

The Board of Adjustments met Monday, April 15, 2024, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle, Vice-Chair; Frank Lamia; Ryan Baker; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; and Cindy Beaudreau, Planning Clerk.

Absent: Donna Cook

Chairman Vira called the meeting to order at 5:00 PM.

Approval of Minutes

Ryan Baker made a motion to approve the minutes from the March 18, 2024, meeting.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and Bryan Flowers

Nay: None.

BOA 24.01 Public hearing to consider the request of the Applicant, Cartiology LLC, on behalf of the Owner, Fairhope Avenue Partners LLC, for a Special Exception – Use on Appeal – to display carts for outside sales on property located at 506 Fairhope Avenue. The property is approximately 0.2 acres. **PPIN#: 15136**

Mike Jeffries, Development Services Manager, explained the request. Ms. Jeffries explained the intentions of B-2 zoning and that outdoor sales it not allowable by right, but only by special exception approval per the Fairhope Zoning Ordinance. The use is allowed “only on appeal and subject to special conditions”. The applicant is requesting the ability to display no more than three carts outside for sale in front of the building in a designated location during the hours of Monday through Friday from 10am to 5pm and Saturday from 10am to 2pm. An area of concrete needs to be removed for this project to become compliant with the Tree Ordinance.

Recommendation:

Staff recommends approval of Case BOA 24.01 with the following conditions:

1. Outdoor sales shall be limited to a maximum of three carts displayed at one time inside the designated area.
2. Carts are displayed only during normal business hours.
 - a. Monday – Friday 10am-5pm
 - b. Saturday 10am-2pm
3. The area reserved for display shall have concrete pavers and be bordered with a picket fence to be between 2 ½' and 4' tall.
4. Remove area of concrete adjacent to the ROW mimicking the other side of the shared drive.
5. Add landscaping along the front and side property in accordance with the Tree Ordinance to be approved by the City Horticulture Supervisor.

Anil Vira asked if the fence were 4' tall, would you still be able to see the carts. Mr. Jeffries explained that the fence must be between 2 ½' and 4' so it does not have to be 4'.

Ryan Baker asked why the limit was for only three carts when others in town have more. Mr. Jeffries answered that the applicant provided that number. Mr. Baker asked how we could control that. Mr. Jeffries replied that it was tied to their business license.

Cathy Slagle asked if three were approved for the Delamar property and how many were approved for that property. Mr. Jeffries stated that he did not recall there being a maximum on the Delamar property. Mr. Baker stated that he has seen six on that property along with other types of vehicles.

Mr. Baker asked if the fence was suggested by the applicant. Mr. Jeffries replied that the Tree Ordinance requires a buffer between vehicle use area. Staff asked the applicant to provide something that would designate the area as a display area and not for parking or storage.

Ms. Slagle stated that she drove by and there were two carts parked there on the concrete and asked how that will change with three more in the grass area. Mr. Jeffries explained that the business license was for cart sales and staff noticed that there were carts on display. The business license will be changed for the outside limited sales. The applicant will have to abide by the decision of the Board of Adjustments.

Ben Waugh, Cartiology, stated that they are working to make the area look good and appealing for sales. That is why they chose the fence with low plants. Mr. Waugh stated that he could probably fit four carts. Alton, White Spinner, stated that the landlord does not want to cut out the concrete. He considers the concrete an asset for parking during events. Mr. Lamia asked where customers park now. Alton stated that customers park between the buildings. Mr. Baker asked if there was ADA parking in the bank. Alton stated yes. Bryan Flowers asked if the fence was a requirement. Mr. Jeffries stated that the Tree Ordinance requires a 10' landscape buffer across the front which is why the bank cut out their concrete in the front along with landscaping. The landscaping was either not installed or it was put in and it died. Mr. Jeffries explained that there is not a requirement to have the fence but installing the fence would help not make the area a 10' area that could not be used, but rather to make it a display area.

Mr. Baker asked the applicant if they wanted four carts. The applicant stated yes. Alton explained that they would love to allow this display but reiterated that he does not want to cut out the concrete. Mr. Lamia stated that area would give them more display area. Mr. Waugh asked if AstroTurf could be used to cover that concrete area rather than removing it. Mr. Jeffries stated that staff would not support Astro Turf on top of the concrete. Staff is requesting the concrete be removed and replaced with grass.

Chairman Vira opened the public hearing at 5:25pm. Having no one present to speak, the public hearing was closed at 5:25pm.

Mr. Jeffries stated that if the building stay as is, they will not be required to remove the concrete.

Motion:

Frank Lamia made a motion to approve BOA 24.01 with staff recommendations.

Mr. Vira and Mr. Baker asked if he was revising the number of carts. Mr. Lamia and Ms. Slagle both agreed that the applicant asked for three and that was what they agreed to.

Cathy Slagle seconded the motion.

Mr. Baker asked if the motion could be revised to be four carts.

There was more discussion about the number of carts.

Frank Lamia revised his motion to include revising the first condition to four carts rather than three.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and Bryan Flowers

Nay: None.

Old/New Business

Mr. Vira asked if there was a May meeting. Mr. Jeffries stated that there are two cases for May.

Adjournment

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and Bryan Flowers

Nay: None.

Adjourned at 5:30p.m.


Anil Vira, Chairman



Cindy Beaudreau, Secretary