

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 11-3-2, OFFICIAL ZONING DISTRICT MAP AND DISTRICT BOUNDARIES, OF THE MESA CITY CODE, CHANGING THE ZONING OF CERTAIN PROPERTY DESCRIBED IN ZONING CASE ZON18-00066 THE 1000 THROUGH 1100 BLOCKS OF SOUTH ALMA SCHOOL ROAD (WEST SIDE) AND THE 1200 THROUGH 1300 BLOCKS OF WEST SOUTHERN AVENUE (NORTH SIDE). LOCATED AT THE NORTHWEST CORNER OF ALMA SCHOOL ROAD AND SOUTHERN AVENUE. (16± ACRES). REZONING FROM LC TO RM-5 PAD FOR 10.5± ACRES, REZONING FROM LC TO LC-PAD FOR 5.5± ACRES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 11-3-2 Official Zoning District Map and District Boundaries, of the Mesa Zoning Ordinance is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case (Z18-00066), signed by the Mayor and City Clerk, which accompanies and is annexed to this ordinance and declared a part hereof.

Section 2: The Official Supplementary Zoning Map attached hereto is adopted subject to compliance with the following conditions:

1. Compliance with the basic development as described in the project narrative, as shown on the site plan and preliminary elevations except as modified below.
2. Compliance with all requirements of Design Review for DRB18-00067, including but not limited to locations of decorative at-grade pedestrian connections across drive aisles within the multi-residential portion of the project.
3. Compliance with all City development codes and regulations except as modified by the PAD and the conditions below.
4. Compliance with all requirements of the Subdivision Regulations to accommodate a reconfiguration of parcels.
5. Recordation of cross-access agreement(s) between the outparcel located along Southern Avenue and each of the adjacent buildings on the property.
6. Prior to submitting for a building permit, submit a revised site plan for Planning Director review and approval includes:
 - a. Provide a maximum 5-foot setback along Southern Avenue for buildings, drive-thru canopy or outdoor patio space.
 - b. Removing the shrubs, groundcover and landscape surface material along Southern Avenue and replacing it with hardscape and trees within grates. The quantity and spacing of trees shall be consistent with Chapter 33 of the Mesa Zoning Ordinance.
 - c. Adding back the existing parking spaces, that are located on the southwest side of the outparcel located along Southern Avenue and are included in the out-parcel's parking requirements.
7. Design Review approval is required for buildings A, B, C and D and shall include the following:
 - a. Buildings A and B: Architecturally integrated canopies for drive through lanes along Southern Avenue. The canopies must maintain visibility into the site.

- b. Buildings A, B, C and D: The pedestrian paths that cross drive aisles shall consist of a decorative surface similar in design and material with the pedestrian paths throughout the commercial and multi-residence portions of the development.
- c. Building A: Additional hardscape to create an outdoor patio or plaza adjacent to the building.
- d. Building A: A raised traffic table, to serve as a pedestrian crossing at the drive-thru lane along Southern Avenue.
- e. Building B: Additional hardscape to create an outdoor patio or plaza along the south side of the building adjacent to the pedestrian that crosses the drive-thru lane along Southern Avenue. The width of the outdoor patio or plaza shall match or exceed the width of the pedestrian crossing.
- f. Building B: A raised traffic table to serve as the pedestrian crossing at the drive-thru lane along Southern Avenue. The width of the pedestrian crossing and traffic table shall be twice the width of the decorative pedestrian crossing shown on the site plan.
- g. Building D: Widen the pedestrian connection and include a raised traffic table to serve as the pedestrian crossing at the drive-thru lane along Alma School Road. The width shall be consistent with the pedestrian connection between the drive-thru lane and Alma School Road on the site plan.

Section 3: PENALTY.

CIVIL PENALTIES:

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this Ordinance, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than \$150 or more than \$1,500, per citation. A second finding of responsibility within 24 months of the commission of a prior violation of this Ordinance shall result in a civil sanction of not less than \$250 or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Ordinance shall result in a civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) Schedule of Fees and Charges, and may be ordered to pay any other applicable fees and charges.
- B. The 36-month provision described above of this Section shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within 36 months of the commission of another violation for which the owner or responsible party was convicted or was otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.
- C. Each day in which a violation of this Ordinance continues, or the failure to perform any act or duty required by this Ordinance or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- A. A person who commits a violation of this Ordinance after previously having been found responsible for committing three (3) or more civil violations of this Ordinance within a twenty-four (24) month period – whether by admission, by payment of the fine, by default, or by judgment after hearing – shall be guilty of a class 1 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a class 1 criminal misdemeanor complaint in the Mesa City Court against habitual offenders. For

purposes of calculating the twenty-four (24) month period under this Subsection, the dates of the commission of the offenses are the determining factor.

- B. Upon conviction of a violation of this Section, the Court may impose a sentence of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.
- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 26th day of August, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk