



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**June 7, 2023**

CASE No.: <b>BOA22-01323</b>	CASE NAME: <b>Guadalupe &amp; Power Retail</b>
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Owner's Name:	DR ONE, LLC
Applicant's Name:	Sean Lake, Pew & Lake, PLC
Location of Request:	Within the 2700 Block of South Power Road (east side) and within the 6800 block of East Guadalupe Road (north side). Located east of Power Road and north of Guadalupe Road.
Parcel Nos:	304-05-981C, 304-05-981D, 304-05-982G and 304-05-982E
Nature of Request:	Requesting a Special Use Permit (SUP) to expand a non-conforming structure, modification of a SUP for an automobile/vehicle car wash, and a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for the development of a restaurant with a drive-thru facility and an automobile/vehicle car wash.
Zone District:	Limited Commercial (LC)
Council District:	6
Site size:	1.2 ± acres
Proposed use:	Limited Service Restaurant with drive thru facilities and Automobile/Vehicle Washing
Existing use:	Convenience Store, Service Station and Car wash
Hearing date(s):	<b>June 7, 2023 / 5:30 p.m.</b>
Staff Planner:	Charlotte Bridges
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **August 21, 1983**, the City Council annexed 1,855± acres of land, including the project site into the City of Mesa (Ordinance No. 1731).

On **November 2, 1983**, the City Council rezoned 30± acres of recently annexed property, including the project site, from Maricopa County-43 to City of Mesa Single Residence-7 (R1-7) (equivalent

to current Single Residence-7 [RS-7]) and Conceptual Limited Commercial (C-2) (equivalent to current Limited Commercial [LC]) to allow for a shopping center (Case No. Z83-128, Ordinance No. 1765).

On **June 21, 1999**, the City Council rezoned the subject site from RS-7 to LC to allow for the development of convenience store/service station and automobile/vehicle washing facility (Case No. Z99-040, Ordinance No. 3640).

On **November 2, 1999**, the Board of Adjustment approved two Special Use Permits (SUPs) to allow the development of an automobile service station and an automobile/vehicle washing facility (Case No. BA99-030).

## **PROJECT DESCRIPTION**

### **Background:**

The proposed project involves demolishing the existing service station fuel canopy and redeveloping the existing convenience store into a limited service restaurant and the existing attached lube center into a canopy and drive thru lane facilities for the restaurant. In addition, the existing car wash is being enlarged from a 1,152 square foot facility to a 3,174 square foot facility with 20 covered vacuum bays. To accommodate the proposed redevelopment of the subject site, the applicant is requesting a Special Use Permit (SUP) to expand a non-conforming structure, modification of a SUP for an automobile/vehicle car wash, and a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for the development of a restaurant with a drive-thru facility and a car wash in the Limited Commercial (LC) District.

In 1999, the Board of Adjustment approved a SUP to allow the development of a car wash at the subject site in accordance with the zoning codes in effect at that time; however, the existing car wash building does not comply with the current MZO development standards. Per Table 11-6-3 and Section 1-33-4(B)(2)(b) of the Mesa Zoning Ordinance (MZO), a minimum 15 foot building setback and landscape yard is required adjacent to a non-residential district. The submitted plans show a minimum 8-foot building setback and landscape yard along the east property line, which does not meet current MZO development standards and is considered non-conforming. The applicant is proposing to enlarge the existing 1,152 square foot car wash into a new 3,174 square foot car wash. Section 11-36-7 of the MZO allows non-conforming structures to be enlarged and extend into non-conforming yards when approved with a SUP.

In addition, the 1999 Board of Adjustment approval of the SUP to allow the car wash was conditioned on compliance with the plans submitted as part of that case (BA99-030). The proposed enlargement of the car wash and associated changes are modifying the previously approved BA99-030 site plan. These changes are considered major modifications to the approved site plan. Per Section 11-69-10(B) of the MZO, a modification that is determined major requires submission of a new application and must follow the applicable review and approval process set forth in the Mesa Zoning Ordinance and have the request approved by the appropriate decision-making body. Consequently, per Table 11-6-2 of the MZO, the proposed

automobile/vehicle washing (car wash) use requires approval of a SUP and is also required to comply with the additional development standards of Section 11-31-7 of the MZO.

