

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 12/10/2019  
Agenda Item: 12**

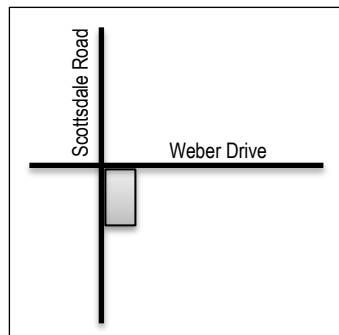
**ACTION:** Request a Use Permit to allow a drive-through in the CSS zoning district and a Development Plan Review for a new 1,903 s.f. restaurant for **DEL TACO**, located at 1331 North Scottsdale Road. The applicant is Sender Associates, LLC.

**FISCAL IMPACT:** There is no fiscal impact on City funds.

**RECOMMENDATION:** Approve, subject to conditions

**BACKGROUND INFORMATION:** DEL TACO (PL190276) is a proposed 1,903 s.f. restaurant with a drive-through located on the south east corner of Weber and Scottsdale Road, within the North Tempe Subdivision. For thirty years the north two lots had a 1,366 s.f. drive-through restaurant with a patio and 19 parking spaces; since demolition of the Jack-in-the-Box in 1995, the site has been vacant for twenty-four years. A parking variance request was heard by the Board of Adjustment on November 20,2019; the Board voted 6 to 0 to approve a variance to reduce required parking to 24 spaces with conditions. This request includes the following:

- ZUP190079 Use Permit to allow a drive through restaurant in the CSS Commercial Shopping and Service District.
- DPR190152 Development Plan Review including site plan, building elevations, and landscape plan



Property Owner	CAI Investments
Applicant	Darin Sender, Sender Associates LLC
Zoning District	CSS (Commercial Shopping & Service) District
Gross/Net Site Area	.5239 acres (22,820 s.f.)
Building Area Gross / Net	2,053 s.f. gross / 1,903 s.f. net
Lot Coverage	9.23% (50% maximum allowed)
Building Setbacks	20' north front, 3' west street side, 69' east side, 128' south rear, parking/circulation setback 20' (Minimum CSS Setbacks: 0' front, 0' street side, 0' side, 10' rear, parking/circulation setback 20')
Landscape Area	26.5% (15% minimum required)
Vehicle Parking	24 spaces allowed by variance (25 min. required)
Bicycle Parking	4 spaces (4 min. required)

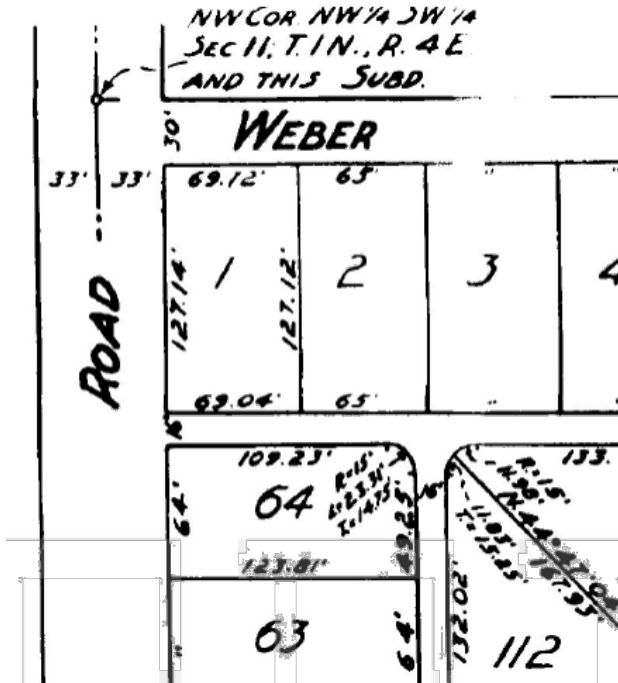
**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Diana Kaminski, Senior Planner (480) 858-2391

Department Director: Chad Weaver, Community Development Director  
 Legal review by: N/A  
 Prepared by: Diana Kaminski, Senior Planner  
 Reviewed by: Suparna Dasgupta, Principal Planner

**COMMENTS:**

This site is located on the south east corner of Weber Drive and Scottsdale Road in the North Tempe Subdivision. The site was originally platted in 1947 through Maricopa County, not through the City of Tempe. The three corner lots were: Lot 1 (8,776.5 s.f.), Lot 2 (8,262.8 s.f.) and Lot 64 (approximately 7,786.7 s.f.) for a total of 24,826 s.f. or .57 acres. The south property line of lot 64 was 123.81', this is a dimension that became critical through the review process.



In 1953, Maricopa County acquired 7' of additional right of way (ROW) on Scottsdale Road for highway improvements, widening the ROW from a 33' to a 40' half street. In 1993, the City of Tempe acquired 15' of additional ROW on Scottsdale Road to provide a 55' half street. These two ROW acquisitions took a total of 22' of the western side of lots 1 and 64. The street front of Lot 1 on Weber Drive was narrowed to 27.72' with a 20'x20' cut-off to comply with City of Tempe traffic engineering standards, and the total width of the lot was reduced to 47'. The street front of Lot 64 on Scottsdale Road was shifted west, and the lot depth along the south property line was reduced to 101.81'. The alley at the time of platting in 1947 was dedicated at 16', at a time when refuse trucks did not use automated arm extensions or large vehicles for refuse collection. Standard alley widths are 20' to allow circulation of larger solid waste and utility vehicles used today. Later in 1993, the portion of alley extending east to west at the north end of Lot 64 was abandoned by the city, removing refuse access to Scottsdale Road and requiring trucks to turn within the alley as part of the circulation pattern.

In 1964 a 1,366 s.f. Jack-in-the-Box restaurant with drive through was built and in 1983 a 657 s.f. patio addition was made. Based on the 1964 zoning code, the site was only required to have 17 parking spaces, and provided 19 spaces on Lots 1 and 2, which had a lot size of 17,038 s.f.; Lot 64 was not a part of the development. By today's standards, this same restaurant would require 21 parking spaces. Below are photos of the prior restaurant in 1976 and 1979.





The restaurant was demolished in 1995, the photo to the left shows the lot with the remaining refuse enclosure on site in 2006. Refuse trucks unofficially used a portion of this lot for access to and circulation within the alley to make the turn to serve residential properties to the east. The site remained vacant for twenty-four years and the issue of truck circulation would not arise until a proposed development required a perimeter site wall adjacent to the alley. In 2017, the applicant initiated a process to use the original restaurant site and the additional vacant lot to the south for a new restaurant with drive through.

