



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

December 4, 2019

CASE No.: BOA18-00959	PROJECT NAME: Mint Dispensary Expansion
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Owner's Name:	RMEG Investments, LLC
Applicant's Name:	Joshua Oehler, Arc One Associates
Location of Request:	330 East Southern Avenue
Parcel No(s):	139-31-056, 139-31-057A and 139-31-058B
Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to certain development standards for the expansion of an existing industrial development.
Existing Zoning District:	Light Industrial (LI)
Council District:	4
Site Size:	1.4 ± acres
Proposed Use(s):	Medical Marijuana Facility
Existing Use(s):	Medical Marijuana Facility
Staff Planner:	Veronica Gonzalez
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **August 15, 1977**, the City Council approved a rezoning of 7.6 acres of property from Limited Commercial (LC) to Light Industrial (LI) to allow the development of an industrial subdivision (Z77-029). The subject property was part of the approved subdivision. According to Maricopa County records, the existing buildings on the site were constructed in the 1980's.

On **March 9, 2017**, Suite 37 of the existing 2,704 square foot building located on the southwest corner of the property, adjacent to Southern Avenue, was registered as a medical marijuana dispensary.

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to add approximately 11,700 square feet to an existing industrial development on the subject site. Approximately 5,300 square feet will be added to the existing 2,704 square foot building located on the southwest corner of the property, shown on the site plan as building A, and approximately 6,400 square feet will be added to the existing 8,185 square foot building on the north side of the property, shown on the site plan as building B. The two buildings will be connected with an outdoor patio area that is gated on the east and west sides.

Currently, the site does not conform to building setbacks per Section 11-7-3 and landscape standards per Section 11-33 of the Mesa Zoning Ordinance (MZO), therefore, the existing site is considered a non-conforming site. Due to existing conditions, achieving full conformance with the MZO would require significant alterations to the site. Section 11-73 of the MZO establishes the Substantial Conformance Improvement Permit (SCIP) process and review criteria. The intent of a SCIP is to achieve a proportional degree of improvement that brings a site into substantial conformance with certain requirements of the MZO without having to bring the site into full conformance. To bring the site into substantial conformance with the MZO, the applicant proposes the following improvements:

1. Installation of new landscape area and landscaping within the parking area;
2. Installation of new landscaping adjacent to Southern Avenue; and
3. Installation of foundation base landscape.

General Plan Character Area Designation and Goals:

The property is located within the City's Employment character area designation. Specifically, the property is within the Industrial sub-type of the Employment character area. Per Chapter 7 of the General Plan, the primary focus of the Employment District is to provide high-quality employment-type land uses. Light industrial and manufacturing operations are typical land uses allowed within the Employment character area. The proposed industrial use of the property conforms to the goals of the Employment character area designation. The proposed use is consistent with the Mesa 2040 General Plan.

Site Characteristics:

The subject site, located on the north side of Southern Avenue and west of Mesa Drive, is approximately 1.4 acres in size and is zoned Light Industrial (LI). The site contains three existing buildings, respectively 2,704 square feet (building A), 8,185 square feet (building B), and 2,375 square feet (building C). A portion of the 2,704 square foot building (building A) contains an existing medical marijuana dispensary. Building B is currently used for industrial operations. Building C contains an existing automotive use. The site was originally developed in the 1980's and has minimal landscaping. Access to the subject site is via two driveways on Southern Avenue and one driveway on Wilbur. The property also shares cross-access to Mesa Drive with the LI property adjacent to its northeast boundary.

Surrounding Zoning Designations and Existing Use Activity:

<p>Northwest (Across Wilbur) LI Existing Industrial</p>	<p>North LI Existing Industrial</p>	<p>Northeast LI Existing Industrial</p>
<p>West (Across Wilbur) LI Existing Industrial</p>	<p>Subject Property LI Industrial</p>	<p>East LI and LC Existing Industrial and Retail</p>
<p>Southwest (Across Southern Avenue) LC Existing Retail</p>	<p>South (Across Southern Avenue) LC Existing Retail</p>	<p>Southeast (Across Southern Avenue and Mesa Drive) LC Existing Park</p>

Mesa Zoning Ordinance Requirements and Regulations:

Substantial Conformance Improvement Permit (SCIP) MZO Section 11-73:

The subject site is non-conforming as it does not conform to current building setback standards per Section 11-7 and landscape standards per Section 11-33 of the MZO. Table 1 below summarizes the minimum MZO requirements, the applicant’s proposal, and staff’s recommendations. Text in bold indicates modifications from the MZO code requirements.

