



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

September 7, 2022

CASE No.: BOA22-00550	CASE NAME: Geni War Wash Remodel
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Owner's Name:	Twin Palms Invest LLC, Twin Palms Investments LLC
Applicant's Name:	Chris Doran, S.D.S Consulting
Location of Request:	2831 East McKellips Road
Parcel Nos:	141-14-003T (east parcel), 141-14-003W (west parcel), 141-14-003V (middle parcel)
Nature of Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to allow deviations from certain development standards, a Variance to allow encroachment into the east side setback, and a Special Use Permit (SUP) for the expansion of an existing carwash onto an adjacent parcel in the Limited Commercial (LC) Zoning District.
Zone District:	Limited Commercial (LC)
Council District:	1
Site size:	2± acres
Existing uses:	Car Wash, Restaurant and Office uses
Hearing Date:	September 7, 2022 / 5:30 P.M.
Staff Planner	Jennifer Merrill, Planner II
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **August 25, 1979**, the City Council annexed 2,225± acres, including the subject site, into the City of Mesa (Ordinance No. 1277).

On **December 17, 1979**, the City Council rezoned 18± acres, including the subject site, from the Maricopa County zoning districts of Rural 43 (RU-43) and Intermediate Commercial (C-2) to City

of Mesa zoning districts Suburban Ranch (SR), Residential Service (RS) and Limited Commercial (C-2) for development of professional offices, and allow development of a farmers' market, arts and crafts displays and boutique shops (Case No. Z79-154; Ordinance No. 1299).

On **September 11, 1990**, the Board of Adjustment approved a SUP for a car wash on the middle parcel of the subject site, which currently contains the car wash building (Case No. BA90-045). The permit expired one year later, and the car wash was not constructed.

On **November 3, 1992**, the Board of Adjustment approved a Variance for landscaping and screening requirements and a SUP for a car wash facility on the west and middle parcels of the subject site, which contain retail buildings and the existing car wash building (Case No. BA92-040).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards for the remodel of an existing car wash facility in the Limited Commercial (LC) zoning district. The three-parcel site was initially developed in the 1980's with a commercial building fronting onto Lindsay Road. Parking for this building extends into the area currently occupied by the car wash. A Special Use Permit (SUP) for the car wash was approved in 1992, and the approval included variances to allow reductions to the landscaping and to the landscape setbacks. The variance allowed the parking spaces adjacent to the west and south interior property lines to remain to serve the existing restaurant and office uses. Since then, additional canopies have been added to the car wash facility, and the eastern parcel was paved to accommodate additional parking for the car wash and the commercial building. The existing site does not conform to the current development standards for the LC zoning district per Section 11-6 of the Mesa Zoning Ordinance (MZO). The car wash also does not conform to the standards for automobile/vehicle washing per Section 11-31-7 of the MZO; therefore, the subject site is considered legal non-conforming. The proposal includes replacing the canopy over the pay kiosks, adding four new vacuum spaces on the existing car wash parcel, and adding 16 new vacuum spaces and 21 standard parking spaces on the east parcel of the site. Per the applicant, the new vacuum spaces are necessary to maintain the viability of the business.

Due to existing conditions, achieving full conformance with the MZO would require demolition of buildings and significant impacts to the on-site circulation. 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 would allow the existing buildings and parking on the western two parcels of the subject site to remain in its current locations, the existing drive-aisles connecting with the eastern parcel to remain in the current locations, and reductions to the required landscape materials surrounding the vacuum spaces.

The applicant is also requesting a Special Use Permit (SUP) to expand the car wash facility onto the eastern parcel, and a Variance to allow an encroachment into the east side setback. While approval of the SUP will allow the expansion of the car wash into the eastern parcel, the

expansion will take place in an existing parking lot. Within the parking lot, there is an existing landscape setback that ranges from 5'-2" to 11' along the eastern boundary of the parcel and an 8'-2" landscape setback along the northern boundary of the parcel, adjacent to McKellips Road. Many of the parcels in the immediate vicinity also have reduced landscape setbacks, consistent with the applicant's request. Due to the surrounding conditions, the Variance request would not be a special privilege granted to the applicant but would be consistent with the existing development pattern within the area.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood. The primary 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. Neighborhoods can contain a wide range of housing options and often have associated non-residential uses such as schools, parks, places of worship and local serving business. Non-residential areas within neighborhoods should be designed and located to bring people together and to not disrupt the fabric and functioning of the neighborhood as a place where people live. The design, development, and maintenance of neighborhoods focuses on ensuring clean, safe, and healthy areas where people want to live and maintain their investments. Neighborhoods are also designed to provide opportunities for people to gain a sense of place and feel connected to the larger community. The proposed SCIP retains the existing Vito's restaurant and the commercial office uses on the site. These businesses have provided a sense of place to the local area for over 35 years, and in this way the proposal conforms to the Neighborhood character area of the General Plan.

