



PLANNING DIVISION
STAFF REPORT

City Council Meeting

May 1, 2023

CASE No.: **ZON22-01271**

PROJECT NAME: **Power & Elliot**

Owner's Name:	Lesueur Invest VI, LLC
Applicant's Name:	Benjamin Tate, Withey Morris, PLC
Location of Request:	Within the 6800 to 6900 blocks of East Elliot Road (south side) and within the 3600 to 3700 blocks of South Power Road (east side). Located south of Elliot Road and east of Power Road.
Parcel No(s):	304-17-215, -214, -218, -219, -212, -211, -213, -216
Request:	Rezone from Limited Commercial with a Planned Area Development overlay and Bonus Intensity Zone overlay (LC-PAD-BIZ) to Limited Commercial and Site Plan Review. This request will allow for a commercial development.
Existing Zoning District:	Limited Commercial (LC)
Council District:	6
Site Size:	12± acres
Proposed Use(s):	Commercial Center with Service Station and Restaurants with drive-thrus
Existing Use(s):	Vacant
P&Z Hearing Date(s):	March 22, 2023 / 4:00 p.m.
Staff Planner:	Cassidy Welch, Senior Planner
Staff Recommendation:	APPROVAL with Conditions
Planning and Zoning Board Recommendation:	APPROVAL with Conditions (Vote: 5-1)
Proposition 207 Waiver Signed:	Yes

HISTORY

On **October 23, 1998**, the City Council annexed approximately 154± acres of property, including the project site, into the City of Mesa (Case No. A98-004, Ord. No. 3535); and subsequently zoned the property to Single Residence (RS-43) (Case No. Z98-103, Ord. No. 3577).

On **April 5, 1999**, the City Council approved a rezone of 82± acres of land, including the project site, from RS-43 to Limited Commercial (LC), Multiple Residence 3 (RM-3), and Light Industrial (LI) to allow a mixed-use development (Case No. Z99-016, Ord. No. 3610).

On **August 25, 2008**, the City Council approved a rezone of the project site from LC to LC with a Planned Area Development and Bonus Intensity Zone Overlay (LC-PAD-BIZ) to allow a commercial center (Case No. Z08-044, Ord. No. 4873).

On **March 22, 2023**, The Planning and Zoning Board approved a Special Use Permit for s service station and a Special Use Permit for parking reduction for the Proposed Project (Case No. ZON22-01271).

PROJECT DESCRIPTION

Background:

The applicant is requesting a rezone the project site from Limited Commercial with a Planned Area Development and Bonus Intensity Zone Overlay (LC-PAD-BIZ) to Limited Commercial (LC) and approval of an Initial Site Plan to allow for the development of a large commercial development (Proposed Project).

The project site is currently vacant and located south of Elliot Road and east of Power Road. The Proposed Project includes four restaurants with drive-thrus along Power Road, a service station on the corner of Power Road and Elliot Road, and two commercial anchor buildings along the eastern portion of the project site.

General Plan Character Area Designation and Goals:

The General Plan character area designation on the property is the Mixed Use Activity District. Per Chapter 7 of the General Plan, Mixed Use Activity character areas are large in scale (over 25 acres) and provide community and regional activity areas. Per the Plan, these areas generally have a substantial commercial component including shopping areas such as malls, power centers, or lifestyle centers that are designated and developed to attract customers from a large radius. The goal of this district is to also 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, a minimum of 70% of the character area must be established with primary zoning and primary land uses before secondary zoning districts and land uses are allowed. The Proposed Project will include a rezoning to a primary zoning district with primary land uses in the Mixed Use Activity District character area.

Mesa Gateway Strategic Development Plan:

The project site is located within the Inner Loop District of the Mesa Gateway Strategic Development Plan. Per the Plan, the focus of the Inner Loop District is to provide a high-quality, mixed-use environment that is compatible with increasing over-flight activities associated with the Phoenix-Mesa Gateway Airport operations.

The Proposed Project is consistent with the goals and intent of the Mesa Gateway Strategic Development Plan.

As a recommendation of the Mesa Gateway Strategic Development Plan, the City of Mesa conducted a specific land use study in 2018 (2018 Inner Loop Land Use Study) for the Inner Loop Area of the Plan. The intent of the study was to ensure appropriate allocation of land uses and distribution that aligns with the goals of the Mesa Gateway Strategic Development Plan.

The Proposed Project conforms with the recommendation of the land use study.