TABLE 1 DEVELOPMENT STANDARDS:

Development Standard	MZO Requirement	Applicant Proposed:	Staff Recommends:
<p><i>Setbacks-building and landscape:</i> Southern Avenue (south)</p> <p>East property line adjacent to LC</p>	<p>Building - 15'</p> <p>20' minimum</p>	<p>Building-15' existing Landscape - 15'</p> <p>Building ±3' existing Landscape 0' existing</p>	<p>Meets requirements Meets requirements</p> <p>As proposed As proposed</p>
<p><i>Perimeter landscape material:</i> E. Southern Avenue (±223) S. Wilbur (±287)</p>	<p>9 trees/54 shrubs 12 trees/69 shrubs</p>	<p>4 trees/60 shrubs 15 trees/56 shrubs</p>	<p>As proposed As proposed</p>
<p><i>Foundation base:</i> <u>North Building (B)</u> East Elevation</p> <p><u>Southeast Building (C)</u> North Elevation West Elevation</p>	<p>10'</p> <p>5'</p> <p>5'</p>	<p>Minimum 8'</p> <p>3'-7" existing 0' existing</p>	<p>As proposed</p> <p>As proposed As proposed</p>

In order to achieve substantial conformance, the applicant is proposing new landscaping adjacent to Southern Avenue, parking lot landscape islands, and foundation base.

Staff believes the proposed modifications are consistent with the degree of improvements to be constructed on the property.

Per Section 11-73-3 of the MZO, when making a decision on a SCIP, the 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

To provide the required 20-foot building and landscape setback adjacent to LC zoned property to the east and the required foundation base to all three buildings, a significant amount of demolition of the southeast building (building C) and reconstruction of the site would be required.

2. The cessation of the existing conforming use, or the preclusion of any other lawful, permitted use.

Requiring full compliance with current MZO standards discussed above would prevent future expansion on this site. Per Section 11-7-2 of the MZO, industrial uses are allowed in the LI district.

3. The creation of new non-conforming conditions.

The applicant is proposing a minimum 8-foot foundation base adjacent to the east side of building B; however, as noted in Table 1 above, the minimum MZO requirement is a 10-foot foundation base. Section 11-33-5(A)3 of the MZO allows averaging the depth of foundation base if the foundation base is no less than 5-feet, the area or square footage of the foundation base is equivalent to or more than the amount of area provided if the foundation base remained parallel to the building elevation, and for each location in which the foundation base is less, a corresponding location along the same foundation base exceeds the minimum depth by the same amount. The new foundation base adjacent to the east side of building B meets these criteria. Therefore, the proposed improvements to the site do not create any 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.

The proposed improvements are compatible with and not detrimental to, adjacent properties or neighborhoods. The improvements will bring the site into further compliance with the MZO, enhance the appearance of the site, and improve the streetscape.

SCIP Findings

- A. The subject site does not meet current MZO development standards and is therefore non-conforming.
- B. Existing buildings and site were originally designed and constructed in the 1980's for industrial uses.
- C. Full compliance with current code would require significant alterations to the site and removal of portions of existing buildings.
- D. Improvements to the site include additional building area, parking lot reconfiguration, installation of landscape material, and foundation base landscape.
- E. The modifications requested along with the proposed improvements and conditions of approval are consistent with the degree of change requested to improve the site and to bring the site into a closer degree of conformance with current standards.
- F. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Neighborhood Participation Plan and Public Comments:

The applicant mailed the required notification letters to all property owners within 500' of the site. As of the date of this report, staff has not been contacted by any resident or property owner to express support or opposition to this request.

Staff Recommendations:

Based on the application received and preceding analysis, Staff finds the request for a Substantial Conformance Improvement Permit meets the required findings in 11-73-3, and therefore recommends approval with the following conditions:

Conditions of Approval:

1. *Compliance with the final site plan as submitted.*
2. *Compliance with all City development codes and regulations, except as identified in Table 1 of this report.*
3. *Compliance with all requirements of Design Review approval.*
4. *Compliance with all requirements of ZON18-01016 for site plan approval.*
5. *Compliance with all requirements of the Development Services Department regarding the issuance of building permits.*