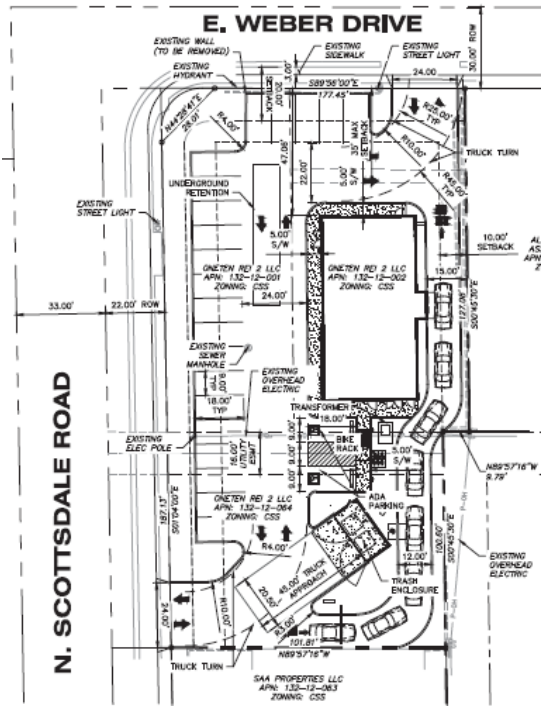
This request includes the following:

- Use Permit to allow a restaurant with drive through in the CSS zoning district.
- Development Plan Review which includes: site plan, landscape plan and building elevations for a new 1,903 s.f. restaurant with 299 s.f. patio on .52 acres.

The applicant is requesting the Development Review Commission take action on the items listed above.

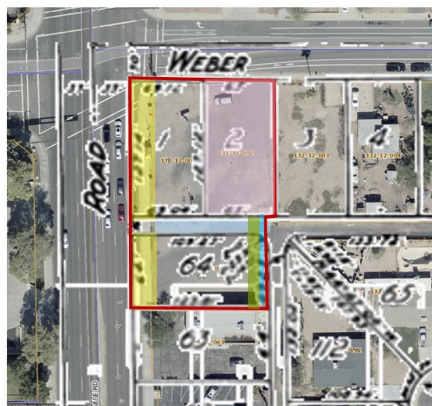
### SITE PLAN REVIEW

The first Preliminary Site Plan Review was August 30, 2017. The building was located on the north east corner of the lot, on Lot 2, with the drive through adjacent to the residential lot to the east. The site plan as proposed did not meet multiple code requirements, including quantity of parking, required site circulation for refuse access, required landscape islands. Staff requested verification of the site size, letter of explanation said .51, site plan said .91, and the property line dimensions on the plan were not accurate. The 2,400 s.f. building required 32 parking spaces but only 25 were provided. Staff recommended shifting the building to the south west corner, away from the residential properties, adding a patio, relocating refuse away from the street front and reducing the size of the building to meet parking requirements. Elevation recommendations were to incorporate arch elements similar to other buildings of this tenant for an enhancement to the architectural form (examples of other restaurant sites were provided). Staff recommended use of masonry on all four sides to break up the stucco. It was determined that the alley was substandard and required an additional 4' of right of way to provide a 20' alley width. Lot 64 was adjacent to a single-family residential district and therefore required a minimum 6' landscape buffer with trees. Due to the narrow depth of the lot however, the required landscape buffer and additional 2' of easement affected the parking on the south side of the site and along the eastern property line adjacent to the alley. The code landscape requirement also required landscape islands, which would impact potential availability of additional parking spaces. The combined challenges to the site design included the following:



Prior:  
ROW  
dedications

Prior:  
Alley  
abandoned  
Public Utility  
Easement  
added  
(No trees or  
structures  
allowed in  
PUE)



Private Deed Restriction on Lot 2  
(Not enforced by City)

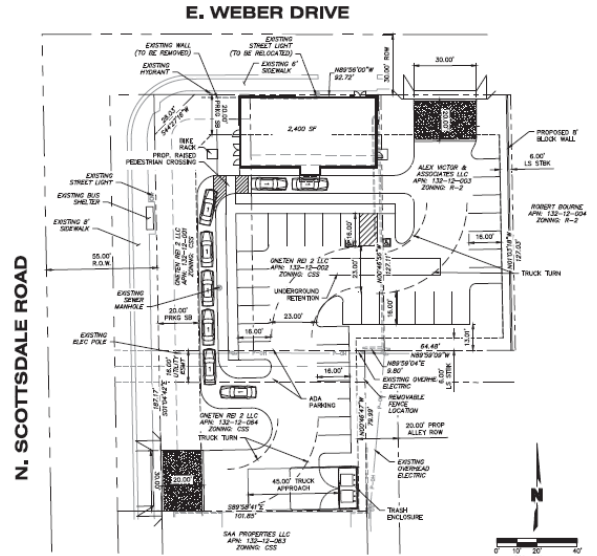
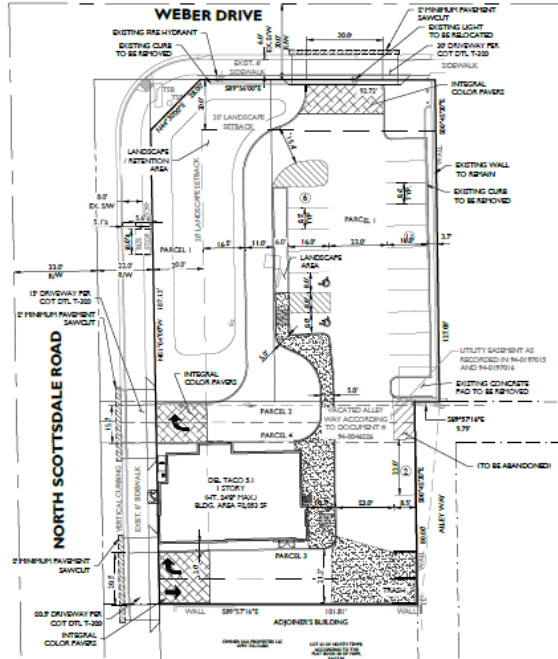
CSS Zoned Lots

