



Legislation Details (With Text)

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**Title:** Case No. BA-20-06 (Capstone Properties Variance)  
5205 E. Lincoln Drive (APN 169-27-029)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Vicinity Map & Aerial Photo, 2. B - Application, 3. C - Narrative & Plans, 4. D - Notification Materials, 5. E - Kimley Horn Review Comments

Date	Ver.	Action By	Action	Result
11/4/2020	1	Board of Adjustment	Approved	Pass

**TO:** Chair and Board of Adjustment

**FROM:** Paul Michaud, Planning Manager  
George Burton, Senior Planner

**DATE:** September 2, 2020

**DEPARTMENT:** Community Development

**AGENDA TITLE:**

**Capstone Properties Variance - 5205 E. Lincoln Drive (APN 169-27-029)  
Case No. BA-20-06**

**MOTIONS**

**A. MOTION FOR APPROVAL**

I move for **[approval]** of Case No. BA-20-06, a request by Capstone Properties, property owners of 5205 E. Lincoln Drive; for a variance from the Zoning Ordinance Article XXIII, Nonconformance, to allow a change in use. The property is lawful nonconforming by use and zoned R-43 Single-Family Residential District. Past uses on the property since annexation in 1982 included design center/antique sales, a ladies clothing store, and a florist shop. The Board of Adjustment may consider changes in use if it determines such use(s) are not a more intense use. The property owner is requesting a change in use to allow for a title agency and a luxury real estate agency as tenants. The new uses will be in two of the three existing buildings.

The variance shall be subject to the following stipulations:

1. The improvement shall be in substantial compliance with the submitted plans and documents:

- a. The Narrative with Exhibits A - L, prepared by Snell & Wilmer and dated October 26, 2020.
2. The parking area must be restriped in order to accommodate the new and existing uses. Due to staff concerns associated with the Parking Concept Plan in the "CivTech Trip Generation and Parking Analysis - 5205 E Lincoln Drive Town of Paradise Valley, Arizona, dated October 28, 2020," the applicant must submit an updated parking lot plan subject to Town Engineer review and approval. The updated parking plan must:
  - a. Take into consideration the required number of parking spaces, ingress/egress requirements, and parking sizing; and
  - b. A second ADA parking space shall be placed in front of Building B. The ADA parking spaces shall comply with the American with Disabilities Act standards and is subject to Building Official review and approval.

### **Reasons for Approval:**

I find that the request meets the change in use criteria in accordance with Section 2306 of the Town Zoning Ordinance.

### **B. MOTION FOR DENIAL**

I move for **[denial]** Case No. BA-20-06, a request by Capstone Properties, property owners of 5205 E. Lincoln Drive; for a variance from the Zoning Ordinance Article XXIII, Nonconformance, to allow a change in use. The property is lawful nonconforming by use and zoned R-43 Single-Family Residential District. Past uses on the property since annexation in 1982 included design center/antique sales, a ladies clothing store, and a florist shop. The Board of Adjustment may consider changes in use if it determines such use(s) are not a more intense use. The property owner is requesting a change in use to allow for a title agency and a luxury real estate agency as tenants. The new uses will be in two of the three existing buildings.

### **Reasons for Denial:**

I find that the request does not meet the change in use criteria in accordance with Section 2306 of the Town Zoning Ordinance.

### **BACKGROUND**

#### **Request**

The property is lawful nonconforming by use and is zoned R-43 Single-Family Residential District. Past uses on the property since annexation in 1982 included design center/antique sales, a ladies clothing store, and a florist shop. The property owner is requesting a change in use to allow for a title agency and a luxury real estate agency as tenants. The new uses will be in the two of the three existing buildings, which adjoin Lincoln Drive.

#### **Lot History**

The subject property is Lot 7 of the McDonald Acres subdivision. The property was platted in 1949 and annexed into the Town in 1982. The property is lawful nonconforming by use and is zoned R-43 Single-Family Residential District. The following is a brief history of the property:

- John and Kay Morse purchased the property in 1978 and created a design studio/antiques sales room and florist shop.
- The property was annexed into the Town in 1982 and continued to operate as a design studio, antiques sale room, and ladies clothing store (later florist shop). Then, the property was purchased by Gregory Hague in 2000. Hague initially applied for a variance for a change of use to a design center that showcased Paradise Valley

homes, however, the variance application was withdrawn.

- Phil McClanahan purchased the property in 2010. Paradise Valley Home Design Center (by BedBrock Developers) occupied all three building. Paradise Valley Home Design Center displayed different design materials and products associated with remodeling and building a new home (e.g. counter tops, cabinets, hardscape materials, appliances, etc.). This was deemed by the Community Development Director to maintain the same legal-nonconforming design studio use.
- Steven's Luxury Furniture Consignment occupied the front two buildings (Buildings A and C) and was also deemed to be compliant by the Community Development Director with the existing nonconforming design center/studio use. Buildings A and C were vacated due to a roof collapse and the buildings were repaired in accordance with Town Code.

