

## Attachment C

### REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Principal Planner, Hearing Officer  
Bradley Wylam, Planner I, Assisting

December 21, 2022

ITEM NO: 2	
	DISTRICT 2
SUBJECT:	
Application #:	PHO-1-22--Z-48-97-2
Location:	Southwest corner of Cave Creek Road and Lone Cactus Drive
Zoning:	C-2 DVAO
Acreage:	2.27
Request:	1) Deletion of Stipulation 1 regarding development of a plant nursery within 24 months of City Council's approval. 2) Modification of Stipulation 2 regarding general conformance with the site plan dated April 4, 1997. 3) Technical correction to Stipulation 9.
Applicant:	Jenifer Tedrick, SEG LLC
Owner:	Jaca Properties LLC
Representative:	Jenifer Tedrick, SEG LLC

### **ACTIONS:**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with a modification and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Paradise Valley Village Planning Committee heard this case on December 5, 2022 and recommended approval by a vote of 17-0.

### **DISCUSSION:**

Jenifer Tedrick, representative with SEG, LLC, provided an overview of the subject site and the proposed conceptual site plan. She explained that the site was developed as a plant nursery and is currently vacant. She gave an overview of the phasing of the planned project, which included a Whataburger restaurant and another building that is planned for a quick service restaurant or retail use. She provided an overview of the original rezoning case. She stated that the site was granted a use permit on May 12, 2022 for drive-through restaurant facilities in Zoning Adjustment Case No. ZA-123-22. She explained that deletion of Stipulation 1 and modification of Stipulation 2 would enable the redevelopment of the property.

Spencer Freeman, community member to the south of the subject site, stated that he had a chance to speak with Ms. Tedrick prior to the hearing regarding concerns about headlight glare from vehicles in the drive-through. He stated that he has concerns regarding odors coming from the restaurant.

Ms. Tedrick stated that the concerns noted by Mr. Freeman were addressed as stipulations in ZA-123-22. She stated an 8-foot wall will be constructed and building lights will be shielded on the south and west property lines to avoid glare. She stated that a filtration system will be installed to mitigate any odors created by the restaurant.

Adam Stranieri, Planning Hearing Officer, noted that staff did not receive public correspondence prior to the hearing. He also noted that the case went before the Paradise Valley Village Planning Committee on December 5, 2022 and received a unanimous recommendation of approval. He stated that Stipulation 1 regarding the development of a plant nursery within 24 months of City Council approval had been met when the nursery was developed. He asked if the site is currently vacant. Ms. Tedrick stated that there is no tenant currently. Mr. Stranieri recommended approval of the deletion of Stipulation 1. He recommended approval of the proposed modification of Stipulation 2 with a modification to reflect more standard language. He stated that the proposed use would be compatible with the surrounding uses. Mr. Stranieri also stated that the Street Transportation department had submitted a recommendation for an additional stipulation regarding replenishing the landscaped area along the property line adjacent to Cave Creek Road. He stated that a recorded Proposition 207 Waiver is still required prior to preliminary site plan approval and is recommended to be added as a stipulation.

### **FINDINGS:**

- 1) The request to delete Stipulation 1 regarding conditional approval is recommended to be approved. This stipulation was previously met with the prior development of a nursery on the site. The stipulation should be deleted to allow for the proposed change of use and continued enjoyment of property rights under the existing zoning.
- 2) The request to modify Stipulation 2 regarding general conformance is recommended to be approved with a modification to provide more standard conformance language. The original stipulated site plan depicted a nursery business with extensive outdoor plant storage. This use was previously developed, and the buildings remain. The proposed conceptual site plan contemplates redeveloping the site with the removal of the nursery buildings and depicts two drive through restaurants and a single driveway each on the north and east street frontages. The proposal is compatible with the land use pattern in the surrounding area.

- 3) The Street Transportation Department recommends one additional stipulation regarding replenishment of the existing landscape area along Cave Creek Road. The subject site is adjacent to a detached sidewalk along Cave Creek Road with no landscaping within the existing streetscape area. The developer shall replenish this streetscape area and bring irrigation to maintain landscaping to meet the requirements of the Ordinance and support the Complete Streets Policy regarding shaded sidewalks.

**STIPULATIONS:**

1.	<del>That the approval be conditioned on the development of the site as a plant nursery within 24 months of City Council's approval of the zone change in accordance with Section 506.B.1 of the Zoning Ordinance and that the zoning not vest until final site plan approval by the Development Services Department.</del>
1. 2.	<del>That the site be developed</del> THE DEVELOPMENT SHALL BE in general conformance with the site plan DATE STAMPED OCTOBER 27, 2022, <del>submitted in support of the rezoning application dated April 4, 1997,</del> except as may be modified BY THE FOLLOWING to incorporate the stipulations and the requirements of APPROVED BY the PLANNING AND Development Services Department.
2. 3.	<del>That</del> A minimum 6' high concrete block or masonry fence incorporating decorative detailing and high quality finished surfaces SHALL be constructed along the southerly and westerly property lines.
3. 4.	<del>That</del> A maximum 3' high concrete or masonry fence, with wrought iron view fence above that incorporating decorative detailing and high quality finished surfaces, SHALL be constructed along the easterly and northerly property lines abutting Cave Creek Road and Lone Cactus Road.
4. 5.	<del>That</del> The aforementioned walls/fences and the architectural detailing of the building(s), signage and lighting, and other site plan features SHALL be coordinated to present a high quality image consistent with Commerce Park/Business Park standards.
5. 6.	<del>That</del> Enhanced landscaping SHALL be undertaken along the Cave Creek Road side of the property within the setback area and within the landscaped portion of the Cave Creek Road right-of-way.
6. 7.	<del>That</del> The area shown as bulk storage and deliveries SHALL be landscaped and screened from external views of the property so that it does not detract from the visual qualities of the property.

7. <del>8.</del>	<del>That</del> On-site lighting SHALL be reviewed to ensure that it does not disturb neighboring properties.
8. <del>9.</del>	<del>That</del> The Cave Creek half road SHALL be constructed, asphalted, curbed and landscaped across the frontage of the property as approved by the PLANNING AND Development <del>Services</del> Department.
9.	THE DEVELOPER SHALL REPLENISH THE EXISTING LANDSCAPE AREA LOCATED BETWEEN BACK OF CURB AND SIDEWALK TO ACHIEVE 50 PERCENT SHADE AT MATURITY. PLANTING TYPE, FREQUENCY, AND SIZE SHALL BE DETERMINED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. THE DEVELOPER SHALL BE RESPONSIBLE FOR ALL LANDSCAPE AND IRRIGATION MAINTENANCE LOCATED IN THE RIGHT-OF-WAY.
10.	PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS FORM. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.

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