



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**October 2, 2024**

CASE No.: <b>BOA24-00435</b>	CASE NAME: Mesa Shopping Center – Final Phase
------------------------------	---

Owner's Name:	Red Mountain Asset Fund II LLC, Red Mountain Asset Fund I LLC and MacFrugals's Plaza LLC,
Applicant's Name:	John Clay, Red Mountain Group
Location of Request:	Within the 300 Block of East Southern Avenue (south side) and the 1200 block of South Mesa Drive (west side). Located west of Mesa Drive and south of Southern Avenue.
Parcel Nos:	139-48-293A, 139-48-295A, 139-48-297C and 139-48-297D
Nature of Request:	Requesting a Development Incentive Permit (DIP) for a limited service restaurant with drive-thru facilities in the Limited Commercial (LC) District, and a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards for site improvements associated with the development of a limited service restaurant with drive-thru facilities.
Zone District:	Limited Commercial (LC)
Council District:	4
Site size:	7± acres
Proposed use:	Limited Service Restaurant with drive-thru facilities
Existing use:	Commercial Shopping Center
Hearing date(s):	<b>October 2, 2024 / 5:30 p.m.</b>
Staff Planner:	Charlotte Bridges, Planner II
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **January 6, 1962**, the City Council annexed 81± acres, including a portion of the project site, into the City of Mesa and subsequently zoned C-2 (equivalent to Limited Commercial [LC]) (Ordinance No. 428)

On **December 8, 1962**, the City Council annexed 34± acres, including the remainder of the project site, into the City of Mesa and subsequently zoned C-2 (equivalent to Limited Commercial [LC]) (Ordinance No. 444).

On **November 18, 1985**, the City Council approved a site plan for 8.3± acres, including the subject site, to allow the development of a group commercial center in the LC District (Case No. SPR85-018).

In **1986**, the Maricopa County Historical Aerial Photo indicates construction had commenced on the group commercial center, including the subject site.

## **PROJECT DESCRIPTION**

### **Background:**

The applicant is requesting a Development Incentive Permit (DIP) to allow for deviations from certain development standards for a limited service restaurant with drive through facilities on Pad A, which is in the Limited Commercial (LC) District. In addition, the applicant is also requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards for site improvements associated with the development of a limited service restaurant with drive-thru facilities that will occur on the larger commercial center property adjacent to Pad A.

In 1985, the City Council approved a site plan for a group commercial center at the southwest corner of Mesa Drive and Southern Avenue. Subsequently, the group commercial center was developed except for two Pad sites, Pad A and Pad B. The Proposed Project includes the construction of a 1,265 square foot, limited service restaurant with drive-thru facilities on Pad A and the reconfiguration of the drive aisles and parking spaces to the west and south of Pad A. No improvements are proposed for Pad B as part of this request.

Per Section 11-72-1 of the Mesa Zoning Ordinance (MZO), the purpose of a DIP is to provide incentives for the development of smaller tracts of land that would have difficulty meeting current development standards. Per Section 11-72-2 of the MZO, incentives that may be granted by the DIP are limited to: modifications to building setbacks, landscaping design, on-site parking, building height, and other site development provisions contained in the MZO. Through the DIP, the applicant is requesting to modify the development standards for Pad A to reduce the required building setback and landscape yard along Mesa Drive, allow for a four to six feet in height drive-thru landscape screen within the required building setback and landscape yard adjacent to Mesa Drive and a reduction in the required plant material in the landscape yard adjacent to Mesa Drive. The requested deviations from the MZO ensure the Proposed Project will comply with the other requirements for the site while also allowing development on an infill parcel.

In addition to the DIP request for Pad A, the applicant is also requesting a SCIP for the larger commercial center property. The existing commercial center was constructed in the mid 1980's in accordance with the building and zoning code in effect at the time; however, some of the existing site improvements do not conform with the current development standards of Section 11-6-3 of the MZO and the site is considered legal non-conforming. Due to existing conditions, achieving full conformance with the MZO would require significant alterations, including partial demolition of the existing building, on-site parking spaces and circulation. Chapter 11-73 of the MZO establishes the SCIP process and review criteria to allow a non-conforming site to be brought into substantial conformance without having to bring the entire site into full conformance. In order to bring the site into substantial conformance, the applicant is reconfiguring the parking spaces and drive aisles to the west and south of Pad A, installing a new dumpster enclosure, replacing plant material within the required perimeter landscape yards and parking lot landscape islands and providing a pedestrian connection to Mesa Drive.

