



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

September 2, 2020

CASE No.: BOA20-00525	CASE NAME: Kentucky Fried Chicken
------------------------------	--

Owner's Name:	STRR Investments LLC
Applicant's Name:	John Gerdes, Texas Land Engineers, Inc.
Location of Request:	241 N Power Road
Parcel Nos:	218-13-011G
Nature of Request:	Requesting a Development Incentive Permit (DIP) to allow deviations from certain development standards for a new restaurant with a drive-thru in the LC District.
Zone District:	Limited Commercial (LC)
Council District:	5
Site size:	1± acres
Proposed use:	Restaurant with Drive-Thru
Existing use:	Vacant
Hearing date(s):	September 2, 2020 / 5:30 p.m.
Staff Planner:	Kellie Rorex
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **November 16, 1974**, the City Council annexed approximately 117± acres, including the subject site, and subsequently zoned the subject site Limited Commercial (C-2) (Ordinance No. 908, Case No. Z75-33).

On **January 21, 2006**, the City Council approved a site plan showing the subject property as a future pad site and approving a car wash facility to the north (Ordinance No. 4664, Case No. Z06-099).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Development Incentive Permit (DIP) to allow for deviations from certain development standards to develop a vacant pad site into a restaurant with a drive-thru, with associated parking and landscaping, on a 1± acre site.

The purpose of a DIP is to provide incentive for the development of smaller tracts of land that would have difficulty meeting current development standards. Per Section 11-72-2 of the MZO, incentives that may be granted by the DIP are limited to modifications to building setbacks, landscaping design, onsite parking, building height, and other site development provisions contained in the Mesa Zoning Ordinance (MZO). Through the DIP, the applicant is requesting a reduction in the required landscape yard and a reduction in the number of required trees within the subject landscape yard along the southern property line so that the site can meet other development standards, such as, parking, drive-aisle width, etc.

Per MZO Section 11-33-3(B), a 20-foot landscape yard is required for non-single residence uses adjacent to single residence. The intent of this requirement is to provide an adequate buffer between commercial and residential uses. The applicant is requesting a three-foot (3') landscape yard along the southern property line. To the south of the subject property is a 40-foot landscape tract that is a part of the single residence community to the east of the subject site. In addition, the applicants are requesting to reduce the number of trees and shrubs in the three-foot (3') planting area. Per MZO Section 11-33-3(B)(1)(c), areas visible from public parking or drive aisles must have a minimum of four (4) nondeciduous trees and 20 shrubs per 100 linear feet of adjacent property line (10 trees and 48 shrubs required). The intent for this requirement is to help buffer commercial uses from residential uses, as well as to provide shade on the site. The applicant is proposing four (4) palm trees and zero (0) shrubs. With the 40-foot landscape tract and the three-foot (3') planting strip proposed, the applicant believes the site will be adequately buffered from the multifamily (RM-4) development to the south. The proposed development was reviewed by the Design Review Board on August 11, 2020. The Design Review Board was not concerned with the use of palm trees or the reduction in landscape material because the site is adjacent to an existing landscaped tract. It was the Design Review Boards opinion that the site would have shade from the proposed trees in the parking lot landscape islands and additional shrubs would not be necessary in the three-foot (3') area.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character Area designation is Neighborhood Village.

Neighborhood Village areas are typically shopping areas that serve the population within less than a two-mile radius. The goal for these areas is to provide the regular shopping and service needs of the nearby population while also becoming a gathering place for nearby residents. Typical uses in this character area include retail, restaurants, and offices, with limited fast food and drive-thru uses.

Per Chapter 7 of the Mesa 2040 General Plan, restaurants with drive-thrus should be designed to respect adjacent neighborhoods and address pedestrian safety and connectivity. The site design should include spaces for pedestrian activity as well as create a sense of place within the

development by providing attractive landscaping that enhances the character and identity of the overall area.

The proposed restaurant with a drive thru conforms to the typical uses and goals of the General Plan Character Areas designation. The use will contribute to the character of the area by providing a service for nearby neighbors to eat without having to drive out of the neighborhood. The proposed elevations show a restaurant design that has been altered from a typical franchise style to be more compatible with surrounding development. The drive thru lane is oriented away from the nearby residential homes as well as Power Road to maintain the character of the area. The proposed site design contributes to the Neighborhood Village Character area's goal to provide safe spaces for pedestrian activity as well as creating a sense of place by showing a shaded and raised pedestrian path from Power Road to the main customer entry, several bike racks, and an outdoor seating area. Overall, the site is well designed and fits in with the existing developments in the area.

Site Characteristics:

The subject site is a 1-acre vacant property located on the east side of Power Road, just south of University. The site will share an internal drive with the existing carwash to the north.

Surrounding Zoning Designations and Existing Use Activity:

Northwest (Across Power Road) Maricopa County Commercial	North LC Existing Car wash	Northeast RSL-2.5 Single Residential
West (Across Power Road) NC Vacant	Subject Property LC Vacant	East RSL-2.5 Single Residential
Southwest (Across Power Road) Maricopa County Vacant	South RSL 2.5/RM-4 Existing Residential	Southeast RSL-2.5/RM-4 Single Residential

Mesa Zoning Ordinance Requirements and Regulations:

Development Incentive Permit (DIP) Section 11-72 of the MZO

Per Section 11-72-1 of the MZO, the purpose of a DIP is to provide incentives for smaller tracts of land that would have difficulty meeting current development standards.

