



Village Planning Committee Meeting Summary

Z-20-24-1

Date of VPC Meeting	February 19, 2025
Request From	R-O
Request To	C-1
Proposal	Commercial use (office and restaurant)
Location	Approximately 40 feet south of the southwest corner of 39th Avenue and Cactus Road
VPC Recommendation	Denial
VPC Vote	12-1-1

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Committee member Gabriel Jaramillo joined the meeting during this item, bringing quorum to 14 members present (9 needed for a quorum).

Four members of the public registered to speak on this request, in opposition.

STAFF PRESENTATION

Robert Kuhfuss, staff, summarized the scope of the request and gave a general description of the property, location, and surrounding area. Mr. Kuhfuss summarized the General Plan Land Use Map as it pertains to the site and the surrounding area and summarized the applicant's proposal noting that the proposed drive-through restaurant will require a use permit and that the landscape setback along east side would require a variance. Mr. Kuhfuss also summarized the development standards applicable to the site and displayed the proposed elevations. Mr. Kuhfuss stated there were two letters of opposition citing concerns over traffic and pedestrian safety, along with seven letters of support. Mr. Kuhfuss summarized staff findings, stipulations, and staff recommendation.

APPLICATION PRESENTATION

Brennan Ray, with the Ray Law Firm, stated that he was covering for David Cisiewski, who is the applicant on the case. Mr. Ray explained that the site plan included an east half and a west half and that the entire site is owned by the Gilbertson family, who have owned the site for approximately 20 years. Mr. Ray stated they have lived in the existing house on the west side of the site and because of the existing R-O zoning, run a chiropractic office from that location. Mr. Ray stated that the owner is now seeking to expand, with plans to develop the eastern half of the site with a new building that will

house the chiropractic office with the Gilbertson's intending to still live on the site and would seek to get another chiropractor to locate in the existing building. Mr. Ray stated the applicant proposes a 3,000 square foot office building with separate coffee shop on the north side of the site. Mr. Ray stated that while he was not part of the discussions with staff, his understanding was that staff sees this as a good thing due to its proximity to Cactus Park. Mr. Ray noted the police building to the north across Cactus Road. Mr. Ray stated the proposal was neighborhood compatible and friendly. Mr. Ray stated the applicant held a neighborhood meeting in April of last year, which prompted good discussion about the proposed development. Mr. Ray stated that one of the comments that came up had to do with traffic and how the expansion of the business would impact traffic in the area. Mr. Ray stated that while not required, the applicant's team did a full Traffic Impact Analysis and worked closely with the Street Transportation Department to ensure this operates in a safe and efficient manner. Mr. Ray stated there were a number of recommendations that came out of it including striping along 39th Avenue. Mr. Ray stated that another on-site consideration included the placement of the drive-through window as far north as possible to ensure there is proper queuing and stacking. Mr. Ray asked for the Committee's recommendation for approval per staff recommendation.

QUESTIONS FROM THE COMMITTEE

None.

PUBLIC COMMENT

Jimmy (no last name given), stated that he lived in the area of the proposed rezone, does not support the request due to traffic flow and proximity to the neighborhood, and that commercial development occurs at the perimeter of the neighborhood. Jimmy further expressed concerns over the potential increase in the number of homeless people gathering on the site, noting that such activity is already occurring on the site including the use of fentanyl. Jimmy stated there were currently problems with pedestrians and homeless people jumping over walls to gain access to neighboring properties. Jimmy reiterated that he does not support the request and that no one was living in the existing building, which has been empty and abandoned for several years and only being used for commercial not residential / commercial. Jimmy stated that he feels he needs to stand up for his home due to the potential loss of home value and chaos in the community. Jimmy stated he was retired from law enforcement and that not everyone can just leave due to financial hardship.

Gary Teel stated that he has been a resident of the area since 1978. Mr. Teel stated that he has grandchildren that live in the area and that there are a number of older retired people in the neighborhood. Mr. Teel stated that many of these people cannot move due to financial hardship and that many others simply go to work every day, feed their kids, and do the same thing the next day. Mr. Teel stated that he agreed with Jimmy that the proposed development would cause an increase in the number of homeless in the area. Mr. Teel stated that he visited the Starbucks on 43rd Avenue and Cactus and that they must shut the business down from time to time or lock the bathrooms due to the number of homeless. Mr. Teel stated that homeless can have a

devastating effect on home values. Mr. Teel referenced the high school in the area and the potential draw that the proposed coffee shop would have on the high school kids. Mr. Teel indicated concerns over the proximity to Tumbleweed Elementary School stating that the area already has bumper to bumper traffic every morning and that the proposed development will make worse what is already a hazardous condition. Mr. Teel stated the proposed development is not right for the neighborhood and that he will fight to keep it out of the neighborhood.