Required:  
2' Alley easement added

6' Landscape buffer required

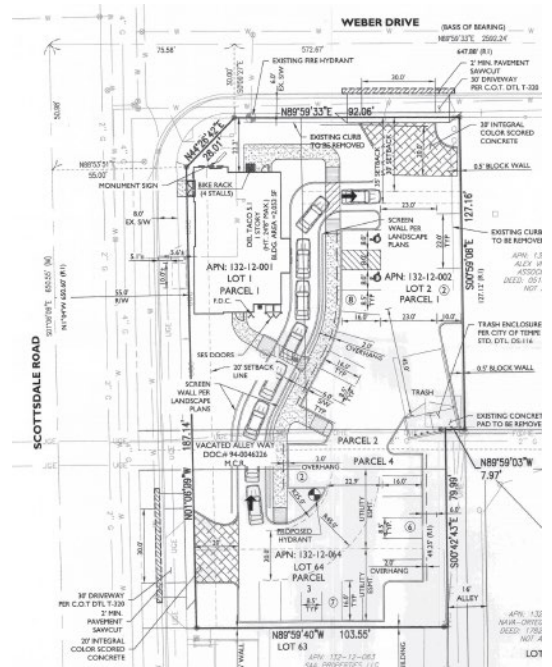
Developable  
Area

The second Preliminary Site Plan Review was November 1, 2017. The site now included the vacant lot to the east and moved the building to the Weber street front on Lot 2, with the driveway and parking located on Lot 3 to the east. The building was 2,400 s.f. and provided 33 parking spaces. Refuse was still facing the street and required the collection truck to back up into incoming traffic; this solution did not meet safe circulation requirements. The 4' alley right of way dedication required on Lot 64 from traffic engineering and solid waste services had not been addressed. Staff recommended shifting the building south slightly to allow room for landscape along the street front. Staff recommended incorporation of a patio at the north west corner. The south property line was dimensioned as 101.81'.



The third Preliminary Site Plan Review was July 31, 2019, almost 2 years from the first submittal, and with a new design team. The site no longer included Lot 3 to the east. A third and new site plan was proposed, with the building in the south west corner of the site along Scottsdale Road, with two drives on Scottsdale and a third on Weber. The site did not meet traffic engineering, building safety or planning requirements. The building size reduced to 2,053, requiring 27 parking spaces, but only 19 were provided. The driveways on Scottsdale were a primary issue. Prior comments regarding the 4' alley ROW dedication and 6' landscape buffer adjacent to single family had not yet been addressed, and the site retention was predominantly in the street frontage. Refuse location still required trucks to back up into the traffic entering the site. The proposed layout did not provide enough parking, nor did it have a patio. The south property line was dimensioned as 101.85'.

The fourth Preliminary Site Plan Review was August 28, 2019. The building was relocated to the north west corner of the site, with one drive on each street, refuse moved back to the location that it had been during the 30 years that the prior Jack-in-the-Box had occupied the site. The location was very similar to the originally constructed restaurant on this site, but with less land area. Aerial research showed the refuse enclosure on site in the same location up to 2007 when it was torn down 15 years after the restaurant. The building size was 2,053, and 25 parking spaces were provided but the drive aisle width did not meet standards. Staff suggested reducing the building size to 1,650 with a 360 s.f. patio to meet the available 22 spaces of parking on site. Staff suggested that some of the building footprint of the structure could be under roof but no walls, to create the patio without changing the corporate building footprint. The 4' alley ROW dedication and 6' landscape buffer had not yet been addressed, and these two items would remove 10' of parking area on the east side. There were design comments provided regarding the landscape plan. The south property line was shown as 101.81'.





## PUBLIC INPUT

- A neighborhood meeting was required for a requested variance to reduce the number of required parking spaces from 27 to 24. A neighborhood meeting was not required for the Use Permit or Design; however, these items were discussed at the meeting.
- The Neighborhood meeting held: October 15, 2019 from 6:00 p.m. to 7:00 p.m. at Hampton Inn & Suites 1415 N Scottsdale Road near the site.
- See attached summary of neighborhood meeting provided by the applicant.
- Community Development staff attended the meeting, there were two representatives of the project and six members of the public in attendance. The applicant presented the project and the requested variance. Discussion included questions about the landscape buffer, questions about alley access, concerns about traffic, noise, hours of operation and location of the refuse enclosure. The owner of the vacant lot to the east was opposed to the reduction in parking because of concerns about overflow parking onto Weber Drive in front of his lot. He raised questions about the existing subdivision and declarations and restrictions from 1947 and concerns about the setbacks.

The North Tempe Subdivision Plat was recorded prior to incorporation within the City of Tempe and included declarations and restrictions for the lots within the subdivision (dated June 20, 1947). This document was provided by the adjacent property owner in opposition to the proposed project. These are private recorded agreements, not a part of the City regulations or requirements. The City of Tempe measures building setbacks based on current zoning and development standards. The Commercial Shopping and Service (CSS) district requires a 20' front yard building setback on Weber Drive. The side yard setback to the east is allowed to be 0', the rear yard setback to the south is 10' and the street side yard adjacent to Scottsdale Road is 0'. A 20' setback for parking and maneuvering is applied to both Scottsdale Road and Weber Drive. The property is in conformance with the development standards for the CSS district and provides larger setbacks than required by code.

- After the neighborhood meeting, 6 letters of opposition were received. These are provided in the public input section of the attachments along with additional emails from the owner of Lot 3 to the east.

On November 20, 2019, the Board of Adjustment heard a request for a variance to reduce the number of parking spaces from 27 to 24. During the hearing, the applicant identified a correction in the building area for the restaurant; the plans used the gross rather than net building area, which is how the parking is calculated. The gross is 2,053, however, the net building area is 1,903 s.f. The applicant requested the reduction of parking be changed from 3 spaces to 2 spaces. The applicant presented justifications for the criteria supporting the variance request. Three members of the public, family members who own Lot 3 to the east of the site, spoke in opposition to the variance. The opposition included traffic congestion, pedestrian and neighborhood safety and parking overflow burden into the neighborhood. Concern was expressed that the City was not acknowledging the private deed restriction on Lot 2 and that the process had been rushed. Staff addressed questions from the Board and presented analysis in support of the variance with four conditions. The first two conditions would be fulfilled by action of the Development Review Commission with a modification to remove 2b since the building would be smaller than originally presented. Below are the conditions of approval for the parking variance:

1. A Use Permit for a drive-through restaurant in the CSS zoning is required.
2. A Development Plan Review for the site plan, landscape plan and elevations is required.
  - a. A sidewalk shall be added to the north side of the patio, connecting to the public sidewalk on Weber Drive to encourage pedestrian use of the site.
  - b. ~~A minimum of 150 s.f. of the interior dining room shall be removed and added to the patio, to reduce the net interior of the building and increase the patio area.~~ (Removed by Board of Adjustment)
3. This Variance is approved for a deviation of 2 parking spaces, from 26 to 24 on site parking spaces.
4. There shall be no on-street parking on Scottsdale or Weber Drive for this development, the site must fully park on site.