**General Plan Character Area Designation and Goals:**

The Mesa 2040 General Plan Character area designation on the property is Neighborhood Village Center. Per Chapter 7 of the Plan, the goal of the Neighborhood Village Center character area is to provide for the regular shopping and service needs of the nearby population, serving as the focal point for the surrounding neighborhoods. The existing commercial center and the proposed improvements advance the goals and objectives of the Mesa 2040 General Plan by providing retail and service options to meet the needs of the surrounding population.

**Site Characteristics:**

The subject commercial center is located at the southwest corner of Mesa Drive and Southern Avenue. Pad A is located approximately 200 feet south of Southern Avenue and immediately adjacent to Mesa Drive. The area of the commercial center being considered by this request is 7± acres, including Pad A, which is 0.28± of an acre. The center is developed with multi-tenant commercial buildings totaling approximately 51,975 square feet. Access to the center is provided by two drive entrances along Southern Avenue and three drive entrances along Mesa Drive. A total of 335 parking spaces are provided within the commercial center, where 291 parking spaces are required, including Pad A. No parking spaces are provided on the Pad A site. Instead, the 14 parking spaces required for Pad A are accounted for in the 335 provided parking spaces, which are considered "shared" parking by the commercial center's CC&R's. Finally, a new sidewalk provides a pedestrian path from the east side of the commercial center to Mesa Drive.

The site plan for Pad A shows the construction of a 1,265 square foot limited service restaurant building with a 200 square foot covered patio along the west elevation and a covered pick-up window on the north elevation. The drive-thru lane entrance for the restaurant is to the south of the building, then it wraps around the east side of the building and exits on the north side of the building. In addition, the portion of the drive-thru lane adjacent to the east elevation is covered by a trellis and screened from Mesa Drive by a wall with "hit and miss" brickwork. The remainder of the drive-thru lane, where adjacent to Mesa Drive, is screened from view from the right-of-way by a landscape screen, which is four to six feet in height.

Throughout the commercial center trees and shrubs are planted in the parking lot landscape islands and shrubs are planted in the perimeter landscape yards. Within Pad A, trees and shrubs

are planted in the foundation base areas around the building and shrubs and a minimal number of trees are planted in the perimeter of the drive-thru lane.

**Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest</b> (Across Southern Avenue) LI Commercial	<b>North</b> (Across Southern Avenue) LI and LC Commercial	<b>Northeast</b>  LC Commercial
<b>West</b>  LI Commercial and Industrial	<b>Subject Property</b>  LC Commercial	<b>East</b> (Across Mesa Drive) LC and RM-2 Commercial and Multi-Residences
<b>Southwest</b>  RS-6 Single Residences	<b>South</b>  RS-6 Single Residences	<b>Southeast</b> (Across Mesa Drive) RS-6 Single Residences

**Development Incentive Permit (DIP) Chapter 11-72 of the MZO:**

The purpose of a DIP is to provide incentives for smaller tracts of land that would have difficulty meeting current development standards. To qualify for consideration, a parcel must meet the criteria set forth in Section 11-72-1 of the MZO. After review of the application, the subject property qualifies as a by-passed parcel as it is less than 2.5 acres in size and has been in its current configuration for more than 10 years. The lot has direct access to City utilities, is within an area where not more than 25% of developable land is vacant, and more than 50% of the surrounding parcels have been developed for more than 15 years. The requested modifications will result in a development that is commensurate with existing development in the area.

Table 1 below compares MZO requirements, the applicant’s proposal, and staff’s recommendation for the subject property. Items in bold face type indicate deviation from code requirements:

**Table 1: Development Standards**

Development Standard	MZO Requirement	Applicant Proposed	Staff Recommendation
<i>Minimum Building and Parking Area Setback – Table 11-6-3: Mesa Drive (six-lane arterial)</i>	15 feet	<b>10 feet</b>	As proposed
<i>Perimeter Landscape Yard – Table 11-6-3: Mesa Drive (six-lane</i>	15 feet	<b>10 feet</b>	As proposed

