



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

June 1, 2022

CASE No.: **BOA22-00273**

CASE NAME: **Salsitas Restaurant Canopy Project**

Owner's Name:	Jorge Roldan
Applicant's Name:	Ali Gharai, GHA Architects Inc
Location of Request:	35 North Country Club Drive
Parcel Nos:	138-55-042A
Nature of Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards to allow for an outdoor seating area at an existing restaurant
Zone District:	Downtown Core with a Downtown Events overlay (DC-DE)
Council District:	4
Site size:	0.38± acres
Existing use:	Restaurant
Hearing Date:	June 1, 2022 at 5:30 P.M.
Staff Planner	Jennifer Merrill, Planner II
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **July 14, 1883**, a one-square-mile area became the City of Mesa (Ordinance No. 1).

Per historical aerials of the area, the building appears to have been constructed in the 1960's. No relevant permits were found on microfilm.

On **September 8, 1987**, City Council approved the subject site zoning of High Intensity Mixed Use (TCC), as part of the Town Center zoning districts, a new zoning map and new design guidelines for all properties within Mesa's Town Center (Z87-040; Ordinance No. 2254).

On **May 11, 2010**, the Board of Adjustment approved a Special Use Permit to allow outdoor seating areas for restaurants in the TCC zoning district / Pedestrian Overlay Area (POA). This site is within the POA.

On **November 7, 2011**, City Council approved the Downtown Events Overlay District (Z11-017; Ordinance No. 5065).

Per recent aerials of the property, the six parking spaces in front of the building were converted to outdoor seating in 2017/2018. The canopy over the outdoor seating area was installed in 2021.

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards to allow a shade canopy over an outdoor seating area at an existing restaurant. The restaurant building was constructed in the 1960's. The site was developed with minimal perimeter, parking lot and foundation base landscaping, and it includes a drive-thru which is not a permitted accessory use in the Downtown Core (DC) zoning district. The existing site does not conform to the current development standards for landscaping, parking or drive-thru's per Sections 11-32, 11-33, and 11-31-18 of the Mesa Zoning Ordinance (MZO); therefore, the subject site is considered legal non-conforming.

Due to existing conditions, achieving full conformance with the MZO would require demolition and reconstruction of the building and parking lot. Section 11-73 of the MZO establishes the 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. The SCIP will allow for the existing restaurant, including the drive-thru, to remain in its current location.

General Plan Character Area Designation and Goals:

The General Plan Character designation on the property is Downtown with a Transit District - Station Area overlay. Per the General Plan, the focus of the Downtown character area is the creation of a pedestrian oriented, transit-rich environment with a lot of activity. In addition, the goal for the character area is to make it a people-friendly area that is alive with options for housing, employment, shopping, entertainment, and events. Buildings in the character area are to be designed and placed to engage the street and help provide an active street life. Restaurants with patios along the street are appropriate for the Transit Corridor, especially in Station Areas.

This subject property is also located within the Downtown Transit Node Character Area of the Central Main Street Area Plan. The Central Main Plan promotes pedestrian-friendly design with buildings that engage the street and include material and construction quality that meets or exceeds the level of quality established by the public investment in the light rail line (Policy PFC 3.5 on page 27 of the Central Main Plan). Pedestrian oriented design options including landscaping, hardscaping, and public art are included at light rail transit stops and as screening for some of the light rail infrastructure.

The proposed restaurant with a covered outdoor eating area, if designed to engage the street with high quality design and landscaping, will comply with the goals of the Downtown character designation.

Site Characteristics:

The subject property is located north of Main Street on the east side of Country Club Drive and is less than one-half acre in size. It is adjacent to public streets on its west, north and east sides. The existing restaurant building will remain in its current location, and the unpermitted canopy that was built over the outdoor eating area is proposed to be re-constructed per approval of this SCIP and the building permit review process.

The proposed site plan shows a 2,645 square-foot single-story restaurant fronting onto Country Club Drive. An outdoor eating area is located in front of the building. Vehicular access is provided from Country Club Drive, and a new walkway is proposed to connect the outdoor eating area with the sidewalk along Country Club Drive. The landscape plan shows new trees at the southwest and northwest corners of the site, as well as new shrubs along the perimeter. A new gate is proposed for the solid waste enclosure on the northeast corner of the site. The outdoor eating area is located in a former parking area, and still includes striped asphalt and cement wheel stops; this will be replaced with non-slip tiles to create a safer surface for customers.

Surrounding Zoning Designations and Existing Use Activity:

Northwest (Across Country Club Dr) DB-1 Commercial	North (Across Pepper Pl) DC-DE Bank building	Northeast (Across Pepper Pl) DC-DE Bank building
West (Across Country Club Dr) T5MS Vacant (approved multi-residential)	Subject Property DC-DE Restaurant with outdoor eating area	East (Across Morris) DC-DE Extended-stay motel
Southwest (Across Country Club Dr) T5MS Vacant (approved multi-residential)	South DC-DE Restaurant	Southeast (Across Morris) DC-DE Extended-stay motel

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 development standards per Sections 11-32 and 11-33 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>Loading:</i> [Sec. 11-8-7(B)]	Space for loading	No designated space	As proposed
<i>Drive-thru design:</i> (Sec. 11-31-18)	140-foot-long stacking distance, landscape median, foundation base	65-foot-long stacking distance, and no associated landscape median or foundation base	As proposed
<i>Parking spaces required:</i> Eating Establishment with drive-thru window [Sec. 11-32-3]	1 space per 100 square feet for indoor area, and 1 space per 200 square feet for outdoor seating area = 31 total spaces	19 spaces	As proposed
<i>Parking setback from ROW north property line</i> [Sec. 11-32-4(A)]	50 feet	0'	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, landscape plan, and stated in the correspondence:

- Reconstruct the shade canopy over the outdoor eating area to meet code standards.
- Replace the solid waste enclosure gate with a new opaque gate.
- Remove the concrete wheel stops and replace the ground surface of the outdoor eating area with non-slip tiles to create a safer surface for customers.
- Install a pedestrian path from the outdoor eating area to the public sidewalk along Country Club Drive.
- Install new landscaping in the perimeter landscape areas and in the planters in the outdoor eating area.
- Provide routine maintenance for the landscaping and site.
- Remove the flood lights from the roof.
- Replace the picnic tables in the outdoor eating area with more durable furniture.

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 demolition of the existing non-conforming building and parking lot, 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 the existing restaurant use as it is currently constructed and would discourage redevelopment on this site.

The request complies with this criterion.

3. The creation of new non-conforming conditions.

The proposed shade canopy over the outdoor eating area will not create new non-conforming conditions.

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 shade canopy and landscaping will bring the site into greater 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 DC-DE, and the existing restaurant building was developed in the 1960'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 structure.
- D. Improvements to the existing site include reconstructing the shade canopy over the outdoor eating area, adding landscaping around the perimeter of the site, and installing an opaque solid waste.

- 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 plans as submitted.*
2. *Replace dead and damaged landscape materials, decomposed granite and irrigation system in the landscape areas.*
3. *Shade canopy columns shall match the color and width of the restaurant building columns.*
4. *Compliance with all City Development Codes and regulations, except as identified in Table 1 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 – Site Plan
Exhibit 4 – Floor Plan & West Elevation
Exhibit 5 – Landscape Plan
Exhibit 6 – Narrative/Justification Statement