



Village Planning Committee Meeting Summary

Z-19-18-8

Date of VPC Meeting	May 7, 2019
Request From	R1-6 (0.08 acres) C-2 (1.76 acres) C-2 SP (0.09 acres)
Request To	PUD (1.93 acres)
Proposed Use	Planned Unit Development to allow mixed uses
Location	Northwest corner of 41st Place and McDowell Road
VPC Recommendation	Approved, per staff stipulations with a modification to Stipulation No. 5 as requested by the applicant, Deletion of Stipulation No. 3 and three additional Stipulations.
VPC Vote	13-0

VPC DISCUSSION:

3 cards were submitted in support, wishing to speak.

Ms. Maja Brkovic provided an overview of the request noting the projects location, surrounding uses, surrounding zoning, general plan designation, PUD uses and standards and staff's findings and recommendation. She also introduced **Ms. Elyse DiMartino**, a Village Planner on the long-range team who worked on the PUD and could help answer questions.

Chairman Jay Swart asked that staff clarify the parking requirement for the multifamily use. **Ms. Brkovic** noted that the PUD required that 2 spaces be provided for a 2-bedroom unit where the ordinance only required 1.5 parking spaces.

Mr. Barry Paceley asked if there was an existing bus pull-out on the site and expressed concern that a bus pull-out would end up against the building due to the minimal setback along the right-of way. **Ms. DiMartino** noted that there was an existing bus shelter located along McDowell Road and confirmed that there was only 4 feet from the property line to the building. She indicated that the Public Transit Department was aware of the setback and noted that they were in support of relocating the bus bay if needed. She indicated that the detail provided some flexibility regarding the specific distance. She noted that the Public Transit Department was recommending that the bus bay either remain at the current location or be relocated along McDowell Road heading westbound. **Mr. Paceley** noted that the bus bay would not fit. **Ms. DiMartino** noted that it could fit if a driveway was removed.

Ms. Andrea Hardy asked if there was a provision in the PUD that would ensure that the building not be demolished considering that the setbacks were established with the intention that the building remain. **Ms. Brkovic** noted that was no standard that prevented the building from being demolished.

Ms. Hayleigh Crawford asked what changes were made to the PUD since the informational presentation. **Ms. Brkovic** noted that she did not have that information and noted that the applicant might be able to provide further detail.

Mr. Ricardo Toris, representing the applicant, provided an overview of the request noting the surrounding uses, existing conditions, proposed site plan and elevations and a letter of support from an adjacent property owner of the apartment complex. He noted that he had some concerns regarding Stipulation No. 3, requested by Street Transportation Department and Stipulation No. 5, requested by the Public Transit Department. He requested that the committee consider modification and or deletion of Stipulation 3 and modification of Stipulation No. 5 as follows:

Stipulation 3:

IN THE EVENT THE PRIMARY BUILDING IS COMPLETELY DEMOLISHED TO THE GROUND INCLUDING THE FOUNDATION REMOVED, the Developer shall dedicate a 10-foot wide sidewalk easement on the north side of McDowell Road for the length of the property ~~except the approximately 155-foot distance where the existing building is located~~, as approved by the Planning and Development Department.

Stipulation 5:

IF THE BUS PAD IS MOVED FROM IT'S CURRENT LOCATION, the developer shall retain right-of-way and construct one new bus pad on the westbound McDowell Road west of 41st Place which shall be compliant with the City of Phoenix Standards Detail P1260 with a minimum depth of 10-feet. The bus stop pad shall be spaced from the intersection of McDowell Road and 41st Place according to City of Phoenix Standard Detail P1258, as approved by the ~~Public Transit~~ PLANNING AND DEVELOPMENT DEPARTMENT.

Mr. William Fischbach asked if the dog park was an addition to the development and if it would be open to the public. **Mr. Toris** noted that it was an added amenity and that it would not be open to the public. **Mr. Fischbach** asked if the dog park would be located above a public utility easement (PUE). **Mr. Torris** noted that it would be above a PUE.

Ms. Linda Blair asked for clarification regarding the assisted living use.

Mr. Toris noted that the goal was to have all apartments but wanted flexibility to have assisted living. **Ms. Blair** asked for clarification regarding parking standards for the assisted living use. **Ms. Brkovic** noted that assisted living would follow the residential use parking standards identified in the PUD narrative.

Mr. Greg Abbott asked what accommodations were made for bicycle parking. **Ms. Hayleigh Crawford** noted that the PUD required one bicycle rack for every 4.5 units.

Ms. Hayleigh Crawford asked that more bicycle parking be provided on the site. **Chairman Jay Swart** noted that additional bicycle parking spaces be provided. **Mr.**

Toris noted that the client would be open to adding five additional bicycle parking spaces. **Ms. Crawford** brought up concerns regarding the placement of bike racks and asked if the zoning code addressed the issue. **Ms. Brkovic** noted that the walkable Urban Code provided guidelines regarding the placement of bike racks near building entrances.

Mr. Abbott echoed that additional bicycle parking should be added considering that commercial uses would be permitted as part of the PUD.