Development Standard	MZO Requirement	Applicant Proposed	Staff Recommendation
<i>arterial)</i>			
<i>Drive-Thru Facilities Screening – Section 11-31-18(D)*:</i>	Provide 40-inch high screen walls adjacent to the public right-of-way	<b>Provide 4 feet to 6 feet high vegetative screen wall adjacent Mesa Drive</b>	As proposed

*\*This application was submitted prior to the effective date of the Drive-Thru text amendments (11/16/23), so this is the reference to the previous MZO regulations.*

Pursuant to Section 11-72-1 of the MZO, a Development Incentive Permit (DIP) may be approved to allow incentives for the development of parcels that meet the following criteria:

A. AREA

1. Total area of the parcel does not exceed 2.5 net acres, and the parcel has been in its current configuration for more than 10 years; or
2. Total area of the site does not exceed 5 net acres and was created by the assembly of 2 or more individual, contiguous parcels.

**Pad A is 0.28± acres and has been in its current configuration for more than 10 years according to Maricopa County records.**

***The request complies with this criterion.***

B. UTILITIES. The parcel is served by, or has direct access to, existing utility distribution facilities.

**The parcel has access to City of Mesa utilities.**

***The request complies with this criterion.***

C. SURROUNDING DEVELOPMENT. The parcel is surrounded by properties within a 1,200-foot radius in which:

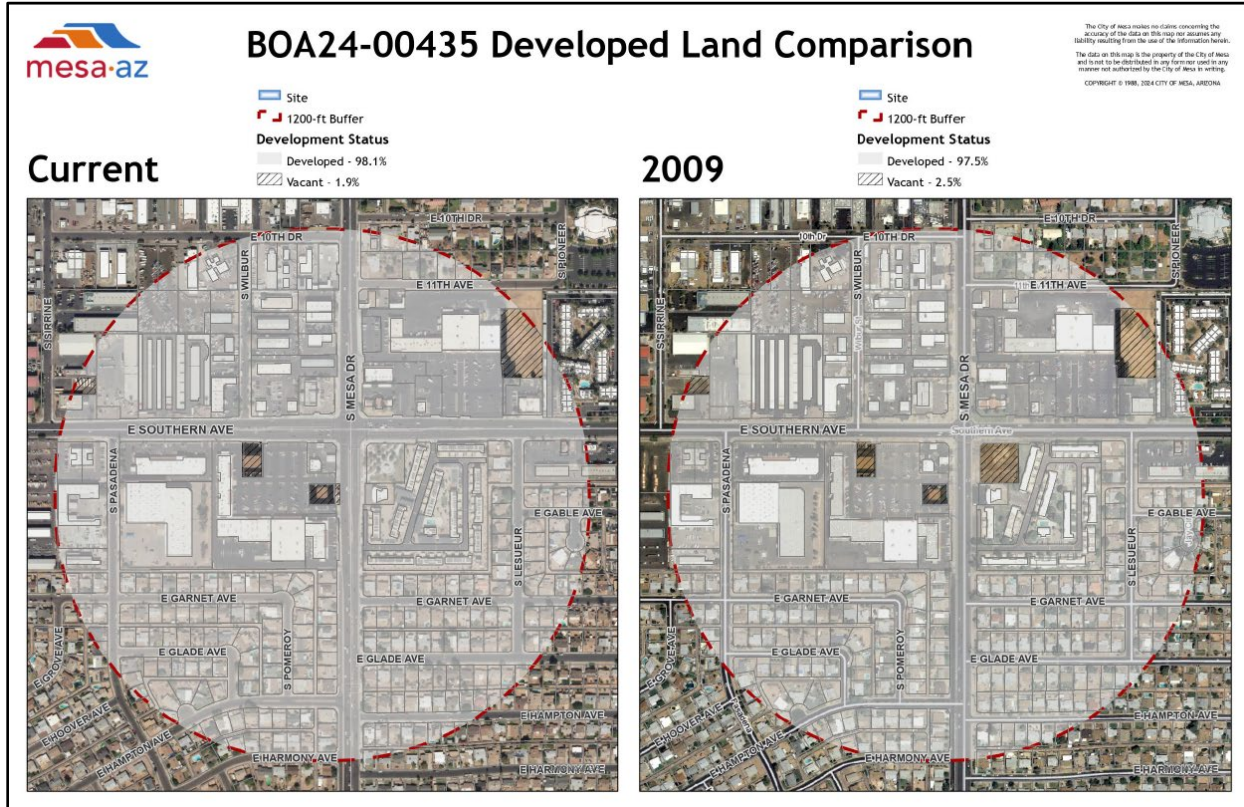
1. The total developable land area is not more than 25 percent vacant; and
2. Greater than 50 percent of the total number of lots or parcels have been developed 15 or more years ago.