On November 25, 2019 revisions were made to the site plan, landscape plan and floor plan to address the discussions at the public hearing. The net building area was confirmed to be 1,903 s.f. requiring 25.37 spaces and the patio increased to 299 s.f., which did not require additional parking. Changes to the plans included addition of a sidewalk connection from the front door to Weber drive to facilitate better pedestrian and bicyclist access, redesign of the patio area, addition of landscape along

the east side parallel parking spaces, and reference to the variance approval to allow 24 parking spaces instead of 26. After the Board of Adjustment hearing and upon completion of this report, staff received one call of inquiry about the project. Concern was expressed regarding the hours of operation and does not want a 24-hour restaurant, preferred 1am close on weekends. Two emails were submitted from one person in opposition to the drive-through.

## PROJECT ANALYSIS

### GENERAL PLAN

This site is identified as Mixed-Use on the General Plan Land Use Map. The proposed project is using the existing zoning in conformance with the Zoning and Development Code. The proposed project meets goals and objectives within the General Plan by redevelopment of a historically underutilized parcel.

### CHARACTER AREA PLAN

There is no Character Area Plan for North Tempe.

### ZONING

The site is zoned Commercial Shopping and Service, CSS. The proposed use and design conform to the development standards for this district.

### USE PERMIT

The proposed use requires a use permit, to operate a drive-through in the CSS Zoning District. The 30-year use of the site as a drive through restaurant provides historic precedence for this site use, which is allowed within the zoning district. The applicant is proposing a restaurant that is open Sunday through Thursday 6am to Midnight and Friday and Saturday 6am to 2am. The applicant has provided a letter of explanation regarding the operations of the facility. Section 6-308 E Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic.*

The site is zoned CSS and is permitted to have any of the uses within Table 3-202A of the Zoning and Development Code. The site has been vacant for 24 years, and therefore any use on this site would generate traffic. The only historic use on this site for comparison was a 1,366 s.f. drive through fast food restaurant with a 657 s.f. patio and 19 parking spaces. The proposed use is 1,903 s.f. drive through fast food restaurant with a 299 s.f. patio, requiring 27 parking spaces but providing 24 spaces. The proposed building footprint is in the same general location as the prior building and is providing five more parking spaces than the prior same use. There was no traffic study required for this use as it is anticipated to generate within the normal range of traffic for a commercial site. According to the 10<sup>th</sup> Edition ITE Trip Generation Manual, this use would have a peak percent of traffic during lunchtime and dinner.

The proposed drive through is a vehicle-oriented use and will generate more traffic than a restaurant without a drive-through. However, the small building size and proposed product is not a destination use such as other larger chain restaurants. The traffic coming from Scottsdale Road or from Weber Road are already commuting on the adjacent streets to other destinations such as work, school or home, and therefore are not increasing the traffic within the area. Pedestrian traffic may increase as residents or guests from the nearby hotel or transit users walk to the site. This traffic is not generated by a destination restaurant, but more by convenience of proximity along an existing commute path. Through the above analysis, it has been determined that the proposed drive-through will not generate a significant increase in vehicular or pedestrian traffic. Other valley locations of Del Taco have hours ranging from 6am-11pm, Midnight, 1am, 2am, 3am or 4am as well as a few 24-hour locations. Staff is recommending the drive-through close at 11pm weekdays rather than midnight; see Use Permit Condition #3.

2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.*

Drive-through restaurants may create odor from the production of food and potential fumes from vehicles idling while waiting for their order. The proposed drive-through has a stacking distance allowing 5 vehicles within the drive through and additional room wrapping through the parking drive aisle if necessary. The drive through speaker is located approximately 80' from the eastern property line and is oriented south east at an angle not directed at residences. The

property also has an 8' perimeter wall to reduce noise and light transmission from the site. Staff has conditioned that the speaker utilize technology that will sense ambient noise levels and adjust volume to reduce noise levels in the evening hours. See condition #4 regarding the speaker design. The site design proposes 20 trees, providing significant shade to the building and parking area. The lot coverage is 9% and provides more than 26% landscape area on site. These factors help reduce heat gain. Lighting is proposed to meet minimum standards of code, and architectural enhancements on the street front and street side, with reduced lighting on the east side facing the neighborhood. The vacant site is adjacent to an arterial street with general traffic noise. The introduction of a building at the corner, and 8' CMU wall along the east side of the site, with the addition of trees, will provide more sound mitigation for the street traffic than the current vacant lot. The site is within the noise monitoring area of Phoenix Sky Harbor International Airport, which impacts ambient conditions within the area. The proposed drive-through is not anticipated to generate nuisances exceeding that of ambient conditions.

3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.*

The site operated for 30 years as a Jack-in-the-Box drive through restaurant, and then remained vacant for 24 years. The site has had code issues related to the vacant lot, which would be mitigated by activating the site and having on-site management of the property. The General Plan promotes redevelopment of underutilized property. The following objectives are met by this request: Balance compatibility of new development with established neighborhoods, support a variety of uses within walking distance, create an appealing street environment to promote walking and transit use, promote compact efficient infill development, encourage development that does not exceed planned infrastructure or service capacity and pays for the cost of development. This project will underground powerlines and provide a new transit pad for the bus stop. The landscape provides significant trees around the perimeter, shading public sidewalks. The drive-through also provides accessibility for those with limited mobility, who would benefit from this restaurant format. The drive lane and parking lot are fully screened and the street perimeters fully landscaped. Based on the historic use of the site, and the proposed design of the site, the drive-through is in concert with the goals of the General Plan and will not contribute to the deterioration of the neighborhood.

