

## Attachment C

Planning Hearing Officer Summary of May 20, 2020  
Application Z-84-04-7  
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REPORT OF PLANNING HEARING OFFICER ACTION  
Adam Stranieri, Planner III, Hearing Officer  
Julianna Pierre, Planner I, Assisting

May 20, 2020

ITEM 3

DISTRICT 7

SUBJECT:

Application #: Z-84-04-7 (PHO-3-20)  
Zoning: C-2  
Location: Northeast corner of 75th Avenue and Lower Buckeye Road  
Acreage: 2.36  
Request: 

- 1) Modification of Stipulation 1 regarding general conformance to site plan date stamped June 17, 2005 and elevations date stamped June 17, 2005 and June 28, 2015.
- 2) Deletion of Stipulation 2 regarding Planning Hearing Officer approval of a landscape plan.
- 3) Deletion of Stipulation 2.A regarding shaded seating areas in circular courtyards.
- 4) Deletion of Stipulation 2.B regarding shaded seating in the plaza area.
- 5) Deletion of Stipulation 2.C regarding a 75-foot by 75-foot enhanced landscape area at the corner of 75th Avenue and Lower Buckeye Road.
- 6) Deletion of Stipulation 2.D regarding 50-foot by 50-foot enhanced landscape areas at entry drives.
- 7) Deletion of Stipulation 4 regarding a covered walkway and shading requirements.
- 8) Deletion of Stipulation 5 regarding shaded walkways and paving materials.
- 9) Deletion of Stipulation 6 regarding parking at rear of the site.
- 10) Deletion of Stipulation 12 regarding a Traffic Impact Study.
- 11) Deletion of Stipulation 12.A regarding additional right-of-way dedication as required by the approved Traffic Impact Study.
- 12) Deletion of Stipulation 12.B regarding traffic signals.
- 13) Technical corrections to Stipulations 3, 9, and 13.

Applicant: Circle K Stores Inc.  
Owner: Demergasso Bonnie EVA as Trustee  
Representative: Law Office of David Cisiewski PLLC

### **ACTIONS**

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

Village Planning Committee (VPC) Recommendation: The Estrella Village Planning Committee heard this case on April 21, 2020 and recommended approval by an 8-0 vote.

## **DISCUSSION**

David Cisiewski, representative with the Law Office of David Cisiewski PLLC, stated that they are proposing a Circle K at the northeast corner of 75<sup>th</sup> Avenue and Lower Buckeye Road. He added that the proposed site plan depicts a 5,187 square foot square foot convenience store and seven fuel pumps. He stated that the original rezoning case proposed a commercial center on approximately 19.8 acres. He stated that Z-84-04-7 (PHO-1-18) was to allow a residential development to the north and Z-84-04-7 (PHO-2-19) was to allow a drive-through fast food restaurant to the east. He stated that the modifications and deletions would be necessary to move forward with the new Circle K development on the subject property.

Adam Stranieri asked if there was cross access to the property to the north. Mr. Cisiewski stated that it was depicted on the site plan but was unsure if it would be built in that configuration. He added that they would be willing to retain the cross access or remove it.

Mr. Cisiewski stated that the exterior elevations are typical of new Circle K developments in the City and feature a desert tone color palette, exposed stone, and masonry. He stated that the proposed convenience store would have four-sided architecture since there is proposed residential to the north and east.

Mr. Stranieri stated that City received no public correspondence regarding this case. Mr. Cisiewski stated that he received no correspondence and no members of the public were present at the Estrella Village Planning Committee meeting on April 20, 2020. He added that the case was approved unanimously by the Village Planning Committee with no modifications.

Mr. Stranieri stated that he had no major concerns regarding general conformance with the site plan and elevations. He stated that the stipulated site plan for the original rezoning case depicted the same use but felt it sensible to update to plans consistent with the Circle K proposal.

Mr. Stranieri stated that he had no issue with the request to delete Stipulation 2, regarding Planning Hearing Officer approval of a landscape plan. He stated that the prior PHOs for this rezoning case established new landscaping requirements and that stipulations could be added to the current PHO for consistency with the previous modifications.

Mr. Stranieri stated that Stipulations 2.A and 2.B regarding shaded seating areas in circular courtyards and the plaza area were specific design elements for the commercial shopping center proposed in the original case. He added that these stipulations are no longer relevant to the site considering the new site plan and uses.

