



12-250

**TITLE:** Conduct a Public Hearing to Consider/Discuss/Act on a Sign Variance Request by Applebee's, Appealing the Denial of a Sign Permit to Allow Additional Signage Located on the North side of University Drive Approximately 150 feet East of U.S. Highway 75.

**MEETING DATE:** April 17, 2012

**DEPARTMENT:** Development Services - Building Inspections

**CONTACT:** Jeff Harris, Plans Examiner

**RECOMMENDED CITY COUNCIL ACTION:**

- Denial of request.

**ITEM SUMMARY:**

- Applebee's has requested a sign variance to raise their pole sign from it's current height of 24' to 40' due to site restrictions created by the required trees located within the landscape setback on their property.

**BACKGROUND INFORMATION:**

- The applicant is proposing a 40' tall pole sign on University Drive.

Current Sign Ordinance

- The sign ordinance has been formulated to allow signage that is proportionate to the size roadway the property has frontage to.
- Chapter 134 - 7c, of the City of McKinney sign ordinance, clearly identifies University Drive, between U.S. Highway 75 and McDonald Street, as being a location where pole signs are allowed.
- Chapter 134 - 7 Table 1, of the City of McKinney sign ordinance, clearly states the maximum height for a pole sign along University Drive is 24'.
- The applicant, in the sign variance submittal, does reference the Jack in the Box pole sign located at 1825 W. University Drive. This particular sign pre-dates the current sign ordinance, therefore it is allowed to remain at it's current height.

Tree Ordinance Provisions

- For all non-residential and multi-family parcels, developers shall be required to plant one canopy tree per 40 linear feet, or portion thereof, of street frontage. These required trees must be planted within the associated landscape setback along thoroughfares, unless otherwise approved by the Director of Planning. Trees may be grouped or clustered to facilitate site design.
- The tree requirement is consistent with properties along University Drive.
- The hardship expressed by the applicant is related to a visibility obstruction created by the required trees within the landscape setback.
- The current trees, on the Applebee's site, have been drastically cut to a point that they may have become critically altered by definition.
- City staff has met with the applicant on numerous occasions to discuss visibility options for the site.
- **Alternate Solution** - Based on the landscape requirements at all non-residential and multi-family sites, staff would recommend a six foot tall ground monument sign. A ground monument sign would be located beneath the tree canopy allowing for visibility while still maintaining a high esthetic quality.

#### **SPECIAL CONSIDERATIONS:**

- Signage that does not conform with the sign ordinance may seek relief through a meritorious exception or an appeal of a denied sign permit.
- The sign ordinance states the criteria in the Local Government Code relating to boards of adjustment applies to the City Council during a deliberation of an appeal.
- The criteria found in the Local Government Code is as follows:
  - a) The board of adjustment may:
    - (1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;
    - (2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;
    - (3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and
    - (4) hear and decide other matters authorized by an ordinance adopted under this subchapter.
- The staff has determined the subject site does not have any unusual hardships

or practical difficulties that are not applicable to similarly situated sites along University Drive for the applicant's request to qualify for a variance.

- In deciding the applicant's appeal from a denied sign permit, the Council can find either:
  1. Staff was correct in its interpretation of the regulation and the request is denied, or
  2. Staff was incorrect in its interpretation of the regulation and the request is granted, or
  3. Staff was correct; however, a variance should be granted regardless.

**FINANCIAL SUMMARY:** N/A

**BOARD OR COMMISSION RECOMMENDATION:** N/A

**SUPPORTING MATERIALS:**

[Applebee site plan](#)

[Applebee 40' sign](#)

[Trees Blocking Visibility](#)

[Trees Altered](#)

[Applebee's East view](#)