In summary, staff finds that the Proposed Project is consistent with the Mixed Use Activity District character area designation, the Mesa Gateway Strategic Development Plan, and the review criteria outlined in Chapter 15 (page 15-1&2) of the Mesa 2040 General Plan.

Zoning District Designations:

The applicant is requesting to rezone the site from Limited Commercial with a Planned Area Development and Bonus Intensity Zone Overlay (LC-PAD-BIZ) to Limited Commercial (LC).

Per Section 11-6-2 of the MZO, retail, large-scale commercial recreation, and restaurants with drive-thrus are permitted uses in the LC zoning district. Per Table 11-6-2 of the MZO, Service Stations in the LC zoning district require approval of a Special Use Permit (SUP).

The Proposed Project conforms to the goals of the LC district.

Airfield Overlay – MZO Article 3, Section 11-19:

Per Section 11-19 of the MZO, the site is located within the Airfield Overlay District and specifically within the Airport Overflight Area Three (AOA 3). The location of the property within the Airfield Overlay is due to its proximity to the Phoenix-Mesa Gateway Airport.

Per Section 11-6-2 of the MZO, the Proposed Project is permitted in the AOA 3.

Site Plan and General Site Development Standards:

The Proposed Project includes four drive-thru restaurants, one service station and two large commercial buildings with a total size of 75,100 square feet. Per the submitted plans, the service station and drive-thru restaurants will be located adjacent to Power Road with the proposed commercial buildings located in the rear of the site.

The project site will be accessed from an enhanced primary entrance on Power Road and secondary entrances on Elliot Road and Power Road. Per Section 11-32-3(A) of the MZO, 580 parking spaces are required for the proposed development.

Per the submitted site plan and requested SUP for a parking reduction, 526 parking spaces are provided.

The Proposed Project complies with the requirements of Section 11-31-18 of the MZO.

The proposed service station complies with the requirements of Section 11-31-25 of the MZO.

The proposed site plan conforms to the requirements of the MZO including the review criteria for Site Plan Review in Section 11-69-5 of the MZO.

Special Use Permit – MZO Section 11-70-5:

The Proposed Project includes a Special Use Permit (SUP) to allow Service Stations in the LC zoning district and a SUP for a parking reduction. Section 11-66-2(C)(2) of the MZO allows the Planning and Zoning Board to hear and take action on an SUP when requested in conjunction with another request requiring action or recommendation by the Planning and Zoning Board.

Per Section 11-70-5 of the MZO, an SUP may only be granted if it conforms to the following criteria:

1. Approval of the project will advance the goal and objectives of the General Plan and other applicable City plan and/or policies;

As discussed above the Proposed Project conforms to the intent of the Mixed Use Activity District and the Inner Loop District by providing a mix of uses including retail, recreation, and eating and drinking establishments.

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 with any other applicable City plan or policies;

The Proposed Project conforms to the intent of the LC zoning district and conforms to the General Plan.

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 Project will not be injurious or detrimental or injurious to surrounding properties or the city. The applicant provided a Good Neighbor Policy providing a contact and procedures if complaints should occur.

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

Adequate public facilities are either present or will be extended by the applicant with the development of the Proposed Project.

Section 11-31-25(I) of the MZO, contains additional SUP approval criteria for Service Stations:

1. 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; and

The Proposed Project complies with the General Plan and the Gateway Strategic Development Plan.

2. 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; and

The provided narrative and the site plan demonstrate compliance with all applicable codes.

3. 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, including sound attenuation, lighting control measures, and vehicular access and traffic control. Such policies shall include, but are not limited to, the name and telephone number of the position, manager, or person responsible for the operation of the facility; complaint response procedures, including investigation, remedial action, and follow-up; and litter control measures; and

A Good Neighbor Policy was provided outlining mitigation measures, contact information, and procedures for complaints.

4. 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 Proposed Project was designed in conformance with all zoning regulations.

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 proposed service station is located within the larger proposed group commercial center. The Proposed Project provides for cross access and parking within the development. All required parking and circulation for the service station will be constructed with the larger development.

Per Section 11-32-6(A) of the MZO, a Special Use Permit for reduced parking shall only be issued if the following criteria are found to be true:

1. Special conditions—including but not limited to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site—exist that will reduce parking demand at the site;

The required parking calculations for the Proposed Project are largely driven by the proposed recreation use to occupy one of the anchor buildings. Per Table 11-32-3.A of the MZO, Health space and clubs, gyms, and tennis, handball, and racquetball courts and clubs must provide one space per 100 square feet of building gross floor area, excluding courts, plus two spaces per court.