Mr. Stranieri stated that Stipulation 2.C, regarding a 75-foot by 75-foot enhanced landscape area at the corner of 75th Avenue and Lower Buckeye Road, is based on a design element from the Estrella Village Arterial Street Landscaping Program for gateway locations. He added that this was interesting considering the location of the site is not a gateway and there is another planned gateway one mile to the north. He stated that he did not have a concern recommending removing the requirement but recommended other enhanced landscaping requirements that could enhance the streetscape.

Mr. Stranieri stated that Stipulation 2.D, regarding 50-foot by 50-foot enhanced landscape areas at entry drives, could be modified to match landscaping requirements for the proposed drive-through restaurant to the east. Mr. Cisiewski asked if the enhanced landscaping would include increased tree caliper. Mr. Stranieri clarified that the developer would be required to provide landscaping with 25% 2-inch caliper trees, 50% 3-inch caliper trees, and 25% 4-inch caliper trees.

Mr. Stranieri stated that Stipulation 4, regarding a covered walkway and shading requirements, is another design element specific to the large-scale commercial retail center. He added that the intent was to create a covered arcade for outdoor pedestrian traffic. He stated that he had no issue recommending deletion of the stipulation since that design style would not be relevant to the current proposed development.

Mr. Stranieri stated that Stipulation 5, regarding shaded walkways and paving materials, may not be relevant in terms of the shaded walkways, but that pedestrian pathways should still be planned for the development. He added that pedestrian pathways and connectivity are important considering the site's location at the intersection of two arterials and proximity to other shopping opportunities, residential, and a planned bus stop. He stated that it would be appropriate to recommend deletion of Stipulation 5, but propose a new stipulation regarding appropriate locations for pedestrian pathways. He stated that the stipulation would require the developer to provide pathways along the east and west property lines. He added that a transit pad will be required on 75th Avenue and both the Pedestrian Safety Coordinator and the Public Transit Department asked for a pedestrian pathway from the transit pad to the Circle K. He stated that the exact placement of the pedestrian paths could be discussed further during site plan review.

Mr. Stranieri stated that he had no issue with recommending deletion of Stipulation 6, regarding parking at the rear of the site, because it was another design element specific to the commercial retail center. He stated that general conformance to the new site plan would also include the parking configuration.

Mr. Stranieri stated that the Street Transportation Department is not supportive of the deletion of Stipulations 12, 12.A, and 12.B, regarding a Traffic Impact Study, dedication of additional right-of-way, and traffic signals. He stated that the existing language would allow for flexibility regarding the scope of the Traffic Impact Study and what improvements would be in the study. He noted that the Street Transportation Department recommended six additional stipulations addressing updated design and

infrastructure requirements. Mr. Cisiewski stated that he was aware of the new stipulations and the applicant had no issues with the recommendation.

## **FINDINGS**

- 1) The subject property comprises a small portion of the 19.8 acres in the original rezoning case which proposed a mixed-use project with pad sites, strip retail, and a large office complex. Approximately 16.2 acres of the original rezoning area were modified in PHO-1-18—Z-84-04 to allow a multifamily residential development consisting of detached casita-style units. Approximately 1.29 acres of the original rezoning area were modified in PHO-2-19—Z-84-04 to allow a drive-through restaurant. The applicant's proposal for a gas station is consistent with the original stipulated plan, which also depicted a gas station on this site. The site plan and elevations are consistent in scale and intensity with existing and proposed development in the surrounding area.
- 2) Stipulation 2 requires administrative approval of a landscape plan to evaluate entry drives, landscape features, and shading throughout the planned office and retail complex. Due to the new proposed land uses throughout the original rezoning area, Stipulations 2, 2.a, and 2.b are no longer relevant. Further, adjacent properties in the original rezoning area are subject to their own landscaping stipulations as established in prior stipulation modification cases.
- 3) Stipulation 2.c requires a 75-foot by 75-foot enhanced landscape area at the northeast corner of 75th Avenue and Lower Buckeye Road. This design is consistent with the landscaped gateway designs in the Estrella Village Arterial Street Landscaping Program, however the location is not. The subject property of this request is interior to the Estrella Village boundary and there is a planned landscaped gateway one mile north at the intersection of 75th Avenue and Buckeye Road. There are also other stipulation requirements for enhanced landscaping including conformance to the Estrella Village Arterial Street Landscaping Program and a multi-use trail along Lower Buckeye Road.