4. *Compatibility with existing surrounding structures and uses.*

Similar uses in the area include Starbucks, Dunkin Donuts, Bikini Beans, Carl's Juniors, and Jack-in-the-Box. A future Human Bean coffee shop is starting construction on the west side of Scottsdale Road, adjacent to single-family. There are also four fuel stations within the area that are auto-oriented businesses. Other CSS zoned properties with drive-throughs adjacent to single-family include Rally's at University and Priest next to a car wash and several restaurants on the north side of Broadway Road between Priest and McKemy. The size of the building is similar in size to the convenience store north of Weber and the two buildings south of this lot on Scottsdale Road, but is smaller than the majority of buildings along the arterial street. The proposed drive-through is set back with a 20' landscape buffer and screen wall and is screened by the building. The drive-through lane is also set 57' from the property to the east and is separated by an 8' CMU wall from the residences to the east. A buffer of four Evergreen Elms screen the site from the neighborhood. Lighting is designed to focus on street front visibility and on-site safety, with lower ambient light in the parking lot. The proposed drive-through use is compatible with the surrounding commercial uses and structures and has been designed for compatibility adjacent to residential uses.

5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.* The proposed use would have 5-8 employees on site during business hours, responsible for maintenance of the property. The windows on Scottsdale Road provide dining room surveillance of the bus stop and street intersection, for more eyes on the public space. The hours of operation are proposed to be limited to address resident concerns about late night activity and noise from customers. The majority of the parking is at the south end of the site, away from the nearest house and buffered by trees. Activating the site will eliminate current issues that occur with vacant lots. The manner of conduct and the building for the proposed use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and the use will be in full conformity to any conditions, requirement or standards prescribed therefore by this code. Chapter 21 of City Code regulates nuisances that are applicable to all properties; the proposed use is required to operate in compliance with city code.



## DEVELOPMENT PLAN REVIEW

### Site Plan

The building is oriented north to south at the northwest corner of the site, with a 20' setback along the street front at Weber Drive. A patio is located on the north side at the primary building entrance, where bike parking is located. The second entrance faces west, adjacent to the transit stop, allowing easy access for transit patrons. The drive-through is screened from view by the building and a screen wall with 20' of landscape along Scottsdale Road. Parking is located at the south end of the site, and in the center of the lot adjacent to the drive through, with a pedestrian crossing to access the building. Three parallel parking spaces are located along the eastern side of the site. The trash enclosure is located at the eastern side, providing required access and circulation for solid waste collection. The refuse enclosure from the prior restaurant was in the same location for 41 years. Based on the five site plan configurations for this corner lot, it was determined that the proposed refuse enclosure location was the best on-site circulation solution. The site plan conforms to all zoning code development standards for dimensions, setbacks and circulation.

### Building Elevations

The 1,903 s.f. building is a relatively small footprint with the long elevations facing east and west. The building has windows on the north, west and east elevations, providing visual surveillance of the street front and street side, the transit stop, and the parking and bike parking areas. Windows are shaded by a decorative open metal trellis, and the doors and drive through windows are sheltered by a solid canopy that matches the trellis design and provides a contrasting light green color to the neutral building color. The base of the building is defined by a masonry wainscot of light gray honed masonry cut in a prairie stone pattern. The primary building material is a masonry veneer in a flame finished standard block size that looks like limestone. The drive through and entrances have taller tower elements wrapped in a metal panel system painted a dark red accent. The parapet and building roofline is trimmed in a dark brown accent color. Wall sconces highlight portions of the building and add ambiance at the pedestrian level.

### Landscape Plan

The half-acre site provides eleven shade trees along the street front and side, including Chinese Pistache, Caesalpinia and Chitalpa for seasonal color and change with pink and yellow spring and summer flowers and red autumn leaves. The building will be shaded during the summer and have more sun exposure during the brief winter dormancy of the trees. Two Cascalote are used to shade the portion of the drive through where the menu and order board is located. The parking lot and east side landscape buffer uses seven Evergreen Elm and Chitalpa as a screen tree. 22 new trees on this half acre lot will be added to the urban tree canopy. Understory plants include Smooth Agave, Red Bird of Paradise, Toothless Sotol, Brakelights Red Yucca, Rio Bravo Sage, Desert Ruellia, Tecoma Yellow Bells, Eremophila Outback Sunrise, Red and Gold Lantana, and Rosemary. The ground cover is decomposed granite. The combination of flowering plants and accents will provide color and texture to 26% of the entire site and right of way along the streets.

Section 6-306 D Approval criteria for Development Plan Review (*in italics*):

1. *Placement, form, and articulation of buildings and structures provide variety in the streetscape;*  
The building placement was dictated by the location of the existing public utility easement and deed restrictions on portions of the property. The placement is as far from the residences to the east as feasible. The building provides four-sided architecture with articulation and variety along the streetscape.
2. *Building design and orientation, together with landscape, combine to mitigate heat gain/retention while providing shade for energy conservation and human comfort;* the design and orientation and landscape will help mitigate heat gain, only 9% of the site covered by building and 26% is covered by landscape, with the addition of 20 trees to the urban canopy.

3. *Materials are of a superior quality, providing detail appropriate with their location and function while complementing the surroundings; the commercial buildings in this area are predominantly older with painted stucco, the proposed masonry veneer is more contemporary to newer buildings along Scottsdale Road, and ties in with masonry used in the residential areas to the east, as a transitional building.*
4. *Buildings, structures, and landscape elements are appropriately scaled, relative to the site and surroundings; the building is less than 25' to the top of parapet, and the main building height is less than 21', similar to the pitched roofs of nearby residences and the parapet roofs of nearby commercial developments. The landscape is significantly heavier than plantings within the neighborhood or adjacent commercial properties but is appropriate to the site and surroundings.*
5. *Large building masses are sufficiently articulated so as to relieve monotony and create a sense of movement, resulting in a well-defined base and top, featuring an enhanced pedestrian experience at and near street level; the building footprint is relatively small, but portions of the building façade are broken up by different materials and colors, including a wainscot base, metal panel tower elements and trellis canopies.*
6. *Building facades provide architectural detail and interest overall with visibility at street level (in particular, special treatment of windows, entries and walkways with particular attention to proportionality, scale, materials, rhythm, etc.) while responding to varying climatic and contextual conditions; the facades address the street and drive through, while minimizing views of the service side of the building behind a screen wall and landscape area. Entries are highlighted by a change of material and color and enhanced lighting. The building is proportioned to meet the scale of the building.*
7. *Plans take into account pleasant and convenient access to multi-modal transportation options and support the potential for transit patronage; the project provides a new concrete pad for a transit shelter next to the building and dining room entrance. This area will be shaded by street trees.*
8. *Vehicular circulation is designed to minimize conflicts with pedestrian access and circulation, and with surrounding residential uses; primary entrance will be from Scottsdale Road, with exiting either on Weber Drive or returning back to the Scottsdale Road driveway. Vehicle traffic is separated by a raised sidewalk connection to the parking area. Transit users have a direct path to the building. A condition was added to provide a sidewalk connection to Weber at the entrance for pedestrians.*
9. *Plans appropriately integrate Crime Prevention Through Environmental Design principles such as territoriality, natural surveillance, access control, activity support, and maintenance; the orientation of the building, placement of windows and use of lighting address the intent of this criteria. The project was reviewed by the Police staff through the process and found to be in conformance of requirements.*
10. *Landscape accents and provides delineation from parking, buildings, driveways and pathways; the landscape shades the public sidewalks and drive through lane and parking areas provides accents to the driveways with a change of tree species and screens the drive through by dense planting along Scottsdale Road.*
11. *Signs have design, scale, proportion, location and color compatible with the design, colors, orientation and materials of the building or site on which they are located; Signs will be addressed by separate process. and*
12. *Lighting is compatible with the proposed building(s) and adjoining buildings and uses, and does not create negative effects. Lighting is designed for safe egress to and around the site, surveillance of the property and public sidewalks, and architectural enhancement of the building. Lighting has also been designed to prevent glare or overspill to the residential area to the east.*