To facilitate the redevelopment of the entire site, the applicant is requesting approval of a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for a restaurant with a drive-thru facility and the car wash expansion in the Limited Commercial (LC) District. City of Mesa Planning records indicate entitlements for the existing development were approved in 1999 and building permit records indicate the existing improvements were constructed in accordance with building and zoning codes in effect at the time; however, some of the existing site improvements do not conform with current development standards of Section 11-6-3 of the MZO. Due to existing conditions, achieving full conformance with the MZO would require significant alterations to the site including modifications to on-site circulation, removal of parking spaces and partial demolition of the existing convenience store building. Section 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 further conformance, the applicant is proposing to install a new parking area landscape island, new pedestrian connections and new landscaping throughout the entire site.

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

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood. Per Chapter 7 of the General Plan, the primary focus of the Neighborhood character type is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. Neighborhoods can contain a wide range of housing options and often have associated nonresidential uses such as schools, parks, places of worship, and local serving businesses. Nonresidential areas within neighborhoods should be designed and located to bring people together and not disrupt the fabric and functioning of the neighborhood as a place where people live. The proposed limited service restaurant with drive thru facilities and the car wash uses conforms with the intent of the Neighborhood character area and the General Plan by providing businesses that serve the surrounding neighborhoods.

#### **Site Characteristics:**

The subject site is located at the northeast corner of Power and Guadalupe Roads. Two existing drive entrances along Power Road and one existing drive entrance along Guadalupe Road provide access to the site. The proposed 2,178 square foot limited service restaurant is located towards the west side of the lot with the drive-thru located on the east side of the building. The car wash is located on the east side of the lot, with vacuum canopies located to the west of the car wash. The site plan shows 17 parking spaces provided for the limited service restaurant use. It also shows 20 vacuum spaces and eight standard parking spaces for the car wash site. A total of 22 parking spaces are required for the limited service restaurant use and eight parking spaces are required for the car wash use. As part of the Planning and Zoning Board Site Plan Review application for the redevelopment of the site, the applicant is requesting a SUP to reduce the number of required parking spaces for the limited service restaurant and proposes any additional parking spaces needed for the restaurant maybe accommodated by utilizing the vacant parking spaces or vacuum spaces on the car wash site.

The landscape plan shows trees and shrubs planted around the perimeter of the site as well as in the landscape islands in the parking areas and in the foundation base areas around the perimeter of the buildings.

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

<b>Northwest</b> (Across Power Rd.) City of Gilbert Maricopa Flood Control District retention area	<b>North</b>  LC City of Mesa park	<b>Northeast</b>  RS-6-PAD Church
<b>Northwest</b> (Across Power Rd.) City of Gilbert Maricopa Flood Control District retention area	<b>Subject Property</b>  LC Convenience Store, Service Station and Car wash	<b>East</b>  LC-PAD Vacant
<b>Southwest</b> (Across Power and Guadalupe Rds.) City of Gilbert Maricopa Flood Control District retention area	<b>South</b> (Across Guadalupe Rd.)  PS Gilbert Unified School	<b>Southeast</b> (Across Guadalupe Rd.)  PS Gilbert Unified School

**Zoning Ordinance, Section 11-36-7 – Alterations and Enlargements to Nonconforming Structures:**

Per Section 11-36-7(B) of the MZO, the Board of Adjustment may approve alterations or enlargements that extend into a nonconforming yard through a SUP where the alteration would not:

1. Further reduce any existing nonconforming yard;
2. Exceed applicable building height limits;
3. Further reduce existing nonconforming lot coverage or floor area ratio requirements; and
4. Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.

The proposed enlargement of the car wash meets all applicable setbacks and height requirements covered within the allowance of what is approved through the SUP and additional off-street parking spaces are provided in accordance with required parking space requirements of Table 11-32-3(A) of the MZO.

