

ATTACHMENT C

REPORT OF PLANNING HEARING OFFICER ACTION
Byron Easton, Planner III, Hearing Officer
Teresa Garcia, Planner I, Assisting

June 12, 2024

ITEM NO: 4	
	DISTRICT NO. 8
SUBJECT:	
Application #:	PHO-1-24--Z-8-21-8
Location:	Approximately 910 feet north of the northwest corner of 36th Street and Southern Avenue
Zoning:	R-3
Acreage:	18.41
Request:	<ol style="list-style-type: none">1) Request to delete Stipulation 7 regarding entryways adjacent to 36th Street and Esteban Park.2) Request to modify Stipulation 10 regarding decorative wall design.3) Request to delete Stipulation 11b. regarding the inclusion of a clubhouse.4) Request to modify Stipulation 12 regarding the minimum percent shade in the open space areas.5) Request to modify Stipulation 13 regarding the minimum shade percentage for pedestrian paths.6) Request to delete Stipulation 14a. regarding direct connection to 36th Street.7) Request to delete Stipulation 15 regarding a public open space at the corner of the property.8) Request to modify Stipulation 17 regarding the location of the bicycle parking spaces.9) Request to modify Stipulation 20 regarding the cul-de-sac termination at 36th Street.
Applicant:	Taylor C. Earl, Earl & Curley, PC
Owner:	Ryan Hartman, 36th & Southern LLC
Representative:	Taylor C. Earl, Earl & Curley, PC

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended denial as filed, approval with modifications and additional stipulations.

Village Planning Committee (VPC) Recommendation: The South Mountain Village Planning Committee heard the request on June 11, 2024 and

recommended approval with modifications and additional stipulations by a vote of 11-1-2.

DISCUSSION:

Taylor Earl, representative of Earl & Curley PC 3101 North Central Avenue, provided an overview of the site. He stated there is an elevation review stipulation in the original zoning case that requires a return to the South Mountain Village Planning Committee (VPC) for review and comment. He stated this creates a burden and creates uncertainty later in the process, but if the PHO wishes to add the stipulation, it would just be for review and comment, not creating new standards. He continued to give an overview of the modification requests for this application.

Marcia Busching, member of the South Mountain VPC, stated she was in support of the case, however there was a disagreement with the village and applicant regarding the amount of shade the site should provide. She stated two more stipulations were recommended for the site regarding access to the park and cool pavements to reduce heat mitigation.

Byron Easton, Planning Hearing Officer, asked Ms. Busching to elaborate on the stipulation regarding elevation review.

Ms. Busching stated she did not feel strongly towards the stipulation as some of the other VPC members.

Trent Marchuk, chair of the South Mountain VPC, stated Mr. Earl has been very collaborative with the village regarding this project. He stated the wording of the elevation stipulation involves a review with the village and they would adhere to the wording.

Mr. Easton asked Mr. Marchuk what the intent of the elevation review stipulation is. Mr. Marchuk stated the expectations of the village is for the applicant to come with site plans, landscape plans or elevations already produced. He stated when plans are not ready for the village, they will ask the applicant to come back when they are ready for review.

Mr. Easton recommended approval to Request 1 as the stipulation no longer applies to the proposed development. He recommended approval to Requests 2 and 3. He recommended denied as filed, approval with a modification to Request 4 per the VPC's recommendation. Request 5 was withdrawn by request of the applicant. He recommended approval to Requests 6 and 7. He recommended approval as written for Request 8. He recommended approval with a modification to Request 9 to clarify the difference between the necessary right-of-way dedication and construction requirements.

Mr. Easton recommended approval to the VPC's first additional stipulation regarding a direct pedestrian access way to Esteban Park. Mr. Easton recommended approval to the VPC's second additional stipulation regarding building elevation review with the South Mountain VPC prior to final site plan approval. Mr. Easton chose not to recommend the VPC's third stipulation regarding cool pavement. The stipulation cannot be quantified or measured and is therefore too general to be stipulated.

FINDINGS:

- 1) The request to delete Stipulation 7 regarding the orientation of entryways adjacent to 36th St. and Esteban Park is recommended to be approved. Stipulation 7 was reflective of the prior product type and the rear-loaded garages. It is not compatible with KHOV's traditional front-loaded garage product and, thus, is no longer a reasonable requirement. The stipulation is recommended to be deleted in its entirety.
- 2) The request to modify Stipulation 10 regarding decorative wall design is recommended to approved. The proposed modification is consistent with the intent of the stipulation and simply adds more design options.
- 3) The request to delete Stipulation 11b. regarding the inclusion of a clubhouse is recommended to be approved.
- 4) The request to modify Stipulation 12 regarding the minimum percent shade in the open space areas is recommended to be denied as filed with a modification. Per the request of the VPC, the original 50 percent shade coverage is recommended to be retained but the applicant is now permitted to include the use of inorganic material to help achieve the required shade coverage.
- 5) The request to modify Stipulation 13 regarding the minimum shade percentage for pedestrian paths has been withdrawn by the applicant.
- 6) The request to delete Stipulation 14a. regarding direct connections to 36th Street from the individual dwelling units is recommended to be approved. The design change from front facing (36th St.) units to traditional townhomes supports the deletion of this stipulation.
- 7) The request to delete Stipulation 15 regarding a public open space at the corner of the property is recommended to be approved. This change is acceptable as the development is no longer multifamily.
- 8) The request to modify Stipulation 17 regarding the location of the bicycle parking spaces is recommended to be approved. This change is acceptable as the development is no longer multifamily.