**Based on current aerial photography, the total developable land area (within the 1,200-foot radius of the subject property) is less than 25% vacant. Additionally, after**

comparing the 15-year historical aerial photo with the current aerial photo, staff determined that more than half of the total number of lots (within the 1,200-foot radius of the subject property) were developed more than 15 years ago (see Figure 1).

*The request complies with this criterion.*

Figure 1:



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

The commercial center is legal non-conforming as it does not conform to development standards of Section 11-6-3 of the MZO. Table 2 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 2 DEVELOPMENT STANDARDS:**

Development Standard	MZO Requirements	Applicant Proposal	Staff Recommendation
<i>Perimeter Landscape Yard – [Table 11-6-3]:</i> Southern Avenue:	15 feet	<b>10 feet minimum (existing)</b>	As proposed
Main Street:	15 feet	<b>10 feet minimum (existing)</b>	

<b>Development Standard</b>	<b>MZO Requirements</b>	<b>Applicant Proposal</b>	<b>Staff Recommendation</b>
<i>Development Standards – Commercial Districts – [Table 11-6-3.A]:</i> Maximum Lot Coverage:	80%	<b>92.2% (existing)</b>	As proposed
<i>Pedestrian Connection – [Section 11-30-8.A]:</i>	An on-site walkway shall connect the main entry of each building or each primary entry to a public sidewalk on each street frontage of the site, and to any transit stop adjacent to the site.	<b>No pedestrian connection to Southern Avenue; New 5-foot wide pedestrian connection to Mesa Drive</b>	As proposed
<i>Truck Docks, Loading and Service Areas – [Section 11-30-13.A]:</i> Minimum distance from residential district:	Not permitted within 50 feet of the boundary on any residential district or use.	<b>34 feet, 11 inches from truck dock/loading area to Single Residence-6 (RS-6) district to the south (existing)</b>	As proposed
<i>Setback to Cross Drive Aisle – [Section 11-32-4.A]:</i>  Southern Avenue: West:  East:  Mesa Drive: North:  Middle:  South:	Parking spaces along main drive aisles connecting directly to a street and drive aisles that cross such main drive aisles shall be set back at least 50 feet from the property line abutting the street.	<b>34 feet, 11 inches (existing)</b>  <b>35 feet (existing)</b>  <b>35 feet, 8 inches (existing)</b>  <b>23 feet, 3 inches (existing)</b>  <b>10 feet, 8” (existing)</b>	As proposed
<i>Bicycle Parking – [Section 11-32-8.A.1]:</i>	34 bicycle parking spaces	<b>4 bicycle parking spaces on Pad A</b>	As proposed
<i>Perimeter Landscaping, Required number of Plants by Street Type</i>			

Development Standard	MZO Requirements	Applicant Proposal	Staff Recommendation
<p>– [Table 11-33-3.A.4]: Arterial Street: Southern Avenue – (450 feet @ 1 tree and 6 shrubs per linear foot):</p> <p>Mesa Drive – (455 feet @ 1 tree and 6 shrubs per linear foot):</p>	<p>18 trees and 108 shrubs</p> <p>18 trees and 108 shrubs</p>	<p><b>0 trees (existing) 55 shrubs</b></p> <p><b>2 trees (existing) 30 shrubs</b></p>	<p>As proposed</p>
<p><i>Required Landscape Yard, Landscaping for Non-Single Residence Uses adjacent to Single residence Uses or Districts, Width – [Section 11-33-3.B.1.a.ii]:</i></p> <p>South property line:</p>	<p>Sites five (5) acres or more adjacent to an RS or RSL district must provide a minimum 25-foot landscape yard</p>	<p><b>5 feet wide, minimum</b></p>	<p>As proposed</p>
<p><i>Required Landscape Yard, Landscaping for Non-Single Residence Uses adjacent to Single residence Uses or Districts – [Section 11-33-3.B.1.c.1.ii]:</i></p> <p>South property line (600 feet @ 4 non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line:</p>	<p>18 trees and 120 shrubs</p>	<p><b>1 tree (existing) and 75 shrubs (existing)</b></p>	<p>As proposed</p>
<p><i>Required Landscape Yard, Landscaping for Non-Single Residence Uses adjacent to Other Non-Single Residence uses or districts, Width – [Section 11-33-3.B.2.a.i]:</i> <i>Properties that are part of group commercial, development must provide a seven foot wide perimeter landscape yard except where a cross-access drive aisle occurs within the required landscape yard.</i></p> <p>East property line (adjacent to Lot 2 of the Mesa Shopping Center subdivision):</p>	<p>7 feet</p>	<p><b>3 feet, 5 inches,</b></p>	<p>As proposed</p>