**Zoning Ordinance, Section 11-70-5 – Special Use Permit – Alterations and Enlargements to Nonconforming Structures:**

Per Section 11-70-5 of the MZO, the Board of Adjustment shall find upon sufficient evidence when making a decision on a SUP that:

1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;

**Approval of the requested SUP for the enlargement of the car wash in the Neighborhood character area will advance the goals of the General Plan by allowing for redevelopment of the existing facilities which contributes to the maintenance of a local business that serves the surrounding neighborhood and the vitality of the neighborhood.**

***The proposal meets this criteria.***

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and any other applicable City plan or policies;

**The proposed enlargement of the car wash complies with the purpose of the LC District and the Neighborhood Character Area by providing a service-oriented business to serve the surrounding residential trade area.**

***The proposal does meet this criteria.***

3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and

**The proposed enlargement of the existing car wash will not be injurious or detrimental to adjacent properties in the area.**

***The proposal meets this criteria.***

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**The existing site is adequately served by City of Mesa public facilities and public infrastructure.**

***The request meets this criterion.***

**Zoning Ordinance, Section 11-31-7(G) – Additional SUP Criteria for an Automobile/Vehicle Washing Facility:**

Per Section 11-31-7(G) of the MZO, following are additional SUP criteria for an Automobile/Vehicle Washing Facility:

1. The number of automobile related activities within 600-feet of an intersection of arterial streets shall not exceed 2, including automobile/vehicle washing, automobile service stations, automobile sales or rental lots, or automobile/vehicle repair.

**In addition to the subject site, there is one other automobile related activity (service station) to the north of the subject site which is within 600-feet of the intersection of Power and Guadalupe Roads. With the approval of this SUP, there are only two automobile related activities within 600 feet of the Power and Guadalupe Road intersection.**

***The request meets this criterion.***

2. Proposed locations within "-U" designated areas shall be oriented with canopies and fuel dispensing equipment away from the street, either to the side or to the rear of a building.

***This criterion is not applicable to this site.***

3. Compliance with all development standards for the applicable zoning district, including compliance with all requirements for automobile related services located in all mixed districts and "-U" designated districts.

**The subject site is located in the LC District. As part of this application, the applicant is requesting approval of a SUP to enlarge the car wash into a non-conforming side yard and SCIP to allow the modification of certain development standards to enable the redevelopment of the site for a limited service restaurant with drive thru facilities and a car wash. In addition, as part of the Planning & Zoning Board Site Plan Review application, the applicant is requesting a SUP to reduce the number of required on-site parking spaces. With approval of these requests, the site will comply with all MZO development standards for the LC District and Section 11-31-7 of the MZO, additional development standards for automobile/vehicles washing.**

***The request meets this criterion.***

4. The use is found to be in compliance with the General Plan, applicable Sub-area plans and other recognized development plans or policies, and will be compatible with surrounding uses;

**The subject site is within the Neighborhood character area of the 2040 General. This request advances the goals of the General Plan by allowing for redevelopment of the car wash which will contribute to the maintenance of a local business that serves the surrounding neighborhood and the economic vitality area. In addition, the subject site includes a landscape yard with trees and shrubs along the north and east property lines, which helps to buffer the car wash from the adjacent properties and help it be compatible with the City of Mesa park and vacant property to the north and east, respectively.**

***The request meets this criterion.***

5. Evidence that acceptable documentation is present demonstrating that the building or site proposed for the use shall adequately provide paved parking and on-site circulation in a manner that minimizes impacts on adjacent sites; and existing or proposed improvements to the site shall minimize dust, fugitive light, glare, noise, offensive smells and traffic impacts on neighboring residential sites.

**The provided site plan indicates eight paved parking spaces, which complies with the number of required on-site parking spaces for car wash use per Table 11-32-3(A) of the MZO. In addition, 20 paved vacuum spaces are also provided on site. The site plan also shows that the on-site circulation does not impact adjacent site. Furthermore, the layout of the site improvements will minimize dust, fugitive light, glare noise, offensive smells and traffic impacts on the neighboring properties.**

***The request meets this criterion.***

6. A finding that a plan of operation has been submitted, which includes, but is not limited to, acceptable evidence of compliance with all zoning, building, and fire safety regulations.