Additionally, Stipulation 2.d requires enhanced landscaping at all entry drives. In PHO-1-18—Z-84-04, property to the north was stipulated to general conformance to a landscape plan that depicted enhanced entry features at all entry drives. In PHO-2-19—Z-84-04, property to the east was stipulated to enhanced planting requirements along Lower Buckeye Road. In this request, no landscape plan is proposed.

To address enhanced landscaping expectations for both 75th Avenue and Lower Buckeye Road, an additional stipulation is recommended to require enhanced tree standards in the required landscape setbacks. This will provide consistency with the prior approval on the adjacent property to the east and enhance shade for pedestrians along 75th Avenue where a public transit stop is planned.

- 4) Stipulations 4 and 5 established requirements for pedestrian pathways along the façade of the proposed 30,000 square foot strip retail center (Shops A) and

between the office complex and other commercial sites within the property. While the specific language of these stipulations is not relevant to the proposed gas station, this proposal should also provide safe, accessible pedestrian pathways along its perimeter.

The proposed conceptual site plan already depicts an accessible pathway connecting the main entrance to Lower Buckeye Road. However, the east property line is adjacent to a drive-through restaurant pad site which was stipulated in PHO-2-19—Z-84-04 to provide pedestrian connectivity with the multifamily residential project planned to the north and east. Foot traffic from both developments is likely to continue onto the proposed gas station site and should be connected on an alternative surface pathway. Additionally, the Public Transit Department recommended an additional stipulation requiring construction of a bus pad on 75th Avenue. The conceptual site plan does not depict a pedestrian pathway connecting foot traffic from the west property line to the main building entrance. Potential locations for a pathway may be adjacent to the transit pad or at the immediate corner of 75th Avenue and Lower Buckeye Road.

An additional stipulation is recommended requiring the developer to provide alternative surface pathways along the east and west property lines with connectivity to a main building entrance.

- 5) Stipulation 6 is no longer relevant given that the prior stipulation modifications eliminated the proposed shopping center and daycare businesses and that these areas are off-site to the subject property in this request.
- 6) The Street Transportation Department does not support the deletion of Stipulations 12, 12.a, or 12.b. Retaining the stipulations is recommended. Staff noted that the applicant should reach out to discuss the appropriate scope of the study. The existing stipulations allow staff the flexibility to determine the appropriate scope of analysis and any required infrastructure. The Street Transportation Department also recommends six additional stipulations addressing updated requirements for median islands, driveways, irrigation facilities, traffic signals, and street improvements. These additional stipulations are recommended for approval.

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

### **STIPULATIONS**

GENERAL CONFORMANCE	
1.	<del>That</del> The development shall be in general conformance with THE site plan AND ELEVATIONS date stamped FEBRUARY 21, 2020 <del>June 17, 2005, and elevations date stamped June 17, 2005 and June 28, 2005, to include common architecture, building materials, and colors, with particular attention to varied roof lines and</del>

	breaking up building massing, within the southern 1,258 feet of the development site, and to include common architecture, building materials, and colors within the northern 308 feet of the development site, as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.
LANDSCAPINGED	
2.	That the applicant shall provide a landscape plan to be administratively approved by the Planning Hearing Officer (PHO), prior to preliminary site plan approval with specific regard to landscaped office courtyards, plaza areas, and enhanced entry drives:
A.	That the circular courtyards within the Offices shall include shaded seating areas;
B.	That the plaza area between Shops A and the Day Care shall include shaded seating areas;
C.	That the 75th Avenue/Lower Buckeye Road corner shall be developed with a 75-foot by 75-foot enhanced landscaped area;
D.	That all entry drives shall be developed with 50-foot by 50-foot enhanced landscape areas.
2.	REQUIRED LANDSCAPE SETBACKS ADJACENT TO 75TH AVENUE AND LOWER BUCKEYE ROAD SHALL BE PLANTED WITH MULTI-TRUNK OR LARGE CANOPY SHADE TREES PLACED 20 FEET ON CENTER OR IN EQUIVALENT GROUPINGS AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. TWENTY-FIVE PERCENT OF TREES SHALL BE MINIMUM 2-INCH CALIPER, FIFTY PERCENT OF TREES SHALL BE MINIMUM 3-INCH CALIPER, AND TWENTY-FIVE PERCENT OF TREES SHALL BE MINIMUM 4-INCH CALIPER.
3.	That a Arterial street landscape development shall conform to the Estrella Village Arterial Street Landscaping PROGRAM Plan.
PEDESTRIAN WALKWAYS	
4.	That a minimum 10-foot walkway with a staggered front façade shall be provided on Shops A. Patios, trellises and recesses of the building façade may also be used to provide shade and break up the building mass, as approved by the Development Services Department.
5.	That the walkways between the Offices and from the Offices to Pad A, and the Day Care located outside of driving aisles, shall be shaded, and alternate paving materials shall be used where the walkways cross driving aisles, as approved by

