

## ATTACHMENT B

### REPORT OF PLANNING HEARING OFFICER ACTION

Byron Easton, Planner III, Hearing Officer

Teresa Garcia, Planner I, Assisting

December 18, 2024

ITEM NO: 2	
	DISTRICT NO. 2
SUBJECT:	
Application #:	PHO-2-24--Z-37-07-2
Location:	Approximately 190 feet south of the southwest corner of Scottsdale Road and Sweetwater Avenue
Zoning:	R-O
Acreage:	1.41
Request:	<ol style="list-style-type: none"><li>1) Request to modify Stipulation 1 regarding general conformance to the site plan date stamped February 9, 2009.</li><li>2) Request to delete Stipulation 4 regarding cross access and parking agreements.</li><li>3) Request to delete Stipulation 5 regarding Scottsdale Road improvements.</li><li>4) Request to modify Stipulation 12 regarding a requirement to obtain final site plan approval.</li><li>5) Request to delete Stipulation 13 regarding walls along the rear property line.</li></ol>
Applicant:	David E. Richert, Richert & Associates
Owner:	Thomas Moebius and Traci Ann Zandi
Representative:	David E. Richert, Richert & Associates

### **ACTIONS:**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with modifications and an additional stipulation.

Village Planning Committee (VPC) Recommendation: The Paradise Valley Village Planning Committee was scheduled to hear this request on December 2, 2024 but did not have a quorum.

### **DISCUSSION:**

David Richert, representative of Richert & Associates, gave an overview of the site. He stated Lot 1 is not included in this request and Lots 4 and 5 were heard earlier in the year (PHO-1-24—Z-37-07-2). He stated the requests were similar to what was requested in PHO-1-24—Z-37-07-2. He mentioned the property owners for Lot 3 were involved in a lawsuit with the previous property owner as

they were not made aware of the stipulations from the original rezoning case and Lot 2 has never been used as a R-O property. He requested to keep the same site plan from the original rezoning case for Lots 2 and 3.

Mr. Richert then focused on Stipulation 5 regarding Scottsdale Road improvements. He noted there is a bus stop on the north side of Sweetwater Avenue and six others within a mile of the site, therefore a bus stop adjacent to the site is not needed. He reiterated that the modification request for Stipulations 1, 4, 5, 12 and 13 were approved by City Council for PHO-1-24—Z-37-07-2 and asked Mr. Easton for the same recommendations for this case.

Ray Zandi, 12498 North 138<sup>th</sup> Place, stated him and his wife purchased the property, and the previous owners were running an office out of it. He mentioned it had been in business for 17 years and the City never confirmed if the stipulations were met prior to receiving their certificate of occupancy.

Mr. Easton recommended approval with a modification to Stipulation 1 regarding general conformance to the site plan, noting the recommendation would match PHO-1-24—Z-37-07-2. He recommended approval to delete Stipulation 4 regarding cross access and parking agreements as the same was granted for Lots 4 and 5. He recommended approval to delete Stipulation 5 regarding Scottsdale Road improvements as there are adequate bus stops in the area and the City Council approved of the request in the previous case. He recommended approval to the deletion of Stipulation 12 regarding final site plan approval. He recommended approval to the deletion of Stipulation 13 regarding walls along the rear property line.

### **FINDINGS:**

- 1) The request to modify Stipulation 1 regarding general conformance to the site plan is recommended to be approved with a modification to match similar language as approved by PHO-1-24—Z-37-07-02 for lots 3 and 4 of the original rezoning case. The site plan that was submitted with this application, date stamped October 22, 2024, depicts the final developed property in its present state.
- 2) The request to delete Stipulation 4 regarding the cross access and parking agreements between Lots 3 and 4 is recommended approved. This requirement has already been deleted with the City Council approval of PHO-1-24—Z-37-07-02 on September 4, 2024. This action will simply remove the requirement that has already been nullified by the beforementioned decision for the adjacent lot.

- 3) The request to delete Stipulation 5 regarding Scottsdale Road improvements is recommended to be approved. There are three (3) existing bus stops between Sweetwater and Thunderbird Rd and City Council deleted this stipulation on September 4, 2024 for lots 4 and 5. This recommendation will help provide consistency to the entire development, matching the decision made by City Council for lots 3 and 4 to lots 2 and 3. Lot 1 may come in for PHO at a later date.
- 4) The request to modify Stipulation 12 regarding a requirement to obtain final site plan approval is recommended to be approved with a modification. The applicant is actually requesting the deletion of the entire stipulation to match the decision for lots 3 and 4 (PHO-1-24—Z-37-07-02). The PHO is recommending a modification to delete the entire Stipulation in its entirety.
- 5) The request to delete Stipulation 13 regarding walls along the rear property line is recommended to be approved. The existing walls on lots 2 and 3 are intact and range from 5'10" to 6' 8" and have existed this way for 17 years in reasonably good condition. Recently, as previously stated, lots 4 and 5 had this stipulation deleted with City Council action on September 4, 2024. This recommendation will ensure that lots 2 and 3 are treated the same.
- 6) The applicant did not submit a Proposition 207 waiver of claims prior to the Planning Hearing Officer hearing. Submittal of this form is an application requirement. An additional stipulation is recommended to require the applicant to record this form and deliver it to the City to be included in the rezoning application file for record.

**STIPULATIONS:**

Phoenix Zoning Ordinance:	
1.	<del>LOTS 2 AND 3 That development shall be in general conformance to the site plan date stamped OCTOBER 22, 2024 February 9, 2009, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND with specific regard to the existing building footprints, maintenance of the existing west property line wall and the addition of enclosed/covered trash containers as approved by the PLANNING AND Development Services Department.</del>
2.	<del>That</del> A minimum 10-foot-wide landscape setback along the entire west property line of the lots shall be provided with the corresponding phase. Required landscape material planted in this landscape buffer shall include

	a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department.
3.	<del>That</del> A minimum six-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape material shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department.
4.	<del>That cross access and parking agreements for Lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.</del>
5.	<del>That right of way shall be dedicated to the city along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to the city of Phoenix Detail P-1261 as approved by the Public Transit Department.</del>
4. 6.	<del>That</del> The property owner of Lot 50 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of the certificate of occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a one-foot (1') vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5 as approved by the PLANNING AND Development Services Department.
5. 7.	<del>That</del> Building height shall be limited to one (1) story and 13 feet with the exception of Lot 5 to be limited to one (1) story 14 feet.
6. 8.	<del>That</del> The rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 – 77 feet; Lot 2 – 78 feet; Lot 3 – 97 feet; Lot 4 – 103 feet, and Lot 5 – 111 feet as measured from the centerline of the existing 16-foot alley.
7. 9.	<del>That</del> A one-foot (1') vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase as approved by the PLANNING AND Development Services Department.
8. 10.	<del>That</del> The developer shall construct sidewalk, curb ramps, and other incidentals as per plans approved by the PLANNING AND Development Services Department. All improvements shall comply with all ADA accessibility standards.

9. 11.	<del>That</del> 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.
12.	<del>That each individual property owner shall obtain final site plan approval within 24 months of council action.</del>
13.	<del>That an eight foot wall shall be constructed along the rear property line with the corresponding phase as approved by the Development Services Department.</del>
10. 14.	<del>That</del> The Street Transportation Department shall study cut-through traffic before and after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation, not to exceed 12 percent.
11. 15.	<del>That</del> Notice shall be provided to all property owners within the 85254 zip code who submitted speaker cards at the City Council hearing of changes to the site plan through either the PLANNING AND Development Services Department site plan review process or the Planning Hearing Officer hearing process.
12. 16.	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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