**The Good Neighbor Policy and Plan of Operation submitted with this application indicates the redevelopment of the car wash use will conform with all City of Mesa zoning, building and fire safety regulations.**

***The request meets this criterion.***

7. A finding that a "good neighbor policy" in narrative form has been submitted, which includes, but is not limited to, descriptions of acceptable measures to ensure ongoing compatibility with adjacent uses. Such policies shall include, but are not limited to, the name and telephone number of the manager or person responsible for the operation of the facility; complaint response procedures, including investigation, remedial action, and follow-up; and litter control measures.

**The Good Neighbor Policy and Plan of Operation indicates all noise and lighting will be controlled as a courtesy to the community: noise of the car wash will be mitigated by installing the central vacuum system inside a masonry enclosure and running all main feeds to the vacuum stanchions underground and lighting on the entire site will be mitigated by having all light sources shielded. In addition, the site will be secured with state-of-the-art electronic security and safety equipment and devices, such as roll-down doors at both ends of the car wash tunnel. Furthermore, the name and telephone number of the person responsible for the car wash is included in The Good Neighbor Policy and Plan of Operation. The document also indicates complaints will be followed-up by a personal response to the individual filing the complaint and that employees will ensure the facility is clean, presentable and free from trash and debris.**

***The request meets this criterion.***

8. Evidence that acceptable documentation is present demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City development standards, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.

**The site and landscape plans and elevations submitted with this request indicate the buildings and site will be brought into substantial conformance with all current MZO development standards.**

***The request meets this criterion.***

**Zoning Ordinance, Section 11-70-5 – Special Use Permit for an Automobile/Vehicle Washing Facility:**

Per Section 11-70-5 of the MZO, the Board of Adjustment shall find upon sufficient evidence when making a decision on a SUP that:

1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;

**The proposed car wash will advance the intent of the Neighborhood character area and goals of the General Plan by allowing for redevelopment of the existing facilities which contributes to the maintenance of a local business that serves the surrounding neighborhood and the economic vitality of the area.**

***The proposal meets this criteria.***

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and any other applicable City plan or policies;

**The proposed car wash complies with the purpose of the LC District and the Neighborhood Character Area by providing a service-oriented business to serve the surrounding residential trade area.**

***The proposal does meet this criteria.***

3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and



**The proposed car wash will not be injurious or detrimental to adjacent properties in the area.**

***The proposal meets this criteria.***

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**The existing site is adequately served by City of Mesa public facilities and public infrastructure.**

***The request meets this criterion.***

**Special Use Permit (SUP) Findings:**

- A. The site is zoned LC, and a SUP was approved for the existing car wash (BA99-030).
- B. The applicant is proposing to enlarge the existing car wash building from 1,152 square feet to 3,174 square feet and make associated changes to the facilities parking and on-site circulation.
- C. The proposed enlargement of the car wash and associated changes to the site modify the previously approved BA99-030 site plan. These changes are considered major modifications to the approved site plan and consequently, the previously approved SUP.
- D. Per Section 11-69-10(B) of the MZO, a modification that is determined major requires submission of a new application to start the process from the beginning and must follow the applicable review and approval process set forth in this Ordinance and have the request approved by the appropriate decision-making body. Consequently, per Table 11-6-2 of the MZO, the proposed automobile/vehicle washing (car wash) use requires approval of a SUP and is also required to comply with the additional development standards of Section 11-31-7 of the MZO.
- E. The proposed car wash enlargement complies with the additional development standards of Section 11-31-7(A thru F) of the MZO for an automobile/vehicle washing use. A condition of approval is included to verify compliance with Section 11-31-(G) of the MZO.
- F. The proposed car wash enlargement complies with the additional SUP criteria of Section 11-31-7 of the MZO.
- G. The proposed car wash complies with the purpose of the LC District and the Neighborhood Character Area by providing a service-oriented business to serve the surrounding residential trade area and contributes to the economic vitality of the area.
- H. The proposed car wash will not be injurious or detrimental to adjacent properties in the area.
- I. The existing site is adequately served by City of Mesa public facilities and public infrastructure.