Also, the following permits have been issued on subject property:

August 18, 2000	Plumbing Permit to Relocate Drains in Bathroom
June 19, 2003	Electric Permit to Add Indoor Light Fixtures
September 23, 2010	Electric Permit to Add Outlets and Light Fixtures
September 23, 2010	Plumbing Permit for Gas Range and Water to Sinks
September 27, 2010	Building Permit for Mansard Roof Renovation
June 28, 2011	Electric Permit to Replace Outlets, Switches, and Receptacles
October 28, 2011	Building Permit for Gates & Wrought Iron Fence
May 29, 2019	Building Permit to Replace Mansard on Two Front Buildings
October 29, 2019	Building Permit to Update Free Standing Monument Sign

Lot Conditions

The property is zoned R-43 and is approximately 34,232 square feet in size (0.78 acres in size). The lot is rectangular in shape, adjoins Lincoln Drive, has three existing buildings on site, and 27 parking spaces. Building A is located at the northwestern part of the lot and adjoins Lincoln Drive. Building C is located at the northeastern part of the property and adjoins Lincoln Drive. Building B is located near the southern part of the lot (behind Buildings A and C).

Scope of Request

The three buildings on the property will remain and will not be expanded or enlarged. Building B is the southern building and will continue to be occupied by BedBrock Developers. Buildings A and C are the subject of this request and will be occupied by the new uses/tenants.

Building A will be occupied by the Karas Group, which is a luxury real estate agency. In Building A, the Karas Group will: 1) promote luxury properties in the Town of Paradise Valley and surrounding areas, and 2) conduct home related services such as property research, marketing analysis, and comparable property values. No real estate transactions will be conducted by the Karas Group at the property. Building A will also function as a Town of Paradise Valley welcoming and information center.

Building C will be occupied by Premier Title Agency, which will provide services such as property and title research, underwriting, transaction support services, refinance and reverse mortgage needs of lenders, and advise clients regarding mortgages. The agency will utilize online services and mobile professions who will meet with clients for signatures and other non-electronic services.

Karas Group and Premier Title Agency will also use the existing sign areas on the buildings to display their signage.

**DISCUSSION/ FACTS:**

Change in Use

Per Article XXIII of the Town Zoning Ordinance, the Board of Adjustment may consider changes in use if it determines such use(s) are not a more intense use. Section 2306 of the Town Zoning Ordinance states:

A Nonconforming Use may be changed to another Nonconforming Use only if the Board of Adjustment determines that the new use is not a more intense use. The factors to be considered by the Board of Adjustment

shall include, but not be limited to:

1. Increased traffic
2. Increased parking
3. More on-site employees
4. Change in hours of operation
5. Increased noise
6. Greater light
7. Increased dust
8. Increased building size
9. Larger vehicles on the site.

The following are staff's findings regarding the nine change of use factors:

Increased Traffic

Per the applicant narrative, only a small number of transactions with customers are anticipated with the new uses. The proposed tenants are not expected to generate a significant increase in traffic than what could be generated by low-intensity service orientated retail uses.

A Trip Generation Comparison and Parking Analysis was provided by CivTech; which compares the amount of traffic generated for the prior and the proposed uses and the amount of parking space needed for the new uses. The trip generation modeling was based upon the Shopping Center code/classification from the Institute of Transportation Engineers (ITE) Manual and the parking analysis was based upon the criteria outlined Sections 6 and 7 of the Town of Paradise Valley Special Use Permit Guidelines. The Trip Generation Comparison and Parking Analysis identify that the two new uses will generate 4 more weekday daily trips and 34 less weekend daily trips. Below is a summary of weekday and weekend total average daily trips (ADT):

	ADT	AM Peak Hour	PM Peak Hour
<b>Weekday</b>			
<b>Prior Use</b>	158	4	16
<b>Proposed Use</b>	164	9	18
<b>Difference</b>	4	5	2
<b>Weekend</b>			
	ADT	Peak Hour	
<b>Prior Use</b>	196	19	
<b>Proposed Use</b>	162	17	
<b>Difference</b>	- 34	-2	

The Town also hired a third-party reviewer (Kimley Horn) to evaluate the applicants Trip Generation Comparison and Parking Analysis. Kimley Horn agrees with the use of the ITE Shopping Center code for the modeling and worked with CivTech to clarify several areas in the report. As noted above, the new uses will slightly increase the weekday traffic by 4 more daily trips, but will reduced the weekend traffic by 34 less daily trips (as compared to the prior uses on this property). The Town Engineer also reviewed and agrees with the applicant's trip generation analysis.