#### **REASONS FOR APPROVAL:**

1. The project will meet the development standards required under the Zoning and Development Code.
2. The proposed project meets the approval criteria for a Use Permit and Development Plan Review.

Based on the information provided and the above analysis, staff recommends approval of the requested Use Permit and Development Plan Review. This request meets the required criteria and will conform to the conditions.

**USE PERMIT CONDITIONS OF APPROVAL: (Non-standard conditions are identified in bold)**

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. The Use Permit is valid only after a Building Permit has been obtained, the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
3. **Hours of operation to start no earlier than 6am daily and end no later than 11pm Sunday through Thursday and 2am Friday and Saturday.**
4. **The drive-through speaker shall use smart technology with automatic volume control (AVC) to adjust the volume based on the outdoor, ambient noise level; when the ambient noise levels decrease at night, AVC will reduce the outbound volume on the system. The speaker shall not exceed 45 decibels at the box after 10pm.**
5. **Vehicles are not to use Scottsdale or Weber roads for queuing. During peak drive-through use, the business shall restrict access into the site from Scottsdale Road and direct traffic to use the Weber Drive entrance to extend the on-site stacking. Access mitigation shall include traffic cones and traffic control signs, or on-site employees to direct traffic. Drive-through stacking shall provide lane demarcation for stacking to circulate through the parking drive aisle.**

**DEVELOPMENT PLAN REVIEW CONDITIONS OF APPROVAL: (Non-standard conditions are identified in bold)**

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

**General**

1. Except as modified by conditions, development shall be in substantial conformance with the site plan and building elevations and landscape plans dated November 4, 2019. Minor modifications may be reviewed through the plan check process of construction documents; major modifications will require submittal of a Development Plan Review.

**Site Plan**

2. Provide service yard and mechanical yard walls that are at least 8'-0" tall as measured from adjacent grade or are at least the height of the equipment being enclosed, whichever is greater. Verify height of equipment and mounting base to ensure that wall height is adequate to fully screen the equipment.
3. Provide gates of steel vertical picket, steel mesh, steel panel or similar construction. Where a gate has a screen function and is completely opaque, provide vision portals for visual surveillance. Provide gates of height that match that of the adjacent enclosure walls. Review gate hardware with Building Safety and Fire staff and design gate to resolve lock and emergency ingress/egress features that may be required.
4. Provide upgraded paving at each driveway consisting of integral colored unit paving. Extend this paving in the driveway from the right-of-way line to 20'-0" on site and from curb to curb at the drive edges. From sidewalk to right-of-way line, extend concrete paving to match sidewalk.
5. Utility equipment boxes for this development shall be finished in a neutral color (subject to utility provider approval) that

compliments the coloring of the buildings.

6. Place exterior, freestanding reduced pressure and double check backflow assemblies in pre-manufactured, pre-finished, lockable cages (one assembly per cage). If backflow prevention or similar device is for a 3" or greater water line, delete cage and provide a masonry or concrete screen wall following the requirements of Standard Detail T-214.

### **Floor Plans**

7. Public Restroom Security: Single user restroom door hardware: Provide a key bypass on the exterior side

### **Building Elevations**

8. The materials and colors are approved as presented:
  - Roof – flat painted white with parapet
  - Primary Building – Creative Mines Craft Masonry Veneer, Craft Blame Rectangle, Bisque (light limestone color)
  - Secondary Building – Coronado Stone Cut Stone Pattern Prairie stone, Grey Granite (cool light grey color)
  - Building Accent – Morin Metal Paneling, x-12 Steel wall panels painted Sherwin Williams SW0057 Chinese Red
  - Windows - Anodized aluminum frame with clear glazing
  - Trim - Painted Sherwin Williams SW6090, Java (dark brown)
  - Metal Canopy and Trellis – Painted Sherwin Williams SW6712 Luau Green (light green)
  - Provide primary building colors and materials with a light reflectance value of 75 percent or less.
9. If provided, roof access shall be from the interior of the building. Do not expose roof access to public view.
10. Conceal roof drainage system within the interior of the building.
11. Incorporate lighting, address signs, and incidental equipment attachments (alarm klaxons, security cameras, etc.) where exposed into the design of the building elevations. Exposed conduit, piping, or related materials is not permitted.
12. Locate the electrical service entrance section (S.E.S.) inside the building wall or inside a secure yard that is concealed from public view.
13. Upper/lower divided glazing panels in exterior windows at grade level, where lower glass panes are part of a divided pane glass curtain-wall system, shall be permitted only if laminated glazing at these locations is provided.

### **Lighting**

14. Illuminate building entrances and underside of open stair landings from dusk to dawn to assist with visual surveillance at these locations.

### **Landscape**

15. Arterial street trees shall be a minimum of 36" box specimens and a minimum of 1 ½" caliper trunk.
16. Irrigation notes:
  - a. Provide dedicated landscape water meter.
  - b. Provide pipe distribution system of buried rigid (polyvinylchloride), not flexible (polyethylene). Use of schedule 40 PVC mainline and class 315 PVC ½" feeder line is acceptable. Class 200 PVC feeder line may be used for sizes greater than ½". Provide details of water distribution system.
  - c. Locate valve controller in a vandal resistant housing.
  - d. Hardwire power source to controller (a receptacle connection is not allowed).
  - e. Controller valve wire conduit may be exposed if the controller remains in the mechanical yard.
17. Include requirement to de-compact soil in planting areas on site and in public right of way and remove construction debris from planting areas prior to landscape installation.