- 9) The request to modify Stipulation 20 regarding the cul-de-sac termination at 36th Street is approved with a modification. Section 32-27(A)(3) of the city code establishes the required dedication and construction requirements for cul-de-sacs. The Street Transportation Department understands the applicants reasoning for the requested modification and believe the original stipulation could have been worded in a different way to clarify the difference between the necessary right-of-way dedication and the construction requirements for the turnaround. The 45-foot radius is generally required for the asphalt in the turnaround with the extra 5-feet being necessary to encompass the adjacent sidewalk.
- 10) The South Mountain Village Planning Committee recommended additional stipulations regarding direct pedestrian access to Esteban Park, and a requirement to review future building elevations prior to final site plan approval. These stipulations are intended to address concerns raised by the public and the VPC in regard to the future attractiveness of the development and proposed housing product.

STIPULATIONS:

1.	Building elevations shall be developed to the following standards, as approved by the Planning and Development Department:
a.	Building elevations shall contain multiple colors, exterior accent materials and textural changes that exhibit quality and durability such as brick, stone, colored textured concrete, or stucco, to provide a decorative and aesthetic treatment, as approved by the Planning and Development Department.
b.	Building elevations adjacent and oriented to public streets and the public park, shall contain a minimum of 25 percent brick, masonry, stone, or another exterior accent material that exhibits quality and durability.
c.	All building elevations shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, pitched roofs and/or overhang canopies, as approved by the Planning and Development Department.
2.	Building height shall be limited to two stories and 30 feet.
3.	There shall be no balconies on the upper floors of residential dwellings adjacent or oriented toward single-family residential homes not part of this development.

4.	The required landscape setbacks shall be planted to the following standards, as described below and as approved or modified by the Planning and Development Department:
a.	Large canopy evergreen trees 20 feet on center, or in equivalent groupings, shall be planted where residential units are adjacent or oriented towards single-family residential homes not a part of this development.
b.	Large canopy drought-tolerant trees 20 feet on center, or in equivalent groupings, shall be utilized unless otherwise stated.
c.	50 percent 2-inch caliper, 40 percent 3-inch caliper and 10 percent 4-inch caliper trees shall be utilized.
d.	Five 5-gallon shrubs per tree, and additional shrubs or live groundcover, shall provide minimum 75 percent live cover at maturity.
	Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.
5.	The development shall be limited to a maximum density of 192 dwelling units.
6.	The development shall provide a primary and secondary vehicular access to the site along 36th Street. The secondary access point may serve as vehicular ingress and egress, or limited to vehicular egress and emergency access only, as approved or modified by the Planning and Development Department.
7.	Individual dwelling units adjacent to 36th Street and Esteban Park shall provide an entryway that is either elevated, depressed or includes a feature such as a low wall not exceeding 40 inches in height to accentuate the primary entrance, plus oriented towards the public street or public park, as approved by the Planning and Development Department.
7. 8.	The primary entrance to the development from 36th Street shall include the following elements, as approved by the Planning and Development Department.
a.	Pedestrian pathways connecting the interior of the development to the public sidewalks along both sides of the vehicular entryway into the development.

	b. The pedestrian pathways shall be detached from the primary vehicular entryway with a minimum 5-foot-wide landscaped accent area provided on both sides of the entryway in the development. The landscape accent areas shall provide a visually unique character with drought-tolerant plant materials providing seasonal interest and 75 percent live cover.
	c. A median island of no less than 5 feet in which shall be located centrally within the vehicular entryway into the development and accented by a minimum of three drought-tolerant trees, and drought-tolerant ornamental, flowering shrubs to provide a minimum 75 percent live cover. Twenty five percent of the required live cover may be ground cover plants.
	d. The driveway surface shall be constructed of decorative pavers, stamped or colored concrete, or another material, other than those used to pave the parking surfaces, as approved by the Planning and Development Department.
8. 9.	Perimeter walls adjacent to the public park shall be limited to open view fencing or a combination of maximum three feet of solid masonry topped by open view fencing, as approved by the Planning and Development Department.
9. 10.	All perimeter walls visible from a public street shall include material and textural differences, such as stucco and/or split face block with a decorative element, such as COLUMNS, COLOR ACCENTS, tile or stamped designs, as approved by the Planning and Development Department.
10 11.	The development shall include the following amenities and elements at a minimum, distributed between the open space area(s) throughout the site, as approved by the Planning and Development Department:
	a. Swimming pool.
	b. Clubhouse.
	b. c. Two picnic areas, each with one barbecue grill, shade ramada and a picnic table.
	c. d. Five benches distributed throughout the development, including one bench located within close proximity to 36th Street.