The applicant is requesting a DIP for modifications to certain development standards to allow development of an approximately 1±-acre vacant site including a 1,901 square foot restaurant with a drive-thru. The subject site qualifies as a by-passed parcel as it is less than 2.5 acres and has been in its current configuration for more than 10 years, has access to City utilities, is within an area where not more than 25% of developable land is vacant and more than 50% of the parcels

have been developed for more than 15 years. The requested modifications will result in a development that is commensurate with existing development in the area.

Table 1 below compares Mesa Zoning Ordinance (MZO) requirements, the applicant's proposal and staff's recommendation for the site. Items in bold face type indicate deviation from code requirements:

Table 1: Development Standards

Development Standard	MZO Requirement	Applicant Proposed	Staff Recommends
Landscape yard adjacent to Single Residence	20 feet	3 feet	As proposed
Number of plants in landscape yard that are visible from public parking	A minimum of 4 nondeciduous trees and 20 shrubs per 100 linear feet of adjacent property line (10 trees and 48 shrubs)	4 palm trees and 0 shrubs	As Proposed

Section 11-72-1 of the MZO, a Development Incentive Permits (DIP) may be approved to allow incentives for the development of parcels that meet the following criteria:

A. AREA

1. Total area of the parcel does not exceed 2.5 net acres, and the parcel has been in its current configuration for more than 10 years; or
2. Total area of the site does not exceed 5 net acres and was created by the assembly of 2 or more individual, contiguous parcels.

The subject site is 1± acres and has been in its current configuration for more than 10 years.

The request complies with this criterion.

- B. UTILITIES.** The parcel is served by, or has direct access to, existing utility distribution facilities.

The parcel has access to City of Mesa utilities in Power Road.

The request complies with this criterion.

- C. SURROUNDING DEVELOPMENT.** The parcel is surrounded by properties within a 1,200-foot radius in which:
1. The total developable land area is not more than 25 percent vacant; and
 2. Greater than 50 percent of the total number of lots or parcels have been developed 15 or more years ago.

Based on current aerial photography, around 25% of sites within the 1200-foot radius of the

property are vacant. Comparing the 2005 Maricopa County aerial photo with the current aerial photo, it shows more than 50 percent of the total number of lots were developed more than 15 years ago.

The request complies with this criterion.

1,200-foot buffer current aerial
photo



2005 Aerial photo



Per Section 11-72-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on a DIP that:

1. The proposed development is consistent with the General Plan, any other applicable Council adopted plans and/policies, and the permitted uses as specified in this Ordinance;

The development is consistent with the General Plan designation for this area of “Neighborhood Village”.

The request complies with this criterion.

2. The incentives do not allow development that is more intense than the surrounding neighborhood; commensurate with existing development within a 1,200-foot radius of the by-passed property; and,

The incentives will allow for development that is commensurate with existing development within 1,200 feet radius of the property. The proposed modifications are to help provide the required number of parking spaces and drive-aisle width needed for fire and solid waste vehicles.

The request complies with this criterion.

3. The architectural elements, construction and landscape materials, and other site improvements of the proposed development meet the intent of the Design Standards of this Ordinance.

The Design Review Board discussed the project during their August 11, 2020 Work Session and recommended minor modifications to the plan. A Site Plan associated with the project was reviewed and approved by the Planning and Zoning Board on August 26, 2020. The proposed project meets the intent of the Design Standards of the Ordinance.

The request complies with this criterion.

Findings:

- A. The site is 1± acre and has been in its current configuration for more than 10 years.
- B. The site is served by, or has direct access to, existing utilities.
- C. The total developable land area within 1,200 feet of the site is not more than 25 percent vacant.
- D. Greater than 50 percent of lots within 1,200 feet of the site have been developed for more than 15 years.
- E. This requested deviations through the DIP will allow for the development of a bypassed parcel.
- F. The proposed development is consistent with the General Plan designation character are of Neighborhood Village Center.
- G. The requested modifications will result in a development that is commensurate with existing development in the vicinity.
- H. Compliance with Site Plan Review approval (Case# ZON20-00312) and Design Review approval (Case# DRB20-00315) to ensure the level of site improvements, architectural detailing and design elements on the building will meet the intent of the Design Standards of the MZO.

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 writing this report, staff has not been contacted by any resident or property owner to express support or opposition to the request.

Staff Recommendation:

Based on the application received and preceding analysis, Staff finds the request for a Development Incentive Permit meets the required findings in Section 11-72-1 and Section 11-72-3, and therefore recommends approval with the following conditions:

Conditions of Approval:

- 1. Compliance with the final site plan as submitted.
- 2. Compliance with all City development codes and regulations, except as identified in Table 1 of this report.
- 3. Compliance with all requirements of ZON20-00312 for site plan approval.
- 4. Compliance with all requirements of Design Review case, DRB20-00315.

Exhibits:

Exhibit 1 – Vicinity Map

Exhibit 2 – Staff Report
Exhibit 3 – Narrative/Justification Statement
Exhibit 4 – Site Plan
Exhibit 5 – Landscape Plan
Exhibit 6 – Elevations