Mr. William Fischbach asked how many bicycle parking spaces would be required if the PUD followed the Walkable Urban Code standards. **Ms. Brkovic** noted that based on the unit count for residential uses, approximately 20 bicycle parking spaces would be required (0.25 spaces per unit).

Ms. Hardy noted that there should be language added to require that the existing building remain or require additional setback and trees if the building is demolished. **Ms. Brkovic** noted that it would be hard to regulate or require that the building remain.

Mr. William Fischbach noted that a stipulation could be added to require general conformance to the site plan. **Mr. Toris** noted that an alternative could be a PHO stipulation for review of plans if the applicant choose to demolish the existing building.

Mr. Lee Miller asked for clarification regarding the applicants request to modify Stipulation Nos. 3 and 5. **Ms. Brkovic** noted that the Public Transit Department had indicated that they were not in favor of modifying the stipulation and the Street Transportation Department was open to discussing the stipulation further with the applicant but that a final decision had not been made. **Mr. Miller** asked why the Public Transit Department did not want Planning and Development added to the stipulation. **Ms. DiMartino** noted that other departments don't typically like their requested stipulations to be modified. She indicated that the transit stipulation, as requested by the applicant, would allow Planning and Development flexibility regarding the approval of the bus pad versus Public Transit who would ultimately review and approve the bus pad.

Chairman Jay Swart noted that the committee needed to understand why the Public Transit Department was against the modification and indicated that if Public Transit had strong feelings about changes to the stipulation then they should have sent a representative to the meeting to explain their reasoning. **Ms. DiMartino** noted that the Public Transit Department would ultimately review and approve where the bus pad would need to be located which is why they don't want the stipulation modified. **Chairman Jay Swart** noted that City Council would have final approval of the stipulation. **Ms. DiMartino** noted that City Council would make the final decision regarding the stipulation, but that Public Transit would ultimately approve the bus pad during the development review process. **Chairman Jay Swart** asked why Public Transit was requesting a stipulation that cannot be met considering the current conditions of the site. **Ms. DiMartino** noted that there were standard City of Phoenix details that bus pads and bays need to meet throughout the city.

Ms. Linda Blair noted that it did not make sense for the Public Transit Department to approve the bus pad on their own without input from the Planning and Development Department. **Ms. DiMartino** noted that the development would ultimately be reviewed

by all the respective departments. **Ms. Crawford** noted that if the bus bay was going to be approved by Public Transit then it shouldn't matter how the stipulation was worded. She indicated that Public Transit should be at the meeting to provide clarification regarding the concern of adding Planning and Development to the stipulation.

Ms. Christina Sampson asked if Public Transit's comments were based on a traffic study. She noted that the only logical reason to ask for a bus pull out was to keep traffic flowing along McDowell Road. **Ms. DiMartino** noted that a traffic statement or study would not be reviewed by the Public Transit Department but rather by Street Transportation. She noted that Public Transit was asking for the stipulation regardless of the use.

Mr. Toris clarified that the stipulation was for a bus pad and not a bus pull-out. He stated that there was a great possibility that the bus pad would need to be relocated. He noted that the standard detail was not suitable for the site considering the lack of room. He noted that the proposed driveways along McDowell Road were needed for the project to work and to meet the circulation and fire access standards. He stated that elimination of the driveways would not work for the site. He noted that they were requesting the stipulation to be modified to provide some flexibility.

Ms. Brkovic suggested that the committee consider adding Planning and Development Department to the stipulation versus deleting Public Transit from the stipulation.

Chairman Jay Swart noted that the committee was an independent recommending body and suggested that the committee vote for what made sense and allow Public Transit to defend their stipulation at Planning Commission if needed. **Mr. Abbott** noted that he agreed and stated that the bus pad would block the driveway and push traffic onto 41st Street which would not be a good alternative. **Mr. Swart** noted that there were safety concerns in relation to the bus pad.

Eric Hitchcock, property owner in the area, speaking in support of the project made the following statements:

- Concerned about pad relocation and safety if bus pad is added on 41st Street.
- Concerned about parking for commercial uses.
- Owner behind the subject site and was in support of the development.

Jeff Orshalick, property owner in the area, speaking in support made the following comments:

- Noted that the applicant had been working on the project for about a year and had engaged the neighborhood.
- Asked that the committee support the project

Jay Pearlman, resident in the area, speaking in support made the following comments:

- Noted that the applicant held several meetings with the neighborhood and that there had been good dialogue between the parties.
- Noted that the agreements made between the property owner and the interested parties had been reflected in the new site plan drawings in the PUD development narrative.
- Asked that the committee support the project and noted that it would be a good addition to the area.

Mr. Toris, noted that the applicant heard the concerns of the committee and the neighbors which was reflected in the PUD. He indicated that a traffic statement would be required as part of the development.

Mr. Fischbach asked that Mr. Toris clarify the requested language for Stipulation No. 5. **Mr. Toris** noted the he was requesting that Stipulation No. 3 be deleted or that Stipulation Nos. 3 and 5 be modified as follows:

Stipulation 3:

IN THE EVENT THE PRIMARY BUILDING IS COMPLETELY DEMOLISHED TO THE GROUND INCLUDING THE FOUNDATION REMOVED, the Developer shall dedicate a 10-foot wide sidewalk easement on the north side of McDowell Road for the length of the property ~~except the approximately 155-foot distance where the existing building is located~~, as approved by the Planning and Development Department.