Site Characteristics:

The subject property is located at the southeast corner of McKellips and Lindsay Roads, behind the State Farm office building on the immediate corner. The subject site consists of three (3) parcels totaling just under two acres in size. The car wash is located in the middle parcel, and faces north, fronting onto McKellips Road. The west parcel includes a building that contains the Vito's Restaurant and office uses. East of the car wash is a parcel that was never formally developed, but it currently contains a parking area that is used by the car wash, restaurant and office uses.

The proposed site plan shows the existing car wash building in the center parcel of the subject site, a new 'Canopy A' over the pay kiosks, and four new vacuum spaces located north of the car wash building. It also shows 16 new vacuum spaces and 21 new standard parking spaces on the eastern parcel of the site. A landscape plan was provided for the eastern parcel. No new trees are proposed for the vacuum area because, per the applicant, the trees would likely drop debris on the vehicles, but 44 new shrubs are proposed for the eastern parcel.

Surrounding Zoning Designations and Existing Use Activity:

Northwest LC State Farm office	North (Across McKellips Rd.) LC Auto repair, and Car wash facility	Northeast (Across McKellips Rd.) LC Church
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West (Across Lindsay Rd.) LC Commercial shopping center	Subject Property LC Car wash, Restaurant, Office uses	East LC Commercial use
Southwest (Across Lindsay Rd.) LC Commercial shopping center	South LC & NC City of Mesa lift station	Southeast NC School

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 setback and landscaping standards per Chapter 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>Front Setback</i> [Table 11-6-3.A]	15 feet	8'-2"	As proposed
<i>Landscape Setbacks:</i> Interior property lines [Table 11-6-3.A]	15'	West property line: 3' South property line: 3'-1"	As proposed
<i>Perimeter Landscaping:</i> Number of plants [Sec. 11-33-3(B)(2)(c)]	3 non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line	0 trees and 20 shrubs per 100 linear feet of adjacent property line where adjacent to vacuum spaces (East property line)	As proposed
<i>Parking setback from ROW</i> north property line [Sec. 11-32-4(A)]	50'	8'-2"	As proposed
<i>Automobile/Vehicle Washing:</i> Landscaping [Sec. 11-31-7(D)]	In addition to perimeter, parking lot and foundation base landscaping requirements, landscaping shall comprise a min. of 10% of the site area	<10%	As proposed

To bring the site into substantial conformance with the development standards of the MZO, the applicant proposes to add 44 new shrubs on the eastern parcel. Conditions 1a and 1b are included

to ensure the landscaping is improved throughout the development, particularly in the standard parking areas and along McKellips Road.

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 buildings 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 SCIP is requested to allow a reduction to the front and rear setbacks on the eastern parcel. The setback reductions will allow the existing east-west drive aisles connecting the existing car wash with the eastern parcel to remain in the current locations.

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 require landscape islands with trees adjacent to the vacuum area, and per the applicant, trees (and any debris that they drop) are a liability to vehicles in these areas. Also per the applicant, the car wash will not be economically viable unless it offers vacuum stalls for customers and is allowed to utilize the eastern parcel with existing paving.

The request complies with this criterion.

3. The creation of new non-conforming conditions.

The SCIP requests outlined in Table 1 above do not include any new non-conforming conditions. The applicant is also requesting a *Variance for a reduction to the side setback adjacent to the east property line, which is discussed later in this report.*

- 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 bring the site into further compliance with the MZO, but will improve the streetscape with landscaping, particularly along the front of

the eastern parcel. Condition #3 has been included to ensure that improvements are made to the landscaping throughout the development. 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 a Special Use Permit and Variance were approved for the existing car wash on the middle parcel.
- 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 demolition of existing buildings and significant alterations to existing vehicular circulation patterns.
- D. Proposed improvements to the existing site include providing 44 new shrubs.
- E. The modifications requested are inconsistent with the degree of improvements to the site and do not bring the site into a closer degree of conformance with current MZO standards. Condition #3 is included to ensure that landscaping is improved throughout the site.
- F. The SCIP requests outlined in Table 1 above do not include any new non-conforming conditions.
- G. The proposed improvements, and overall landscape improvements throughout the site, will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Special Use Permit (SUP) MZO Section 11-70-5:

Per Table 11-6-2 of the MZO, Automobile/Vehicle Washing is permitted in the Limited Commercial (LC) zoning district with approval of a Special Use Permit (SUP), and if the car wash facility complies with the regulations in Section 11-31-7 of the MZO, Automobile/Vehicle Washing. The original SUP for the existing car wash did not include the eastern parcel; this request is for a SUP to expand the car wash use onto the eastern parcel.

