



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

August 4, 2021

CASE No.: BOA21-00512	CASE NAME: 1242 W. University Drive
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Owner's Name:	RMAFII LOC LLC
Applicant's Name:	Jeff Welker, Welker Development Resources, LLC
Location of Request:	1242 West University Drive
Parcel Nos:	135-32-018J
Nature of Request:	Requesting a Substantial Conformance Improvement Permit (SCIP) to re-establish a drive-thru at an existing restaurant building in the Limited Commercial (LC) District.
Zone District:	Limited Commercial (LC)
Council District:	3
Site size:	0.54± acres
Existing use:	Vacant
Staff Planner:	Jennifer Gniffke
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **June 13, 1956**, City Council annexed approximately 236± acres, including the subject site, into the City of Mesa (Ordinance No. 326), and subsequently established C-2 zoning for the property.

On **May 4, 2021**, the Planning Director approved an Administrative Review request for an outdoor patio for Renegade Coffee (Case No. ADM20-00422).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Substantial Conformance Improvement Permit (SCIP) to allow for deviations from certain development standards to re-establish a restaurant with a drive-thru

facility at the subject site within the Limited Commercial (LC) District. The existing building was occupied by a restaurant with a drive-thru (Burger King) from the mid-1980s until 2013 when the drive-thru lane was filled-in with gravel and the building was remodeled for a lending company (TitleMax). The building is currently vacant. The applicant is proposing to re-establish the drive-thru lane in its original location and operate a restaurant on the site.

The site, which was developed in the mid-1980s, was approved under an older version of the Mesa Zoning Ordinance (MZO). As such the perimeter landscaping, parking lot landscaping, and foundation base landscaping do not conform to the current landscape and foundation base requirements of Chapter 33; therefore, the subject site is considered legal non-conforming. Achieving full conformance with the MZO would require significant alterations to the site, including alterations to the building, parking area, and on-site circulation. Section 11-73 of the MZO establishes the Substantial Conformance Improvement Permit (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.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character Area designation on the property is Mixed Use Activity District. Per Chapter 7 of the General Plan, the goal of the Mixed Use Activity District character type is to create strong and viable centers of commercial activity that attract people to unique shopping and entertainment experiences. The proposed restaurant with drive-thru facilities use is consistent with the intended uses within the Mixed Use Activity Character Area and meets the goals and objectives of the Mesa 2040 General Plan by contributing to the vitality of the neighborhood and local businesses.

Site Characteristics:

The subject site is located 300± feet west of Alma School Road on the north side of University Drive and is considered part of Westwood Plaza shopping center. The site is .54± acres in size and zoned LC. Direct access is provided by two driveways from University Drive. A shared access agreement with the shopping center allows for indirect access to the site through additional driveway entrances from Alma School Road. The existing building is centered on the site with parking spaces provided on the east and west sides of the building. Entry to the drive-thru lane is at the northeast corner of the site. Drive-thru queuing is provided along the north and west sides of the building and is separated from the adjacent drive lane and head-in parking with a raised seven-foot wide median.

Surrounding Zoning Designations and Existing Use Activity:

<p>Northwest LC Existing Commercial Westwood Plaza</p>	<p>North LC Existing Commercial Westwood Plaza</p>	<p>Northeast LC Existing Commercial Westwood Plaza</p>
<p>West LC Existing Restaurant Pad Building</p>	<p>Subject Property LC Vacant Commercial Pad Building</p>	<p>East LC Existing Commercial Pad Building</p>

Southwest (Across University Drive) LC-BIZ Existing Office Building	South (Across University Drive) LC-BIZ Existing Office Building	Southeast (Across University Drive) LC Existing Commercial
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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 parking/circulation and landscape standards of 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>Parking Spaces Required – Section 11-32-3(A):</i> Eating Establishments with drive-thru	1 space per 100 square feet for indoor area, and 1 space per 200 square feet for outdoor seating area: 32 spaces total	17 spaces	16 spaces
<i>Setback of Cross Drive Aisles - Section 11-32-4(A):</i> Parking spaces along main drive aisles connecting directly to a street shall be setback from the property line abutting the street (east side of building)	50 feet	15 feet	24 feet
<i>Foundation Base - Section 11-33-5:</i> Along an exterior wall with a public entrance (east side)	15 feet	3 feet	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 and landscape plan:

- A minimum seven-foot-wide landscape median with plant material to separate the drive-thru lane from the adjacent drive-aisle and head-in parking spaces.

- New landscape planter with plant material installed at the end of the drive-thru lane to direct exiting vehicles north.
- New gates at the existing refuse enclosure.
- New screen wall south of the drive-thru.
- New bike racks west of the outdoor seating area.

One of the applicant's requests is for a reduction to the setback between the parking spaces along the east side of the building and the southern property line abutting University Drive. Per Section 11-32-4(A) of the MZO, parking spaces along main drive aisles connecting directly to a street shall be setback from the property line abutting the street a minimum of 50 feet. The request is to allow a 15-foot setback. The Transportation Department reviewed the plans and determined that removing the southern-most parking space would significantly improve safety. As a condition of approval, staff has requested the applicant remove this parking space and increase the landscape yard in this area.

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 this Ordinance 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 building, parking area, and on-site circulation 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 redevelopment of the site to accommodate a permitted use.

The request complies with this criterion.

3. The creation of new non-conforming conditions.

This request allows the building and site to be occupied for its originally intended use. No new non-conforming conditions will be created with the redevelopment of the site.

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 improvements bring the site into further compliance with MZO development standards and enhance the appearance of the site. 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 subject site, developed under a previous zoning code, does not meet current MZO development standards and is therefore considered legal non-conforming.
- B. Full compliance with current MZO would require significant alterations to the site including alterations to the building and on-site circulation.
- C. Improvements to the existing site include installing a raised landscape median to separate the drive-thru lane from the adjacent drive aisle and head-in parking stalls, new plant materials, and a new refuse enclosure gate, and bicycle racks.
- D. The modifications requested along with the proposed improvements are consistent with the degree of change requested to improve the site and bring the site into a closer degree of conformance with current MZO standards.
- E. The proposed improvements will not create any new non-conformities.
- F. 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 Recommendation:

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, and therefore recommends approval with the following conditions:

Conditions of Approval:

1. *Compliance with the final site plan and landscape plan as submitted except for the following:*
 - a. *Remove the southern-most parking space on the east side of the building and replace with landscaping.*
2. *Compliance with all City Development Codes and regulations, except as identified in Table 1 of this report.*
3. *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 – Justification Statement

Exhibit 4 – Site Plan

Exhibit 5 – Landscape Plan