Per the applicant's narrative, the proposed facility intends to offer amenities that occupy a significant percentage of floor area but only typically accommodate a limited number of users at a time, ex. swimming pools, day care facilities, and locker rooms.

2. The use will adequately be served by the proposed parking; and

Due to the stated reasons above, the applicant parking demand study states that a ratio of one space per 180 square feet will adequately serve the proposed use. However, the applicant is proposed to park the Health club/Recreational use at one space per 125 square feet.

3. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.

The requested parking ratio will not cause the proposed project to be under-parked or become detrimental to surrounding properties. The proposed group commercial center has a system of well-connected parking fields as well as cross access and cross parking agreements.

The Planning and Zoning Board approved the Special Use Permit for the service station and the Special Use Permit for the parking reduction on March 22, 2023.

Design Review:

The City's Design Review Board has not been scheduled to review the proposed elevations for the buildings. Per Section 11-71-2 of the MZO, Design Review for each of the proposed buildings is required. Staff will work with the applicant to address any comments and recommendations from the Design Review Board.

Surrounding Zoning Designations and Existing Use Activity:

Northwest (Across Elliot Road & Power Road) Town of Gilbert Vacant	North (Across Elliot Road) LC Vacant	Northeast (Across Elliot Road) LI-PAD Vacant
West (Across Power Road) Town of Gilbert Vacant	Project Site LC-PAD-BIZ Vacant	East LC Offices
Southwest (Across Power Road) Town of Gilbert Vacant	South LC & LI-PAD Commercial & School	Southeast LI-PAD School

Compatibility with Surrounding Land Uses:

The project site is currently vacant. The property south of the project site is currently developed for a school and swim school. An existing government office is located to the east of the project site. The properties to the north and west of the project site are located within the Town of Gilbert and expected to develop in a manner consistent with the Proposed Project.

Neighborhood Participation Plan and Public Comments:

The applicant completed a Citizen Participation Process, which included mailing letters to property owners within 1,000 feet of the site as well as registered neighborhoods, and HOAs within one mile of the site.

As of writing this report, neither the applicant nor staff has received any comments from surrounding property owners.

Staff Recommendation:

Staff finds that the Proposed Project is consistent with the Mesa 2040 General Plan, the Gateway Strategic Development Plan, and the review criteria for Site Plan Review outlined in Section 11-69-5 of the MZO.

Staff recommends approval of the request with the following **Conditions of Approval:**

1. Compliance with the final site plan submitted.
2. Compliance with the Plan of Operation outlined in the project narrative.
3. Compliance with the Good Neighbor Policy submitted.
4. Compliance with all requirements of Design Review case DRB22-01273.
5. Future Design Review approval for the development of Pads A-E.
6. Dedicate the right-of-way and easements required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
7. All off-site improvements and street frontage landscaping must be installed in the first phase of construction.
8. Prior to the issuance of a building permit, obtain approval of and record with Maricopa County a final subdivision plat for the Proposed Project.

9. Prior to issuance of a building permit, obtain approval from the Transportation Department regarding the design of the access driveways on Power Road and Elliot Road.
10. Compliance with all City development codes and regulations.
11. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner must execute the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to or concurrently with the recordation of the final subdivision map or the issuance of a building permit, whichever occurs first.
 - b. Due to the proximity to Phoenix-Mesa Gateway Airport, any proposed permanent or temporary structure, as required by the FAA, is subject to an FAA filing for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. A completed form with a response by the FAA must accompany any building permit application for structure(s) on the property.
 - c. Prior to the issuance of any building permit, provide documentation by a registered professional engineer or registered professional architect demonstrating compliance with the noise level reductions required in Section 11-19-5 of the Mesa Zoning Ordinance.
 - d. Provide written notice to future property owners that the project is within 2 miles of Phoenix-Mesa Gateway Airport
 - e. All final subdivision plats must include a disclosure notice in accordance with Section 11-19-5(C) of the Zoning Ordinance which states in part: "This property, due to its proximity to Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."

Exhibits:

Exhibit 1 – Staff Report

Exhibit 2 – Vicinity Map

Exhibit 3 – Application Information

3.1 Project Narrative

3.2 Site Plan

3.3 Landscape Plan

3.5 Elevations

3.6 Grading and Drainage Report

3.7 Good Neighbor Policy

3.8 Parking Demand Study

3.9 Traffic Impact Study

3.10 Citizen Participation Plan

Exhibit 4 – Citizen Participation Report

Exhibit 5 – Avigation Easement