of the neighborhood and does not enhance the Ogden Avenue corridor.

Key Takeaways

- The petitioner is requesting a major change to the conditional use to grant a variance to allow for a canopy to encroach into the major arterial setback at 311 E. Ogden.
- Staff and PZC recommend denial of the major arterial setback variance as the proposed canopy is not consistent with intention of the underlying Code requirements.

FISCAL IMPACT:

N/A