18. Top dress planting areas with a rock or decomposed granite application. Provide rock or decomposed granite of 2" uniform thickness. Provide pre-emergence weed control application and do not underlay rock or decomposed granite application with plastic.

### **Building Address**

19. Verify property address and submit a PDF copy of the site plan with unit floor plans for permanent addressing to [permitcenter@tempe.gov](mailto:permitcenter@tempe.gov) prior to submittal of construction documents.
20. Provide address sign(s) on the building elevation facing Scottsdale Road, the street to which the property is identified and the east and south elevations.
  - a. Conform to the following for building address signs:
    - 1) Provide street number only, not the street name
    - 2) Compose of 10-12" high, individual mount, metal reverse pan channel characters.
    - 3) Self-illuminated or dedicated light source.
    - 4) On multi-story buildings, locate no higher than the second level.
    - 5) Coordinate address signs with trees, vines, or other landscaping, to avoid any potential visual obstruction.
    - 6) Do not affix numbers or letters to elevation that might be mistaken for the address.
  - b. Utility meters shall utilize a minimum 1" number height in accordance with the applicable electrical code and utility company standards.

### **CODE/ORDINANCE REQUIREMENTS:**

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

### **USE PERMIT:**

- The Use Permit is valid for DEL TACO and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of the permit.
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through <http://www.tempe.gov/zoning> or purchase from Development Services.
- All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.
- Any intensification or expansion of use shall require a new Use Permit.
- All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.

- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.

**SITE PLAN REVIEW:** Verify all comments by all departments on each Preliminary Site Plan Review. If questions arise related to specific comments, they should be directed to the appropriate department, and any necessary modifications coordinated with all concerned parties, prior to application for building permit. Construction Documents submitted to the Building Safety Division will be reviewed by planning staff to ensure consistency with this Design Review approval prior to issuance of building permits.

**DEADLINE:** Development plan approval shall be void if the development is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the approval is granted or within the time stipulated by the decision-making body. The period of approval is extended upon the time review limitations set forth for building permit applications, pursuant to Tempe Building Safety Administrative Code, Section 8-104.15. An expiration of the building permit application will result in expiration of the development plan.

**STANDARD DETAILS:**

- Access to Tempe Supplement to the M.A.G. Uniform Standard Details and Specifications for Public Works Construction, at this link: <http://www.tempe.gov/city-hall/public-works/engineering/standards-details> or purchase book from the Public Works Engineering Division.
- Access to refuse enclosure details DS116 and DS118 and all other Development Services forms at this link: <http://www.tempe.gov/city-hall/community-development/building-safety/applications-forms>. The enclosure details are under Civil Engineering & Right of Way.

**BASIS OF BUILDING HEIGHT:** Measure height of buildings from top of curb at a point adjacent to the center of the front property line.

**WATER CONSERVATION:** Under an agreement between the City of Tempe and the State of Arizona, Water Conservation Reports are required for landscape and domestic water use for the non-residential components of this project. Have the landscape architect and mechanical engineer prepare reports and submit them with the construction drawings during the building plan check process. Report example is contained in Office Procedure Directive # 59. Refer to this link: <http://www.tempe.gov/home/showdocument?id=5327>. Contact the Public Works Department, Water Conservation Division with questions regarding the purpose or content of the water conservation reports.

**HISTORIC PRESERVATION:** State and federal laws apply to the discovery of features or artifacts during site excavation (typically, the discovery of human or associated funerary remains). Contact the Historic Preservation Officer with general questions. Where a discovery is made, contact the Arizona State Historical Museum for removal and repatriation of the items.

**POLICE DEPARTMENT SECURITY REQUIREMENTS:**

- Refer to Tempe City Code Section 26-70 Security Plans.
- Design building entrance(s) to maximize visual surveillance of vicinity. Limit height of walls or landscape materials, and design columns or corners to discourage ambush.
- Maintain distances of 20'-0" or greater between a pedestrian path of travel and any hidden area to allow for increased reaction time and safety.
- Follow the design guidelines listed under appendix A of the Zoning and Development Code. In particular, reference the CPTED principal listed under A-II Building Design Guidelines (C) as it relates to the location of pedestrian environments and places of concealment.
- Provide a security vision panel at service and exit doors (except to rarely accessed equipment rooms) with a 3" wide high strength plastic or laminated glass window, located between 43" and 66" from the bottom edge of the door.

**TRAFFIC ENGINEERING:**

- Provide 8'-0" wide public sidewalk along arterial roadways, or as required by Traffic Engineering Design Criteria and Standard Details.
- Construct driveways in public right of way in conformance with Standard Detail T-320. Alternatively, the installation of driveways with return type curbs as indicated, similar to Standard Detail T-319, requires permission of Public Works, Traffic Engineering.
- Correctly indicate clear vision triangles at both driveways on the site and landscape plans. Identify speed limits for adjacent streets at the site frontages. Begin sight triangle in driveways at point 15'-0" in back of face of curb. Consult Intersection Sight Distance memo, available from Traffic Engineering if needed [www.tempe.gov/index.aspx?page=801](http://www.tempe.gov/index.aspx?page=801). Do not locate site furnishings, screen walls or other visual obstructions over 2'-0" tall (except canopy trees are allowed) within each clear vision triangle.

FIRE: Clearly define the fire lanes. Ensure that there is at least a 20'-0" horizontal width, and a 14'-0" vertical clearance from the fire lane surface to the underside of tree canopies or overhead structures. Layout and details of fire lanes are subject to Fire Department approval.

#### CIVIL ENGINEERING:

- An Encroachment Permit or License Agreement must be obtained from the City for any projections into the right of way or crossing of a public utility easement, prior to submittal of construction documents for building permit.
- Maintain a minimum clear distance of twenty-four (24) feet between the sidewalk level and any overhead structure.
- Underground utilities except high-voltage transmission line unless project inserts a structure under the transmission line.
- Coordinate site layout with Utility provider(s) to provide adequate access easement(s).
- Clearly indicate property lines, the dimensional relation of the buildings to the property lines and the separation of the buildings from each other.
- Verify location of any easements, or property restrictions, to ensure no conflict exists with the site layout or foundation design.
- 100-year onsite retention required for this property, coordinate design with requirements of the Engineering Department.

