

ZONING INTERPRETATION RECORD

Subject of Interpretation:

Requirements for a Mobile Food Facility

Zoning Ordinance Section Number:

11-6-2 (A, B, C, D) (Pre-2011 Zoning Ordinance)

Title of Section:

Land Use Regulations

Cause for Interpretation:

To determine if two sites within the C-2 zoning district will permit a mobile unit within both to be used as a drive-through restaurant. The applicant asked about the placement of a “kiosk” style mobile unit on two sites within the Mesa corporate limits in which both sites are zoned C-2, Limited Commercial District. It was proposed that both sites would permit a mobile unit to be placed on each site based on the idea that the mobile unit would dispense coffee (and possibly other food products) as a drive-through restaurant.

The applicant describes the use as occupying a “mobile food facility”, with the unit being described as self-contained, and therefore does not require a connection to City water or sewer utilities. In fact, to further emphasize the mobility of the unit, it was indicated in the pre-submittal narratives that the mobile unit itself is to return to a commissary, implying that it leaves the site. The elevations of the unit also show “crank-up” wheel axles that raise and lower as needed, depending upon whether the unit is being towed or if it is stationed in place.

Interpretation:

In each of the subsections within Section 11-6-2 (A, B, & C), the paragraph begins “Permitted Uses ..., provided all activities are conducted within an enclosed building with no outside storage or display except as specified below” (italics added for emphasis). Similar requirements for an enclosed building also pertain for the vast majority of permitted uses in the O-S, C-1 and C-3 zoning districts. Stated another way, outdoor uses are prohibited unless specifically called out as being allowed.

The mobile unit with which the applicant intends to dispense coffee through drive-up windows is defined as a vehicle, based on Maricopa County Health Code definitions for “Mobile Food Service” and “Mobile Food Unit” (Maricopa County Ordinance, Chapter VII - General Provisions, Chapter 1 - Definitions, Items (76) and (76a)). Further, past interpretations of activities that take place from vehicles, trailers and carts have determined that such activities constitute an “outdoor use”, because the activity does not take place within an enclosed building. Reviewing the list of permitted uses within O-S, C-1, C-2 zoning districts, the only exceptions to indoor use requirements are outdoor seating when associated with an indoor restaurant, and outdoor activities associated with a wedding reception hall with an approved Special Use

Permit. The C-3 zoning district adds outdoor display, however such displays are limited to vehicle sales, plant nurseries and building materials when associated with a materials supply center [Mesa Zoning Ordinance, Sec 11-6-2(D)].

Because the applicant described use is conducted from a vehicle, and constitutes an outdoor activity, it is interpreted to be an outdoor land use, and therefore not permitted within either the O-S, C-1, or C-2 zoning districts. In addition, it is not a permitted land use in the C-3 zoning district because it is not one of the outdoor land uses listed in Sec 11-6-2(D).

If the applicant wants to conduct a coffee dispensing business from a drive-up window, the business is welcome at either of the two sites they proposed if it is conducted from within an enclosed building. Provisions for constructing such a building at either site are possible, provided the appropriate site plan amendments are approved; the Mesa Design Review Board approves their building designs; and construction permits are issued for both projects, respectively.