



PLANNING DIVISION
STAFF REPORT

Board of Adjustment

August 2, 2023

CASE No.: BOA23-00286	CASE NAME: Gravity Energy Drinks
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Owner’s Name:	KFH 2121 Power Road LLC
Applicant’s Name:	Andy Goforth, Verde Building Corp.
Location of Request:	2125 South Power Road
Parcel Nos:	304-05-645C and 304-05-646A
Nature of Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for the development of a restaurant with drive-thru.
Zone District:	Limited Commercial with a Planned Area Development overlay (LC-PAD)
Council District:	6
Site size:	1.4± acres
Existing use:	Retail
Hearing date(s):	August 2, 2023 / 5:30 p.m.
Staff Planner:	Kwasi Abebrese
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **August 29, 1983**, the subject site was annexed into the City of Mesa as part of a larger 1,855± acre annexation (Ordinance No. 1731).

On **July 16, 1984**, the Mesa City Council established comparable zoning of Agriculture (AG) on the subject site (Case No. Z84-097; Ordinance No. 1854).

On **February 19, 1985**, the Mesa City Council approved a rezone of the site from Agriculture (AG) to Single Residence – 7 (R1-7) to allow for the development of a single residence subdivision (Case No. Z84-194; Ordinance No. 1919).

On **January 20, 1986**, the City Council approved a rezone of the site from Single Residence – 7 (R1-7) to Limited Commercial (C-2) to allow for the development of a Factory Outlet Mall (Case No. Z85-152; Ordinance No. 2029).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards to allow for the development of a limited-service restaurant with a drive-thru facility in the Limited Commercial with a Planned Area Development overlay (LC-PAD) district. The subject site currently has an existing retail building which is part of a group commercial center located on the south side of Baseline Road and on the east side of Power Road. The proposed limited-service restaurant with drive-thru consists of an 820 square foot building that will be attached to the existing retail building on the subject site.

The retail building and the existing site improvements were constructed in the late 1980's. Several aspects of the existing site design do not conform to current development standards. The subject site does not conform to the landscape standards outlined in Section 11-33 of the Mesa Zoning Ordinance (MZO) and the required setback for cross drive aisles and the standard parking stall dimensions of Section 11-32 of the MZO. Therefore, the subject site is considered legal non-conforming.

Due to existing conditions, achieving full conformance with the MZO would require significant alterations to the site including the existing building, existing driveway at the west side of the site, parking area and on-site circulation. Section 11-73 of the MZO establishes the Substantial Conformance Improvement Permit (SCIP) process and review criteria which allows the site to be brought into substantial conformance without having to bring the entire site into full conformance with the development standards of the MZO. Due to the existing placement of the retail building, significant alterations to the site, including demolition of the existing building, and redesign of the existing driveway and parking area would need to occur to bring the site into full conformance with current MZO development standards. The SCIP will allow the retail building and the existing conditions on the site to remain to enable the proposed development of a limited-service restaurant with a drive-thru facility on the subject site.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character area designations on the property include Mixed-Use Activity District and Neighborhood. Per the General Plan, the Mixed-Use Activity District character area is a large community and regional activity area that usually has a significant retail commercial component. The goal of the district is to help create strong and viable centers of commercial activity that attract people to unique shopping and entertainment experiences. Per Chapter 7 of the General Plan, the focus of the Neighborhood Character area is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. The Neighborhood character area may also contain supportive land uses such as retail, restaurants, and personal services that are located along arterials, and collector streets.

The proposed development of a limited-service restaurant with a drive-thru facility is consistent with the goal of the General Plan character areas by contributing towards serving as a viable center of commercial activity that will attract people to the place as well as serve the surrounding neighborhoods.

Site Characteristics:

The subject site is located on the south side of Baseline Road and east of Power Road. The site is approximately 1.4± acres in size and is zoned Limited Commercial with a Planned Area Development overlay (LC-PAD).

