



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

October 7, 2020

CASE No.: BOA20-00501	CASE NAME: McDonald's
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Owner's Name:	Ron B Wynn Living Trust/ETAL
Applicant's Name:	Rod Jarvis, Earl & Curley, P.C.
Location of Request:	1948 E McKellips Road
Parcel Nos:	136-06-256A
Nature of Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to allow an eating and drinking establishment with drive-thru facilities in the Limited Commercial (LC) District.
Zone District:	Limited Commercial (LC)
Council District:	1
Site size:	0.93 ± acres
Proposed use:	Eating and drinking establishment with drive-thru facilities
Existing use:	Vacant
Hearing date(s):	October 7, 2020 / 5:30 p.m.
Staff Planner:	Wahid Alam, AICP
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **June 24, 1978**, the subject site was annexed into the City of Mesa as part of a 552 ± acre annexation area (Ordinance No. 1161) and subsequently zoned Limited Commercial (LC) (Case No. Z78-101, Ordinance No. 1202).

On **February 19, 1985**, the City Council approved site plan modification for the development of a group commercial center on 8.28 ± acres that included the subject site (Case No. SPR85-001; Ordinance No. 1922).

On **February 19, 2014**, the Planning and Zoning Board approved the site plan for a restaurant with drive-thru facilities (Case No. Z14-008).

On **April 8, 2014**, the Board of Adjustment approved the Substantial Conformance Improvement Permit (SCIP) to allow modification to street side landscape and foundation base requirements in conjunction with the development of a restaurant with a drive-thru facilities (Case No. BA14-017).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards to build a restaurant with a drive-thru facility in the Limited Commercial (LC) district. The subject site is a vacant pad site located within a group commercial center along Gilbert and McKellips Roads. The site was originally developed in the late 1980s as a restaurant (Chuy's) in in conjunction with the larger group commercial center.

In 2014, a Substantial Conformance Improvement Permit was approved to allow for deviations from the required street facing setback and foundation base requirements to allow for the development of a drive-thru restaurant. Per Section 11-67-9 of the Mesa Zoning Ordinance (MZO), approval of the SCIP expires within one year if it is not exercised or extended. The Zoning Administrator may approve a one-year extension of the permit if requested prior to expiration or else the extension must be approved by the original approving body. The 2014 SCIP was not executed or extended within its approval period, therefore the applicant is requesting to renew their approval through the Board of Adjustment.

General Plan Character Area Designation and Goals:

The subject property is located in a Mixed-Use Activity District with a sub-type of Community-Scale Districts as defined in Chapter 7 of the General Plan. Per Chapter 7 of the General Plan, the primary focus of the Mixed-Use Activity character type is to provide community activity areas that include a significant commercial and retail component. These character types are typically at the intersection of two arterial streets and are typically auto dominant. The proposed restaurant use with drive thru is a typical use in the Community Scale Districts sub-type.

Site Characteristics:

The subject site is located within a group commercial center at the northwest corner of Gilbert Road and McKellips Road. The site is 0.93 ± acres in size and is zoned Limited Commercial (LC). Access to the existing pad site is provided by two existing shared driveways off of McKellips Road.

Surrounding Zoning Designations and Existing Use Activity:

Northwest LC Commercial	North LC Commercial	Northeast LC Commercial
West LC Commercial	Subject Property LC vacant (former Chuy's restaurant)	East LC Commercial
Southwest (Across McKellips Road) LC Commercial	South (Across McKellips Road) LC Commercial	Southeast (Across McKellips Road) LC Commercial

Mesa Zoning Ordinance Requirements and Regulations:

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

Per Section 11-67-9, the applicant is requesting to extend the approval of a SCIP to facilitate the redevelopment of an existing pad site for a 4,250 square foot restaurant with drive-thru. Section 11-6-3 of the MZO requires a 15-foot setback for commercially zoned properties along an arterial roadway. Due to the dedication of right-of-way and the subsequent installation of a bus pull out along McKellips Road, the existing setbacks were modified and reduced to four feet where abutting the bus pull out. In order to maintain the established cross access and circulation with the group commercial center the applicant is requesting to maintain a reduced setback (eight feet) abutting the bus pull out lane. Maintaining the existing cross accesses further influenced the siting and design of the proposed building. The applicant is requesting to reduce the foundation base along the north and east elevations from 15 feet to 10 feet in order to site the building and retain the existing drive aisles.

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 Requirements	Applicant Proposal	Staff Recommendation
Setback along an arterial [Table 11-6-3.A]	15' from future ROW	8' from future ROW	As proposed
Foundation Base along an exterior wall with a public entrance [Section 11-33-5(A)(1)]	15'	10' average	As proposed

To bring the site into substantial conformance with the development standards of the MZO, the applicant proposes to provide additional landscaping along McKellips Road. As an offset to the

foundation base requirements the applicant proposes to add an additional four trees to a landscape median located on the northern portion of the site. Pedestrian connectivity will be improved with the inclusion of sidewalks leading to McKellips Road and the provision of decorative paving where pedestrian paths lead to the surrounding shopping center.

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

The pad site is constrained due to the dedication of right-of-way for a bus pull-out lane and the existing cross access established with the group commercial center. The site would not be able to meet the current MZO requirements without a coordinated redesign of the parking and internal drive aisles connecting the pad site to the greater group commercial center.

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 not allow the proposed business operation and discourage redevelopment on this pad site.

The request complies with this criterion.

- 3. The creation of new non-conforming conditions.

The proposed site plan does not deviate from the site plan reviewed as part of the SCIP approved in 2014. Therefore, no new non-conforming conditions would be created with the extension of the 2014 SCIP approval.

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 will not alter the operational characteristics of the existing pad site as developed with the original group commercial center. The improvements will bring the site into further compliance with the MZO, enhance the

appearance of the site, and improve the streetscape. Therefore, staff does not believe that the proposed request will be detrimental to adjacent properties or neighborhoods.

The request complies with this criterion.

SCIP Findings

- A. The site is zoned LC and is an existing pad site formerly occupied by a Chuy’s restaurant and approved for a SCIP in 2014 to allow for the development of a restaurant with drive-thru.
- B. The SCIP approved by the Board of Adjustment in 2014 was not executed or extended within the one-year approval period. Therefore, extension of the SCIP requires approval from the original approving body.
- C. The existing cross accesses with the greater commercial center constrains the layout of the pad site.
- D. Dedication of right-of-way for the construction of a bus pull put lane further constrained the site and changed the established setbacks.
- E. Full compliance with current MZO would require significant alterations to the group commercial center to change the onsite circulation.
- F. Improvements to the existing site includes installation of additional landscaping along McKellips Road, additional landscaping within the parking areas north of the buildings, and improved pedestrian circulation.
- G. The modifications requested along with the proposed improvements 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 MZO standards.
- H. 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 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. The applicant received one letter of opposition in response to the Citizen Participation Plan for the accompanying Site Plan Modification (Case No. ZON20-00503). The citizen expressed opposition to a drive-thru restaurant at the proposed location.

Staff Recommendation:

Based on the application received and preceding analysis, staff finds the request for a Substantial Conformance Improvement Permit meets the required findings of Section 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 the Development Services Department regarding the issuance of building permits.

4. Compliance with the site plan modification and Design Review (Case No. ZON20-00503 and DRB20-00502).

Attachments:

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Staff Report
- Exhibit 3 – Justification Statement
- Exhibit 4 – Site Plan
- Exhibit 5 – Landscape Plan
- Exhibit 6 – Renderings