	d. e.	Turf area(s) of no less than a combined 1,000 square feet.
	e. f.	Community garden area(s) of no less than a combined 1,000 square feet that will each include a garden tool library, irrigation, and one bench or seating feature.
11. 12.		Open space areas shall have a minimum 50 percent shade USING ARCHITECTURAL SHADE AND/OR SHADE TREES AT FULL MATURITY, including amenity and seating areas, and a minimum of 50 percent live vegetative cover (shrubs, grasses, or groundcover plants), as approved by the Planning and Development Department.
12. 13.		Pedestrian paths shall be shaded to a minimum of 75 percent using architectural shade and/or shade trees at full maturity, as approved by the Planning and Development Department.
13. 14.		The developer shall provide a system of pedestrian thoroughfares, as described below and as approved or modified by the Planning and Development Department:
	a.	Direct connection to the sidewalk along 36th Street for individual dwelling units adjacent to this street.
	a. b.	The developer shall provide a minimum of two pedestrian paths connecting to the sidewalk along 36th Street, exclusive of pedestrian connections along vehicular entryways.
	b. c.	Illuminated by pedestrian scale lighting per Section 1304(H)5 for a pathway connecting 36th Street along the primary entrance, passing through a central amenity area, and terminating at the west property line.
	c. d.	Where pedestrian paths and vehicular crossings exist, the pathway shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrasts parking and drive aisle surfaces. Vehicular crossings shall be kept to a minimum.
	d. e.	Connections to/between:
	(1)	All residential dwellings.
	(2)	All amenity facilities and active open space areas.

	(3)	The sidewalk along 36th Street.
15.	The development shall provide a minimum 1,000 square foot publicly accessible pedestrian seating node and amenity area along the most northern portion of the development adjacent to the western edge of 36th Street (future cul-de-sac portion) to include the following elements at a minimum, as approved by the Planning and Development Department:	
	a.	Two benches or seating features.
	b.	Bicycle repair station ("fix it station") provided and maintained in an area of high visibility and separated from vehicular maneuvering areas, where applicable. The repair station shall include standard repair tools affixed to the station; a tire gauge and pump affixed to the base of the station or the ground; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike.
	c.	Amenity area that includes either/or combination of a community garden, art feature, nature walk, natural features such as boulders or fountains, or other uniquely identifying features.
	d.	A landscape accent area, exclusive of perimeter landscaping and right-of-way, planted and maintained with at least three plant materials including a series of annuals that will each maintain a constant bloom throughout the year.
14. 16.	The public sidewalk along 36th Street shall be detached with a minimum five-foot wide landscaped strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department:	
	a.	Minimum 3-inch caliper large canopy, single-trunk, shade trees planted a minimum of 25 feet on center or in equivalent groupings to provide shade to a minimum 75 percent of the sidewalk.
	b.	Drought tolerant vegetation designed to grow to a maximum mature height of 24 inches and achieve 75 percent live coverage.
	Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.	
15.	A minimum of four bicycle parking spaces shall be provided through	

17.	Inverted U and/or artistic racks located near THE AMENTIES AREA each vehicular point of ingress or egress and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K or the Comprehensive Bicycle Master Plan.
16.	The developer shall provide traffic calming measures at all vehicular points of ingress/egress to slow vehicles departing the development and crossing the public sidewalks, as approved by the Planning and Development Department.
17.	The developer shall dedicate a minimum of 5 feet of right-of-way for a total 30-foot half-street right-of-way, and construct the west half of 36th Street, as approved by the Planning and Development Department.
18.	The developer shall DEDICATE A 50-FOOT RADIUS RIGHT-OF-WAY AND CONSTRUCT A complete the 50-foot 45-FOOT radius cul-de-sac termination at THE NORTHERN TERMINATION OF 36th Street, as approved by the Planning and Development Department.
19.	Existing irrigation facilities along 36th Street are to be undergrounded and/or relocated outside of City right-of-way. Contact SRP to identify existing land rights and establish appropriate process to relocate facility. Relocations that require additional dedications or land transfer require completion prior to obtaining plat and/or civil plan review approval.
20.	The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
21.	The developer shall record a Notice of Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of the property.
22.	The developer shall grant and record an avigation easement to the City of Phoenix for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
23.	In the event archeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discover, notify the City Archeologist, and allow time for the Archeology Office to properly assess the materials.

24.	A MINIMUM OF ONE DIRECT PEDESTRIAN ACCESSWAY TO ESTEBAN PARK SHALL BE PROVIDED ALONG THE NORTHWEST PERIMETER OF THE SITE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
25.	BUILDING ELEVATIONS SHALL BE PRESENTED FOR REVIEW AND COMMENT TO THE SOUTH MOUNTAIN VILLAGE PLANNING COMMITTEE PRIOR TO FINAL SITE PLAN APPROVAL.
26.	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.

Upon request, this publication will be made available within a reasonable length of time through appropriate auxiliary aids or services to accommodate an individual with a disability. This publication may be made available through the following auxiliary aids or services: large print, Braille, audiotape or computer diskette. To request a reasonable accommodation, please contact Teleia Galaviz at teleia.galaviz@phoenix.gov or (602) 291-2559 or TTY: 7-1-1.