Stipulation 5:

IF THE BUS PAD IS MOVED FROM IT'S CURRENT LOCATION, the developer shall retain right-of-way and construct one new bus pad on the westbound McDowell Road west of 41st Place which shall be compliant with the City of Phoenix Standards Detail P1260 with a minimum depth of 10-feet. The bus stop pad shall be spaced from the intersection of McDowell Road and 41st Place according to City of Phoenix Standard Detail P1258, as approved by the ~~Public Transit~~ PLANNING AND DEVELOPMENT DEPARTMENT.

Mr. Toris explained that deletion of Stipulation No. 3 would be preferred. He noted that Stipulation No. 3 would not be needed if the committee stipulated general conformance to the site plan in the PUD development Narrative.

Motion:

Mr. William Fischbach made a motion to approve Z-19-18-8 per staff stipulations with modifications to Stipulation No. 5 as requested by the applicant, Deletion of Stipulation No. 3 and two additional stipulations as follows:

- 1) Minimum 20 bicycle parking spaces and more if the owner can accommodate.
- 2) The development shall be in general conformance to site plan in the PUD Development Narrative.

Chairman Swart proposed a friendly amendment to add the following stipulation:

- 3) If there is a PHO request that the request be forwarded to the Camelback East Village Planning Committee.

Mr. Fischbach accepted the friendly amendment.

Mr. Danie Sharaby proposed a friendly amendment to Stipulation No. 5 to state the following at the end: “as approved by The Public Transit and Planning and Development Department”.

Mr. Fischbach accepted the friendly amendment. **Mr. Barry Paceley** seconded that amended motion.

Discussion:

Mr. Crawford asked if Ms. Hardy and the committee was comfortable with the general conformance stipulation regarding concerns that the existing building ever be demolished. **Ms. Hardy** noted that she felt comfortable with the stipulation.

Chairman Jay Swart expressed that he was glad to hear from nearby residents and property owners that the applicant had been working with them. He also asked that the applicant avoid extended absences between the informational presentation and the recommendation hearing. He expressed that he understood that PUD’s are complicated and noted that holding the hearings months apart resulted in a lack of mindfulness for the project or previous conversations.

Roll Call:

Yes: Jay Swart, William Fischbach, Greg Abbott, Linda Bair, Hayleigh Crawford, George Garcia, Andrea Hardy, Blake McKee, Lee Miller, Darrin Orndorff, Barry Paceley, Christina Sampson and Daniel Sharaby.

No: None

Vote: 13-0

Motion approved.

RECOMMENDED STIPULATIONS:

1. An updated Development Narrative for the 40 East PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped April 22, 2019, as modified by the following stipulations:
 - a. Front Cover: Revise the submittal date information on the bottom to add the following: City Council adopted: [Add adoption date]
 - b. Page 18, G. Development Standards, Landscape Standards: Revise the Landscape Setback Standards Exhibit to depict a minimum landscape setback of 5 feet along the north property line adjacent to the pool amenity area.
 - c. All references to commercial parking requirements shall be revised to be in compliance with Section 702 of the Phoenix Zoning Ordinance.
2. The developer shall submit a Traffic Impact Statement to the City prior to

preliminary approval of plans, as approved by the Planning and Development Department.

- ~~3. The developer shall dedicate a 10-foot wide sidewalk easement on the north side of McDowell Road for the length of the property except for the approximately 155-foot distance where the existing building is located, as approved by the Planning and Development Department.~~
3. THE DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE TO THE SITE PLAN IN THE PUD DEVELOPMENT NARRATIVE.
4. IF THERE IS A PLANNING HEARING OFFICER REQUEST THE REQUEST SHALL BE FORWARDED TO THE CAMELBACK EAST VILLAGE PLANNING COMMITTEE.
5. A MINIMUM OF 20 BICYCLE PARKING SPACES SHALL BE PROVIDED AND MORE IF THE OWNER CAN ACCOMMODATE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
- 4.6. 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.
- 5.7. IF THE BUS PAD IS MOVED FROM IT'S CURRENT LOCATION, the developer shall retain right-of-way and construct one new bus pad on the westbound McDowell Road west of 41st Place which shall be compliant with the City of Phoenix Standards Detail P1260 with a minimum depth of 10-feet. The bus stop pad shall be spaced from the intersection of McDowell Road and 41st Place according to City of Phoenix Standard Detail P1258, as approved by the Public Transit AND PLANNING AND DEVELOPMENT DEPARTMENT.
- 6.8. The developer shall record a Notice to Perspective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International Airport (PHX) to future owners or tenants of the property.
- 7.9. In the event archaeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

Staff has concerns regarding the deletion and modification of the stipulations requested by the Street Transportation and Public Transit Departments. Staff is reaching out to both Departments for further feedback regarding the recommendation.