Jessica Tatum stated that she grew up in the neighborhood, moved away during college, and returned to the neighborhood to raise her children. Ms. Tatum stated that the proposed development was a huge safety concern. Ms. Tatum stated that she has high schoolers who travel 39th Avenue daily and the proposed development would have a negative impact on pedestrians and schoolchildren. Ms. Tatum stated that kids are not bused to school and many walk from as far away as 43rd Avenue and 47th Avenue and Cactus east to Moon Valley, and that some must cross Cactus Road, which is a hazard as it is. Ms. Tatum stated that some come all the way from Peoria Avenue and this proposal would add more traffic. Ms. Tatum stated that traffic is bumper to bumper throughout the entire intersection every morning and every afternoon. Ms. Tatum stated that she worked in education in that school district and that the proposed development is not what is best for the neighborhood children. Ms. Tatum stated that people in the neighborhood make their coffee and home and that there is no need for a coffee shop in the area. Ms. Tatum further stated that the area is not lacking coffee options with a new Dunkin' Donuts coming to 35th Avenue and Peoria, Starbucks at 43rd Avenue and Thunderbird, and Blackrock at 35th Avenue and Greenway. Ms. Tatum expressed concerns with transients in the park and that she works with the Police Department on that issue weekly. Ms. Tatum stated that in her experience, a commercial business that has food attracts more transients and that transients equals trouble. Ms. Tatum stated that she understood that a traffic study was completed but questions whether the study was done at an appropriate time with respect to schools. Ms. Tatum urged the Committee to consider the safety of the children and the safety of the neighborhood. Ms. Tatum stated that she does not feel this is their best interest.

Glenna Teel stated that she was an original owner and has lived in the neighborhood since she was 20 years old and worked at Tumbleweed Elementary School. Ms. Teel stated that what was not clear on the map was a bike lane on 39th Avenue and that inside the bike lane is on-street parking, which means there is one northbound and one southbound lane. Ms. Teel stated that Phoenix drives their out of service buses along 39th Avenue. Ms. Teel stated there are parents and high schoolers driving in the area at what would be coffee time and if there is a line of people for the coffee shop, while pretty, it is not needed. Ms. Teel referenced the park and how during soccer both parking lanes are filled. Ms. Teel stated that when Tumbleweed has an early out on Wednesdays, the line of traffic backs up to the where the coffee shop would be located. Ms. Teel also stated that the neighborhood has limited access, which is made more difficult because of the traffic that backs up and causes speeding near the school. Ms. Teel also stated that opportunities for another coffee shop exist at 35th and Cactus and

at 43rd and Cactus. Ms. Teel also stated that the presence of a coffee shop in that area would be distraction keeping high school kids from attending class.

APPLICANT RESPONSE TO PUBLIC COMMENT

Mr. Ray stated that he appreciates there have been a number of people that have lived in the area for a long time and that the Gilbertson family has owned the site for 50 years. Mr. Ray stated that Mr. Gilbertson has worked out of the existing establishment for over 20 years and is keenly aware of what the community faces and takes pride in the area. Mr. Ray stated that he is prepared to get into the details if needed and that they have worked closely with planning and traffic staff to ensure this development is safe. Mr. Ray stated the proposed development will fit into the area and not be a detriment or create a pedestrian safety hazard. Mr. Ray stated that he would be happy to answer any questions the Committee might have and requests the Committee's recommendation for approval.

Committee Member Elizabeth Pérez-Pawloski asked if the applicant had spoken with the neighbors directly behind the property. **Mr. Ray** stated that he was not involved in that part of that process but that his understanding is they have been in contact and that his understanding is that some of the letters of support came from some of the residents immediately adjacent to the site. Committee Member Pérez-Pawloski asked if any of the residents along the adjacent block wall were present. Mr. Ray stated that he believed that prior speaker "Jimmy" was along that wall.

Committee Member Mike Krentz asked that since the property is currently zoned Residential Office, the only reason the applicant is seeking Commercial zoning was for commercial uses. **Mr. Ray** stated that was the case. Committee Member Krentz asked if the applicant could build a small office building under the existing zoning. Mr. Ray stated that would be allowed.

Committee Member Pérez-Pawloski asked if the applicant would consider anything else on the property that did not include a coffee shop. **Mr. Ray** stated that he could not provide an answer at that time and that the applicant has been in the process for a number of years. Mr. Ray stated the site was constrained by an SRP irrigation structure on the corner and they have worked with city staff to ensure that it works.

Committee Member Nadine Alauria asked if the applicant would own and operate the coffee shop or if it would be sold to another operator such as Starbucks. **Mr. Ray** stated that it would be owned by Mr. Gilbertson who will also be moving his practice to the new building.