**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 current MZO development standards of the LC District. 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:**

<b>Development Standard</b>	<b>MZO Requirements</b>	<b>Applicant Proposal</b>	<b>Staff Recommendation</b>
<i>Minimum Setbacks Along Property Lines for Buildings and Parking Areas – Interior Side and Rear: Adjacent to Non-Residential District:</i> <i>[Table 11-6-3.A]</i> North property line  East property line	15 feet, per story  15 feet, per story	<b>10 feet (one story)</b>  <b>Eight feet, (one story)</b>	<b>As proposed</b>
<i>Landscape Yards:</i> <i>[Table 11-6-3.A]</i> Power Road  <i>[Section 11-33-4(B)(2)(a)]</i> North property line  East property line	15 feet  15 feet  15 feet	<b>Six feet, minimum</b>  <b>10 feet, minimum</b>  <b>Eight feet, minimum</b>	<b>As proposed</b>
<i>Foundation Base – Exterior Walls with a public entrance:</i> <i>Section [11-33-5(A)]</i>  Restaurant Building: West Elevation  South Elevation	15 feet  15 feet	<b>10 feet, nine inches</b>  <b>Seven feet, five inches, minimum</b>	<b>As proposed</b>
<i>Setback of Cross Drive Aisles:</i> <i>[Section 11-32-4(A)]</i> Power Road  Guadalupe Road	50 feet  50 feet	<b>Six feet, minimum</b>  <b>35 feet, minimum</b>	<b>As proposed</b>

To bring the site into substantial conformance with the development standards of the MZO, the applicant proposes the following:

- Installation of a new parking lot landscape island with a five foot wide sidewalk at the northwest corner of the restaurant building.

- Installation of parking lot landscape islands within the car wash parking field to comply with MZO development standards.
- Providing a pedestrian connection to Power Road.
- Providing a 10 foot wide foundation base along the west elevation of the car wash.
- All perimeter, landscape island and foundation base plant material installed in compliance with MZO development standards.

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 the MZO 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 convenience store building, removal of parking spaces and significant changes to the vehicular circulation pattern, 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 discourage redevelopment on this site.**

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

3. The creation of new non-conforming conditions.

**No new non-conforming conditions will be created with the redevelopment of the site.**

- 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 site are compatible with the surrounding area and will bring the site into substantial conformance with the MZO, enhance the appearance of the site, and improve the streetscape. Therefore, staff believes the proposed request will not be detrimental to adjacent properties or neighborhoods.**

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

**SCIP Findings**

- A. The site is zoned LC and the entitlements for the existing convenience store, service station and car wash development were approved in 1999 and constructed in accordance with building and zoning codes in effect at the time.
- B. Some of the existing site improvements do not conform with current development standards of Section 11-6-3 of the MZO.
- C. Achieving full conformance with the MZO would require significant alterations to the site including modifications to on-site circulation, removal parking spaces and partial demolition of the existing convenience store building.
- D. No new non-conforming conditions will be created with the redevelopment of the site.
- E. The proposed improvements to the site are compatible with the surrounding area and will bring the site into substantial conformance with the MZO, enhance the appearance of the site, and improve the streetscape. Therefore, staff believes the proposed request will not be 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 Recommendation:**

Based upon the application received and preceding analysis, staff finds the request complies with the Mesa 2040 General Plan, additional Special Use Permit criteria of Sections 11-35-7(B) and 11-31-7(G) of the MZO, the criteria for Special Use Permits outlined in Section 11-70-5 of the MZO as well as 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 documents submitted with this application.
- 2. Compliance with all City development codes and regulations.
- 3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
- 4. To demonstrate compliance with Section 11-31-7(F) of the MZO, submit a sound study for the car wash verifying sound level readings at the street and at interior property lines are no more than 55 decibels prior to the issuance of a building permit.

**Attachments:**

Exhibit 1 – Vicinity Map

Exhibit 2 – Staff Report

Exhibit 3 – Site Plan

Exhibit 4 – Landscape Plan

Exhibit 5 – Elevations

Exhibit 6 – Narrative

Exhibit 7 – Good Neighbor Policy and Plan of Operation