Development Standard	MZO Requirements	Applicant Proposal	Staff Recommendation
<p>North property line (adjacent to Lot 2 of the Mesa Shopping Center subdivision):</p>	<p>7 feet</p>	<p>minimum (existing)  3 feet minimum (existing)</p>	
<p><i>Required Landscape Yard, Landscaping for Non-Single Residence Uses adjacent to Other Non-Single Residence uses or districts, Width – [Section 11-33-3.B.2.a.ii]:</i> <i>Properties that are not part of group commercial development must provide a 15 foot wide perimeter landscape yard except where a cross-access drive aisle occurs within the required landscape yard.</i></p> <p>West property line:</p>	<p>15 feet</p>	<p>3 feet, 3-inches, minimum (existing)</p>	<p>As proposed</p>
<p><i>Required Landscape Yard, Landscaping for Non-Single Residence Uses adjacent to Other Non-Single Residence uses or districts, Number of Plants – [Section 11-33-3.B.2.c]:</i> <i>A minimum of three (3) non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line shall be provided.</i></p> <p>East property line (144.5 feet adjacent to Lot 2 of the Mesa Shopping Center subdivision):</p> <p>North property line (134 feet adjacent to Lot 2 of the Mesa Shopping Center subdivision):</p> <p>West property line (604 feet):</p>	<p>5 trees and 29 shrubs</p> <p>4 trees and 27 shrubs</p> <p>18 trees and 120 shrubs</p>	<p>0 trees and 0 shrubs (existing)</p> <p>0 trees and 0 shrubs (existing)</p> <p>0 trees and 90 shrubs (existing)</p>	<p>As proposed</p>
<p><i>Parking Lot Landscape Island – [Section 11-33-4.B.1]:</i></p>	<p>Parking lot landscape islands shall be installed at each end of a row of</p>	<p>5 missing islands at the end of a single row parking spaces (existing)</p>	

<b>Development Standard</b>	<b>MZO Requirements</b>	<b>Applicant Proposal</b>	<b>Staff Recommendation</b>
	stalls and in between for maximum 8 contiguous parking spaces.	<p><b>2 missing double islands at the end of a double row of parking (existing)</b></p> <p><b>Maximum of 21 contiguous single row parking spaces without an island</b></p> <p><b>Maximum of 11 contiguous double row parking spaces without an island</b></p>	<b>As proposed</b>
<i>Parking Lot Landscape Island – [Section 11-33-4.B.2]:</i>	Landscape islands shall be a minimum of eight feet wide	<b>5 feet, minimum width (existing)</b>	As proposed
<i>Foundation Base, Exterior Walls with Public Entrance – [Section 11-33-5.A.1]:</i>  East elevation:  North Elevation:	15 feet  15 feet	<b>14 feet, 2 inches (existing)</b>  <b>14 feet, 2 inches</b>	As proposed
<i>Foundation Base, Exterior Walls without a Public Entrance adjacent to parking spaces – [Section 11-33-5.A.2.a]:</i>  South side of Retail 4:	10 feet	<b>6 feet, 5 inches (existing)</b>	As proposed
<i>Foundation Base, Exterior Walls without a Public Entrance adjacent to drive aisles – [Section 11-33-5.A.2.b]:</i>  West elevation:  South elevation:	5 feet  5 feet	<b>0 feet (existing)</b>  <b>0 feet (existing)</b>	As proposed
<i>Plant material within Foundation Base – [Section 11-33-5.3]:</i> Exterior Walls Visible From	A landscape area shall	<b>0 feet (existing)</b>	As proposed