#### SOLID WASTE SERVICES:

- Enclosure indicated on site plan is exclusively for refuse and recycle. Construct walls, pad and bollards in conformance with standard detail DS-116.
- Gates and dumpster lids for refuse enclosure are required. The property manager must arrange for gates to be open from 6:00am to 4:30pm on collection days.

#### PARKING SPACES:

- Verify conformance of accessible vehicle parking to the Americans with Disabilities Act and the Code of Federal Regulations Implementing the Act. Refer to Building Safety ADA Accessible Parking Spaces Marking/Signage on Private Development details.
- At parking areas, provide demarcated accessible aisle for disabled parking.
- Distribute bike parking areas nearest to main entrance(s). Provide parking loop/rack per standard detail T-578. Provide 2'-0" by 6'-0" individual bicycle parking spaces. One loop may be used to separate two bike parking spaces. Provide clearance between bike spaces and adjacent walkway to allow bike maneuvering in and out of space without interfering with pedestrians, landscape materials or vehicles nearby.

ZONING AND DEVELOPMENT CODE: Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through [www.tempe.gov/zoning](http://www.tempe.gov/zoning) or purchase from Community Development.

#### LIGHTING:

- Design site security light in accordance with requirements of ZDC Part 4 Chapter 8 (Lighting) and ZDC Appendix E (Photometric Plan).
- Indicate the location of all exterior light fixtures on the site, landscape and photometric plans. Avoid conflicts between lights and trees or other site features in order to maintain illumination levels for exterior lighting.

**LANDSCAPE:**

- Trees shall be planted a minimum of 16'-0" from any existing or proposed public utility lines. The tree planting separation requirements may be reduced to no less than 8'-0" from utility lines upon the installation of a linear root barrier. Per Detail T-460, the root barrier shall be a continuous material, a minimum of 0.08" thick, installed to a minimum depth of 4'-0" below grade. The root barrier shall extend 6'-0" on either side of the tree parallel to the utility line for a minimum length of 12'-0". Final approval is subject to determination by the Public Works, Water Utilities Division.
- Prepare an existing plant inventory for the site and adjacent street frontages. The inventory may be prepared by the Landscape Architect or a plant salvage specialist. Note original locations and species of native and "protected" trees and other plants on site. Move, preserve in place, or demolish native or "protected" trees and plants per State of Arizona Agricultural Department standards. File Notice of Intent to Clear Land with the Agricultural Department. Notice of Intent to Clear Land form is available at <https://agriculture.az.gov/plantsproduce/native-plants>. Follow the link to "applications to move a native plant" to "notice of intent to clear land".

**SIGNS:** Separate plan review process is required for signs in accordance with requirements of ZDC Part 4 Chapter 9 (Signs). Refer to [www.tempe.gov/signs](http://www.tempe.gov/signs).

**DUST CONTROL:** Any operation capable of generating dust, include, but not limited to, land clearing, earth moving, excavating, construction, demolition and other similar operations, that disturbs 0.10 acres (4,356 square feet) or more shall require a dust control permit from the Maricopa County Air Quality Department (MCAQD). Contact MCAQD at <http://www.maricopa.gov/aq/>.

**HISTORY & FACTS:**

1930-1949	Maricopa County Historic Aerials show area as undeveloped land. No aerials were available until 1949, at which time single structures appeared along the south side of Weber Drive and roadway is shown on both Scottsdale Road and Weber Drive.
June 20, 1947	North Tempe Subdivision was platted within the jurisdiction of Maricopa County, defining the alleys and streets based on standards for circulation at that time. Scottsdale Road was a 33' half street, Weber Drive was a 30' half street and the alleys were 16' wide and ran south of Lots 1 and 2, north of Lot 64, connecting Scottsdale Road to the north leg of Mary Street. The lots within this subdivision were not within the jurisdiction of the City of Tempe.
October 5, 1953	Maricopa County Board of Appraisers declared dedication of additional right of way for a County Highway (Scottsdale Road) taking an additional seven feet of property from Lots 1 and 64 (and others within the dedication) to provide a 40' half-street right of way. The combined dedication was approximately 1,338 s.f. from these two lots.
1959	Development started to the south of the site, with an alley connection through to Scottsdale Road between lots 1 and 64.
March 14, 1960	The City of Tempe annexed this area into city jurisdiction (Ordinance 312).
January 24, 1964	City Council adopted Zoning Ordinance 405 with a Zoning Map showing this area annexed into the City and zoned C-2 commercial, the lots to the east of the site were zoned R-2 two-family residential.



March 23, 1964	Board of Adjustment approved a variance for a maximum sign area of 32 square feet.
April 24, 1964	Property Record Card indicates final building inspection for a Drive Through Restaurant at 1331 N Scottsdale Road in the C-2 zoning district. Based on aerial photography, the refuse enclosure for this restaurant was located in the south east corner of Lot 2, north of the alley access and with no alley connection to the south, a wall divided Lots 1 and 2 from the alley and Lot 64.
June 21, 1979	Design Review Board approved building elevation, color changes, landscape addition and minor site modifications for Jack in the Box.
March 3, 1983	Design Review Board approved a building addition to Jack in the Box. At this time the site included a drive through and patio and required 17 parking spaces, 19 spaces were provided.
1969-1993	Aerial shows restaurant with parking and driveways north of the alley. This building configuration remained until 1993; the next available aerial in 1996 showed a vacant lot.
June 24, 1993	City Council adopted a Resolution authorizing the acquisition of property along the east side of Scottsdale Road, between Gilbert and Weber drives, to widen Scottsdale Road and relocate public utilities by creation of a 55' half-street right-of-way. This dedication took an additional 15' of property from Lots 1 and 64, approximately 2,867 s.f. in addition to the previous approximately 1,338 s.f. taken by Maricopa County in the earlier dedication of 7' of right-of-way, for a total of 4,205 s.f. removed from these two lots.
December 16, 1993	City Council approved the abandonment of alley right-of-way along the south side of Lots 1 and 2, north of Lot 64. This abandonment added approximately 1,616 s.f. to the area between Lots 1 and 64.
December 14, 1995	The final inspection of demolition of the Jack-in-the-Box is complete. The site has remained vacant since the end of 1995.
2007	Aerial image showed that the refuse container last visible in 2006 had been removed.
November 20, 2019	Board of Adjustment heard and approved a request for a parking variance from 26 to 24 spaces.
December 10, 2019	Development Review Commission is scheduled to hear this request for a Use Permit for a drive-through and a Development Plan Review for a new restaurant for Del Taco.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-306, Development Plan Review

Section 6-308, Use Permit