The proposed site plan shows the development of one restaurant building with a drive-thru totaling approximately 820 square feet. The building will be attached to the existing retail building with a canopy that extend across the drive-thru lane along the north side of the proposed building to the existing building. Vehicular access to the site is provided from South Power Road and East Kiowa Avenue at the southeast corner of the site. A system of pedestrian walkways will connect the primary building entrances on the site to parking areas and the existing public sidewalks on East Kiowa Avenue and South Power Road.

Surrounding Zoning Designations and Existing Use Activity:

<p>Northwest (Across Power Road) City of Gilbert Commercial Development</p>	<p>North LC Commercial Development</p>	<p>Northeast LC Commercial Development</p>
<p>West (Across Power Road) City of Gilbert Commercial Development</p>	<p>Subject Property LC Existing Commercial Development</p>	<p>East LC Commercial Development</p>
<p>Southwest (Across Power Road) City of Gilbert Commercial Development</p>	<p>South (Across Kiowa Avenue) LC Commercial Development</p>	<p>Southeast (Across Kiowa Avenue) RS-6 Single Residential Development</p>

Mesa Zoning Ordinance Requirements and Regulations:

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

The subject site is legal non-conforming as it does not conform to the current foundation base landscaping standards, requirement on the setback of cross drive aisles and parking design standards outlined per Sections 11-33-5 and 11-32 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 Requirements	Applicant Proposal	Staff Recommendation
<i>Setback of cross drive aisles:</i> [Section 11-32-4(A)] Parking spaces along main drive aisles connecting directly to a street and drive aisles that cross such main drive aisles	50'	38' (Existing)	As proposed
<i>Standard parking spaces:</i> [Section 11-32-2(H)(1)] Minimum basic dimensions for standard parking spaces	9' by 18'	10' by 16' 6" (Existing)	As proposed
<i>Foundation base landscaping:</i> [Table 11-33-5(B)(1)] Number of Trees	A minimum of one (1) tree per 50 linear feet or less of exterior wall length	1 tree per 52 linear feet at the west side of building	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:

- Installation of an additional landscape island with new plant materials at the parking area located on the north side of the existing retail building.
- Installation of adequate perimeter and interior parking lot landscaping to meet the landscaping requirements outlined per Section 11-33 of the MZO.
- Extension of the width of the foundation base at the east side of the existing building from 3 feet to 5 feet to meet the development standards outlined per Section 11-33-5 of the MZO.
- Installation of a 5-foot-wide foundation base with new plant materials at the south side of the existing building adjacent to the drive-thru lane.
- Improving the existing pedestrian connections within the site and providing an access to the public sidewalk adjacent to East Kiowa Avenue.

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 demolition of the existing non-conforming building, alterations to the existing driveway on the west side of the

site, the existing parking area 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 not allow for the addition of the proposed limited-service restaurant with drive-thru on the site and would discourage redevelopment on the site.

The request complies with this criterion.

3. The creation of new non-conforming conditions.

The proposed limited-service restaurant with drive thru will meet all the development standards for the LC district outlined per Section 11-6-3 of the MZO as well as the requirements for drive-thru facilities and foundation base landscaping outlined per Sections 11-31-18 and 11-33-5 of the MZO. Therefore, no new non-conforming conditions will be created with addition of proposed development.

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 addition and improvements to the site is compatible with the adjacent uses. 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.

Findings:

- A. The site is zoned LC-PAD, and the existing retail building and site was development in the late 1980's.
- B. The subject site does not meet current MZO development standards and is therefore legal non-conforming.
- C. Full compliance with current MZO would require significant alterations to the site including demolition of the existing structures and alterations to the existing driveway at the west side of the site, the existing parking area, and on-site circulation.
- D. Improvement to the existing site include landscape improvements around the perimeter of the site and within the parking area, extension of the width of the

foundation base at the east side of the existing building and improving the pedestrian connection within the site.

- E. 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.
- F. The proposed improvements will not create any new non-conformities.
- G. 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.

Staff Recommendations:

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 of the MZO, and therefore recommends approval with the following conditions:

Conditions of Approval:

1. Compliance with the final site plan and landscape 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.

Attachments:

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