

Board of Adjustment

Staff Report

CASE NUMBER: BA17-033 (PLN2016-00838)
LOCATION/ADDRESS: 1710 W Southern Avenue
COUNCIL DISTRICT: District 3
PLANNER: Lisa Davis, Planner II
OWNER: O & N Fiesta Square, LLC
APPLICANT: ESCA Environmental, Inc.-Eugene S. Cetwinski

REQUEST: *Requesting a Substantial Conformance Improvement Permit (SCIP) to add a drive through to a restaurant within and existing commercial center in the LC district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a Substantial Conformance Improvement Permit (SCIP) to allow a drive through to be installed as part of an existing pad building in a commercial center at 1710 W Southern Avenue.

STAFF RECOMMENDATION

Staff recommends denial of the SCIP for case **BA17-033** as indicated in the analysis of the report and findings.

SITE CONTEXT

CASE SITE: Existing commercial center – zoned LC
NORTH: Existing multi residence – zoned RM-4
EAST: Existing multi residence – zoned RM-4
SOUTH: (Across Southern Avenue) Existing community college – zoned PS
WEST: Existing commercial– zoned LC

PROJECT DESCRIPTION

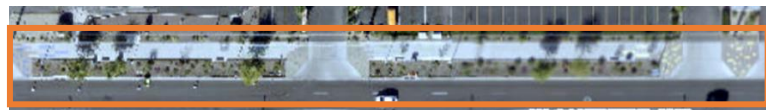
Development	Overall Commercial center	Proposed site within center
Overall Site area	2± acres	.07± acres
Existing Building area	28,400 SF	2,400 SF
Existing parking spaces	138 with cross access to the west	
Proposed parking spaces	136 with cross access to the west	

STAFF SUMMARY AND ANALYSIS

The existing commercial center was constructed in the late 1970's with the two pad buildings adjacent to Southern Avenue. In 2012 the Burger King Building at the southwest portion of the site was razed and the new Jimmy Johns restaurant was constructed. The remaining portions of the center have remained untouched since the original construction of the center. As part of the Fiesta District "Road Diet", Southern Avenue was narrowed in this area and improvements were installed in the right of way (ROW) including wider sidewalks and landscape material on both sides from Alma School Road to Dobson Road. Below are before and after pictures:



Before Fiesta District improvements-2008



After Fiesta District ROW improvements-2016

This proposal is specifically for a drive through to be incorporated into the existing 2,400 square feet (SF) pad building adjacent to Southern avenue. The drive through aisle is proposed to start with ordering at the north side of the building and wrap to the pick-up window on the west side of the building. The picture to the right shows the existing landscape on the north side of the pad building and the distance between the pad building and the existing commercial strip center. Although staff appreciates the property owner wanting to make changes to the existing commercial center, the proposed drive through will create new non-conformities to the site as will be discussed in the analysis of the report.



Substantial Conformance Improvement Permit (SCIP)

It is important to note that the Substantial Conformance Improvement Permit (SCIP) allows for modifications to code requirements to allow for improvements to occur on the site. However, the new improvements cannot create new non-conforming conditions per Mesa Zoning Ordinance (MZO) Section 11-73-3.

Staff reviewed the proposed site plan and landscape plan for the installation of the drive through against the MZO development standards for the LC- Limited Commercial district for the entire site, as is required for a SCIP, and the standards for a drive through in MZO Section 11-31-18. Looking at the overall site, the landscape/building setback is required at 15' adjacent to Southern Avenue and the existing landscape setback scales at 5'. A 15' wide landscape setback is required at the north and the east property lines adjacent to the multi-residence projects. Currently, there is no landscape setback at the north and approximately 7' at the east. To the west is an LC commercial project and, because it has shared access and parking, would be considered a group commercial center and no landscape setback is required.

Landscape material that is required at the perimeter is indicated in the table below along with the proposed landscape material:

Development Standard	Code Requirement	Applicant Proposed
<i>Landscape material</i> Southern Avenue-351'	14 trees & 84 shrubs	Existing
North Property Line	14 trees & 93 shrubs	none
East Property Line	8 trees & 55 shrubs	Existing 4 trees & various shrubs

The existing commercial center does not have landscape islands every eight contiguous parking spaces as is required by MZO Section 11-33-4. To bring the site further into compliance, the applicant is proposing to add two landscape islands adjacent to Southern Avenue.

The site plan submitted indicates that there are non-conforming conditions created with the new drive through and are listed below:

1. MZO Table 11-32-2.H requires a drive aisle adjacent to 90-degree parking to be a minimum of 24' wide. The site plan submitted indicates that the drive aisle at the north side of the proposed drive through is only 23' wide.
2. MZO Section 11-31-18 requires that the drive-thru traffic lane be physically separate from the non-drive-thru traffic area with a minimum five-foot wide, raised landscape median. The proposed 40" high wall at the north side of the drive-through does not meet this requirement.
3. MZO Section 11-32-2.J requires a one way drive aisle shall be a minimum of 12' wide. The site plan indicates the proposed drive aisle is 11' wide.
4. MZO Section 11-31-18 requires a minimum of 2' of foundation base along the exterior of the building adjacent to the drive through. The plans show no foundation base at the north side of the building adjacent to the drive through.

The intent of a SCIP is to recognize existing site constraints, and work with the applicant to proportionately improve the property based upon current development standards. The modifications requested create new non-conforming conditions. The required findings for a SCIP include the proposed modifications cannot cause or create new non-conforming conditions. Therefore, the proposed modifications for the installation of the drive through cannot be supported and require a denial of the application.

FINDINGS

1. The commercial site was constructed in the late 1970's.
2. The strip center with two pad buildings has remained within this same shape, layout and design since development.
3. The proposed site plan amendment to introduce a drive through creates new non-conformities that are in conflict to the required findings of a SCIP per MZO Section 11-73-3, including:
 - a. A reduced drive aisle of 23', MZO Table 11-32-2.H requires a drive aisle adjacent to 90-degree parking to be a minimum of 24' wide;
 - b. no raised landscape median between the non-drive through land and the traffic area MZO Section 11-31-18 requires that the drive-thru traffic lane be physically separate from the non-drive-thru traffic area with a five foot (5') wide raised landscape median;
 - c. A reduced drive through aisle of 11' wide, MZO Section 11-32-2.J requires a one way drive aisle shall be a minimum of 12' wide; and
 - d. No foundation base along exterior of building, MZO Section 11-31-18 requires a minimum of 2' of foundation base along the exterior of the building adjacent to the drive through.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec. 11-6-3 – Development Standards for the LC District:

Front Yard (4-lane arterial)- 15' Minimum building and landscape; Interior side and rear adjacent to RM district- landscape-15' and 20' building; (paraphrased from table found in Sec. 11-6-3).

Section 11-73-3 Substantial Conformance Improvement Permits (SCIP) Required Findings

A SCIP shall not be granted unless the Zoning Administrator, acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence that:

- A. The entire development site will be brought into substantial conformance. Substantial conformance shall mean physical improvements to the existing development site which constitute the greatest

degree of compliance with this Ordinance that can be attained without causing or creating any of the following conditions:

1. The demolition or reconstruction of existing buildings or other significant structures (except signs); or
 2. The cessation of the existing conforming use, or the preclusion of any other lawful, permitted use.
 3. The creation of new non-conforming conditions.
- B. The improvements authorized by the SCIP will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.