Chair Fogleson stated that she sensed there was the desire for more public conversation and that the Planning Commission was hearing the case on March 6th. Chair Fogleson asked Mr. Kuhfuss if members of the public would have the opportunity to speak again before the Planning Commission. **Mr. Kuhfuss** stated that is correct. Mr. Kuhfuss stated that members of the public could also send him a letter or email, which would be attached to the packet that goes to the Commission. Mr. Kuhfuss stated that

the Planning Commission is also a public hearing and that any member of the public would have the opportunity to speak before the Commission on March 6th.

Committee Member Massimo Sommacampagna stated that a lot of the neighbors were concerned over homelessness and potential issues over the coffee shop and trash and asked if the applicant had had any discussions with the neighbors. **Mr. Ray** stated that such discussions had not occurred, but they could occur, and that the Gilbertson family has owned the property for a long time and plans to keep owning it for a long time. Mr. Ray stated that it was the Gilbertson family's investment that is going into the property and that people that go into business do so not to lose money but to be sure that things run as they should.

Committee Member Pérez-Pawloski asked whether the owner intended to sell the property or if they intended to keep the property. **Mr. Ray** stated that he could not provide an answer but reiterated that the owner plans to relocate the chiropractic office to the new building. Committee Member Pérez-Pawloski asked staff if the chiropractic business could expand under the current zoning. **Mr. Kuhfuss** stated that it could within the existing R-O zoning.

Committee Member Sommacampagna asked if there were any plans to extend Desert Hills Drive rather than terminate it at the property line. **Mr. Ray** stated there have been no discussions regarding the extension of Desert Hills Drive.

Committee Member Arick O'Hara thanked those who spoke regarding the case. Committee Member O'Hara stated that he has been on the Committee for eight years that that this would be the third time that he voted to deny a request and that he would explain his vote further when it comes time to vote. Committee Member O'Hara stated that he knows the area well and has either driven a fire truck through the area or supervising a truck that was being driven in that area. Committee Member O'Hara stated that he was not comfortable with the proposal due to the problems associated with the homeless and stated that his understanding was that the police station was going to relocate in the future.

Committee Member Steve Pamperin stated that he had read all of the letters of support and opposition and had heard what the residents had to say. Committee Member Pamperin stated that he joined the Committee to give a voice to the people and that while he supports small business, he is concerned over traffic. Committee Member Pamperin stated that the neighbors presented a strong case for denial.

Committee Member Joshua Carmona stated that if the Police building is moving, does that become another invitation for a commercial use thereby creating more traffic, and that approving the request would be a disservice to the community.

Committee Member Alauria stated that a recommendation for approval would require an additional stipulation regarding the applicant providing the police with the authority to arrest as well as measures to deter homeless activity. **Committee Member O'Hara**

asked if she could explain what is meant by authority to arrest. Committee Member Alauria stated that it is a form that a property owner fills out that gives the Police Department the authority to arrest a trespasser during specified times, presumably after hours.

Committee Member Heather Garbarino asked if a traffic study had been completed. **Mr. Kuhfuss** stated that a Traffic Impact Analysis has been completed.

MOTION

Committee Member Arick O'Hara motioned to recommend denial of Z-20-24-1. **Committee Member Pérez-Pawloski** seconded the motion.

DISCUSSION:

Committee Member O'Hara asked staff to explain the impact of a yes vote. **Mr. Kuhfuss** stated that a yes vote would have the effect of recommending denial of the request.

Committee Member Pérez-Pawloski stated that she would ultimately be voting to deny the request and stated that if the applicant came back with plans to expand the business without commercial zoning, the Committee could have that conversation and encouraged the applicant to have further discussions with the neighbors.

Committee Member Sommacampagna stated that he was disappointed in that not all of the Committee's questions were answered and that the last neighborhood meeting was ten months ago. Committee Member Sommacampagna stated that he would like to see more interactions with the neighbors, and that he would be voting to deny the request.

Chair Fogelson stated that she would typically support small businesses but would be voting to deny the request.

VOTE:

12-1-1, motion to recommend denial of Z-20-24-1 passes with Committee Members Barraza, Carmona, Garbarino, Harris, Jaramillo, Knapp, Krentz, O'Hara, Pamperin, Pérez-Pawloski, Sommacampagna, and Fogelson in favor, with Committee Member Edwards opposed and Committee Member Alauria abstaining.

ADDITIONAL DISCUSSION:

Chair Fogelson reminded the public that they still have an opportunity to express their concerns to the Planning Commission on March 6th.

Committee Member O'Hara stated that just because the Committee made a recommendation to deny the request, the matter must still work its way through the system and that the Committee is a recommending body not an approving body.

Committee Member O'Hara encouraged the members of the public to continue to advocate for their position.

Committee Member Heather Garbarino stated that a coffee shop can be a community builder and that she appreciated the effort that the applicant took but suggested that the applicant took stronger measures to address the issues

STAFF COMMENTS REGARDING VPC RECOMMENDATION:

None.