Increased Parking

The applicants Trip Generation Comparison and Parking Analysis used Section 6 and Section 7 of the Town's Special Use Permit (SUP) Guidelines for retail sales to evaluate the amount of parking needed to accommodate the existing and proposed uses. Section 6 of the SUP Guidelines recommends that "Religious Facility, Private School, Non-Profit Organization, Public/Quasi Public" should have 1 parking space for each 300 square feet of office space and includes employee parking. Section 7 of the SUP Guidelines recommends that "Country Clubs Golf Courses" should have 1

parking space for each 300 square feet of sales area and excludes employee parking. One parking space shall be provided for each employee. The parking standards outlined in Section 6 were applied to Building C (Premier Title Agency) and the parking standards outlined in Section 7 were applied to Building A (Karas Group) and Building B (BedBrock Developers).

Kimley Horn agrees with the use of Section 6 and Section 7 of the SUP Guidelines to determine the minimum amount of parking needed for the site. Based upon the parking analysis, Building A (Karas Group) will need 8 parking spaces (4 customer spaces and 4 employee spaces). Building C (Premier Title Agency) will need 5 parking spaces (the 5 spaces include both employee and customer parking). Building B (BedBrock Developers) will need 11 parking spaces (7 customer parking spaces and 4 employee parking spaces). Employee parking will be limited to the spaces in the back/southern portion of the property; which will leave the front parking spaces (adjoining Buildings A and C) and the remaining back/southern spaces available for customers.

Based upon this metric and the square footage of each the existing buildings, a total of 16 parking spaces are required to accommodate customers and 8 parking spaces are needed to accommodate employees. This results in a minimum requirement of 24 parking spaces and the site has 27 existing parking spaces.

The Trip Generation Comparison and Parking Analysis recommends the addition of a second ADA parking space in front of Building B and provides a restriped parking plan (e.g. the Parking Concept plan). Staff agrees that the parking layout should be restriped in order to accommodate the new uses and that a second ADA parking space is required in accordance with standards outlined in the Americans with Disabilities Act.

However, the Town Engineer and Kimley Horn have concern that the proposed Parking Concept plan does not work. The proposed parking lot layout for Buildings A and C is not approved and requires more information for review. As a result, a stipulation was added to identify that if the variance is granted, the applicant needs to work with the Town Engineer on obtaining an approved parking lot plan (which takes into consideration the required number of spaces, ingress/egress, and parking space sizing). A copy of Kimley Horn's review comments is enclosed for reference (see Attachment E).

More Employees on Site

Based upon historical data, the previous uses (e.g. Morse Design Studio and the florist shop) had 9 to 17 employees. The Karas Group will have 2 to 4 employees, Premier Title Agency will have 4 employees, and BedBrock Developers has 4 employees. As a result, the property will have up to 12 employees on site. For comparison, the historical use of Morse Design Center had up to 13 employees, the florist shop had up to 4 employees, and the Paradise Valley Design Center had 3 employees.

Change in Hours of Operation

The tenant's hours of operation will be similar to the historical hours of operation on the property. Below is a comparison of the proposed hours of operation and historical hours of operation:

Hours of Operation	Proposed	Historic
Monday through Friday	8 am to 5 pm	9 am to 5 pm
Saturday	9 am to 3 pm	9 am to 3 pm
Sunday (By Appointment)	9 am to 6 pm	9 am to 6 pm

Increased Noise

According to the applicant's narrative, the Karas Group and Premier Title Agency will not generate noise beyond the current or ambient conditions. Also, there may be a decrease in noise since the new uses do not utilize large vehicles which are associated with a consignment store, design center, and florist shop.

Greater Light

The applicant identified that no changes to the exterior lighting are proposed at this time.

Increased Dust

There should be no increase in dust since the new tenants will utilize the existing buildings.

Increased Building Size

The existing building will not be expanded or enlarged to accommodate the new tenants.

Larger Vehicles on Site

The tenants are not expected to receive large scale deliveries to property and the new uses should not utilize large vehicles which may have been utilized with the previous uses of a design center, florist shop, and consignment store.

**COMMENTS:** Staff received no comments or inquiries regarding this request.

**COMMUNITY IMPACT:** None.

**FISCAL IMPACT** None.

**CODE VIOLATIONS:** None.

**ATTACHMENTS**

- A - Vicinity Map & Aerial Photo
- B - Application
- C - Narrative & Plans
- D - Notification Materials
- E - Kimley Horn Review Comments

C: Heather Dukes, Taylor Moran, Noel Griemsmann (Applicant)  
Case File BA-20-06