Development Standard	MZO Requirements	Applicant Proposal	Staff Recommendation
Public Parking or Right-of-Way with Public Entrances.	be provided equal in length to 33 percent (minimum) of adjacent exterior wall.		
Exterior Walls Visible From Public Parking or Right-of-Way without Public Entrances. A landscape area shall be provided equal in length to 25 percent (minimum) of adjacent exterior wall.	A landscape area shall be provided equal in length to 25 percent (minimum) of adjacent exterior wall.	<b>0 feet (existing)</b>	As proposed
Exterior Walls Not Visible From Public Parking or Right-of-Way without Public Entrances. A landscape area shall be provided equal in length to 10 % (minimum) of adjacent exterior wall.	A landscape area shall be provided equal in length to 10 percent (minimum) of adjacent exterior wall.	<b>0 feet (existing)</b>	As proposed

To bring the site into substantial conformance with the development standards of the MZO, the applicant proposes the following improvements as identified on the site plan and landscape plan:

- Replant all shrubs along Southern Avenue and Mesa Drive.
- Replant one tree and three shrubs in all parking lot landscape islands.
- Provide a new screened double dumpster enclosure.
- Provide a new pedestrian connection to Mesa Drive.

Per Section 11-73-3 of the MZO, when deciding 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

**Significant alterations to the site, including partial demolition of the existing buildings, parking spaces, and on-site circulation would need to occur to bring the site into full conformance with current MZO development standards.**

***The request complies with this criterion.***

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

**Full compliance with current development standards would impose an extreme hardship that may cause the cessation of the commercial center uses and would discourage improving the site.**

***The request complies with this criterion.***

3. The creation of new non-conforming conditions.

**The proposed improvements to the parking spaces and drive alises to the west and south of Pad A comply with MZO development standards.**

***The request complies with this criterion.***

- 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 to the commercial center are compatible with the surrounding neighborhood and bring the commercial center into substantial conformance with current MZO development standards, to the greatest extent as possible. In addition, the development of Pad A will improve and benefit the overall site and the surrounding neighborhood. Therefore, staff believes that the proposed request will not be detrimental to adjacent properties or neighborhoods.**

***The request complies with this criterion.***

Findings:

- A. The property was annexed into the City of Mesa in 1962 and subsequently zoned LC District.
- B. The existing commercial center and site improvements were constructed in the mid-1980s in accordance with the building and zoning code in effect at the time.
- C. The subject site does not meet current MZO development standards and is therefore legal non-conforming.
- D. The proposed improvements to the existing commercial center advance the goals and objectives the Mesa 2040 General Plan by helping to maintain the vitality of an existing commercial center that provides shopping and service needs to the surrounding neighborhoods.
- E. Significant alterations to the site, including partial demolition of the existing buildings, parking spaces, and on-site circulation would need to occur to bring the site into full conformance with current MZO development standards.
- F. Full compliance with current development standards would impose an extreme hardship that may cause the cessation of the commercial center uses and would discourage improving the site.

- G. The proposed improvements to the commercial center are compatible with the surrounding neighborhood and improve the interior landscape and streetscape along the public rights-of-ways, to the greatest extent possible. Therefore, staff believes that the proposed request will not be detrimental to adjacent properties or neighborhoods.
- H. The reconfigured parking spaces and drive aisle to the west of Pad A meet current MZO development standards.

**Neighborhood Participation Plan and Public Comments:**

The applicant mailed the required notification letters to all property owners within 500 feet 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 upon the application received and preceding analysis, staff find that the request will comply with the Mesa 2040 General Plan, the required findings for a Development Incentive Permit outlined in Section 11-72-3 of the MZO and the required findings for a Substantial Conformance Improvement Permit outlined in Section 11-73-3 of the MZO. Therefore, staff recommends **approval** with the following conditions:

1. Compliance with the final site plan and landscape plan as submitted.
2. Compliance with case ZON23-00935.
3. Compliance with case DRB23-00934
4. Compliance with all City Development Codes and regulations, except as identified in Table 1 and Table 2 of this report.
5. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

**Attachments:**

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Staff Report
- Exhibit 3 – Narrative/Justification Statement
- Exhibit 4 – Site Plan
- Exhibit 5 – Landscape Plan
- Exhibit 6 – Building Elevations