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 car wash on the eastern parcel is consistent with the goals of the General Plan by allowing for the redevelopment and upkeep of existing businesses.

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 redevelopment and expansion of the existing commercial site, including the car wash, conforms with the intent of the Neighborhood Character Area and the Limited Commercial District. The existing businesses located on the site have been operating in the current locations for 15-35 years and provide a sense of place to the neighborhood.

The proposal meets 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 addition 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 addition does not add any additional burden on the public services, public facilities, nor public infrastructure. The public infrastructure is already on-site and will adequately serve the site and proposed use.

The request meets this criterion.

Special Use Permit Findings:

- A. A Special Use Permit is required for car wash facilities in the LC zoning district.
- B. The site is zoned LC, and a Special Use Permit was approved for the existing car wash on the middle parcel.
- C. The proposed expansion of the existing car wash onto the eastern parcel requires a Special Use Permit.
- D. Proposed improvements to the eastern parcel include providing 44 new shrubs.
- E. The proposed improvements, and overall landscape improvements throughout the site, will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Variance MZO Section 11-80-3:

Per Section 11-80-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on variances that:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings.

The subject site is located within an older area of the city where there are a significant number of properties that do not meet current landscape setback requirements. Therefore, the subject Variance request to allow the existing landscape setback to remain, and therefore encroach into the current minimum landscape setback of 15 feet, will be consistent with the surrounding area.

The proposal meets this criterion

2. That such special circumstances are pre-existing, and not created by the property owner or appellant;

Per historic aerial photographs, the parking area on the eastern parcel was developed in the 1990s by the current property owner. This same development pattern exists throughout the area and the current landscape requirements were adopted years after the parking lot was developed.

The proposal meets this criterion.

3. The strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.

Many of the commercial properties surrounding the subject site appear to have legal non-conforming sites with minimal landscape setbacks. For example, the site adjacent to the east is legal non-conforming and has no landscaping along its western property line. Therefore, strict compliance with MZO development standards for this property would deprive the property of privileges currently enjoyed by other properties in the neighborhood.

The proposal meets this criterion.

4. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

The request to maintain the existing landscape setback along the eastern property line would not be a special privilege granted to the property owner as it is consistent with other parcels within the immediate area.

The proposal meets this criterion

Findings

- A. The existing site is 2± acres.
- B. The existing car wash building on the center parcel was approved in 1992. The eastern parcel has been used as a parking area site since the 1990s per Maricopa County historical aerial photography, but a site plan was never approved for this parcel.

- C. The existing pavement encroaches into the side setback along the east property line. Per the site plan, the existing side setback is five-feet two-inches between the proposed vacuum spaces and the east property line, and 11-feet between the standard parking spaces and the east property line.
- D. There are special circumstances that justify the variance request for the reduced landscape setback along the eastern property line.
- E. Strict compliance with MZO development standards for the LC district would deprive the property of privileges currently enjoyed by other legal non-conforming properties in the neighborhood.
- F. Granting of this variance request does not constitute a special privilege inconsistent with MZO development standards for the LC district and the properties within the immediate area.

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 the preceding analysis, staff finds that the requested Variance to encroach into the eastern landscape setback meets the approval criteria outlined in Section 11-80-3 of the MZO for a variance; it meets the required findings of Section 11-70-5(E) of the MZO for a Special Use Permit; and, it meets the required findings of Section 11-73-3 of the MZO for a SCIP; and therefore staff recommends approval of the Variance, SUP, and SCIP and with the following conditions:

Conditions of Approval:

1. Compliance with the final site plan and landscape plan as submitted, with the following exceptions:
 - a. In the eastern parcel, provide landscape islands with trees and shrubs at the south ends of the rows of standard parking spaces, and provide a minimum of 3 trees and 20 shrubs along the east property line adjacent to the standard parking spaces.
 - b. Provide a minimum of 4 trees and 24 shrubs along the north property line adjacent to McKellips Road.
2. Replace dead and damaged landscape materials, decomposed granite and irrigation system in the landscape areas.
3. Compliance with all City Development Codes and regulations, except as identified in Table 1 of this report.
4. 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 – Narrative