	<del>the Development Services Department.</del>
4.	THE DEVELOPER SHALL PROVIDE A MINIMUM OF TWO PEDESTRIAN PATHWAYS PROVIDING CONNECTIVITY BETWEEN BOTH THE EAST AND WEST PROPERTY LINES AND A MAIN BUILDING ENTRANCE, CONSTRUCTED OF DECORATIVE PAVERS, STAMPED OR COLORED CONCRETE, OR ANOTHER MATERIAL OTHER THAN THOSE USED TO PAVE THE PARKING SURFACES AND DRIVE AISLES, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	<b>OTHER</b>
6.	<del>That the parking at the rear of Shops A and the Day Care shall be eliminated.</del>
	<b>PARKS &amp; RECREATION</b>
5. 7.	<del>That a</del> A multi-use trail shall be constructed on the north side of Lower Buckeye Road in accordance with the City of Phoenix Standard Trail Details, as approved by the Parks and Recreation Department.
	<b>STREETS</b>
6. 8.	<del>That r</del> Right-of-way totaling 55 feet shall be dedicated for the east half of 75th Avenue.
7. 9.	<del>That r</del> Right-of-way on 75th Avenue north of Lower Buckeye Road shall be dedicated along with construction of a bus-bay (P1257) and transit pad (P1261), as approved by the PUBLIC Transit Department.
8. 10.	<del>That r</del> Right-of-way totaling 55 feet shall be dedicated for the north half of Lower Buckeye Road.
9. 11.	<del>That a</del> A 21-foot by 21-foot right-of-way triangle shall be dedicated at the northeast corner of Lower Buckeye Road and 75th Avenue.
10. 12.	<del>That t</del> The applicant shall submit a Traffic Impact Study to the City for this development. The study shall be reviewed and approved by the City prior to or concurrent with preliminary site plan submittal. Contact the Street Transportation Department to set up a meeting to discuss the requirements of this study.
	a. Additional right-of-way may be required at the time of the site plan review process for right-turn lanes and other additions as required by the approved Traffic Impact Study;
	b. Traffic signals shall only be installed at locations approved by the Street Transportation Department when warrants are met.

11. 13.	<del>That</del> 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 Services Department. All improvements shall comply with all ADA accessibility standards.
12. 14.	<del>That</del> The applicant shall complete and submit the Developer Project Information Form for the MAG Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the EPA to meet clean air quality standards.
13.	THE DEVELOPER SHALL CONSTRUCT A 14-FOOT WIDE LANDSCAPED MEDIAN ISLAND ON LOWER BUCKEYE ROAD AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
14.	DRIVEWAYS ALONG LOWER BUCKEYE ROAD SHALL BE MEDIAN RESTRICTED AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT
15.	THE DEVELOPER SHALL PROVIDE A RIGHT-IN/RIGHT-OUT RESTRICTED DRIVEWAY ALONG 75TH AVENUE TO BE CONSTRUCTED PER CITY OF PHOENIX STANDARD DETAILS AND AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
16.	EXISTING IRRIGATION FACILITIES ALONG 75TH AVENUE AND LOWER BUCKEYE ROAD ARE TO BE UNDERGROUNDED AND/OR RELOCATED OUTSIDE OF CITY RIGHT-OF-WAY. THE DEVELOPER SHALL COORDINATE WITH SRP TO IDENTIFY EXISTING LAND RIGHTS AND ESTABLISH AN APPROPRIATE PROCESS TO RELOCATE THE FACILITIES. RELOCATIONS THAT REQUIRE ADDITIONAL DEDICATIONS OR LAND TRANSFER REQUIRE COMPLETION PRIOR TO OBTAINING PLAT AND/OR CIVIL PLAN REVIEW APPROVAL.
17.	THE DEVELOPER SHALL BE RESPONSIBLE FOR ALL MODIFICATIONS OR RELOCATION OF TRAFFIC SIGNAL POLES AND EQUIPMENT AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
18.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY SUCH THAT ALL ROADWAY FEATURES TO THE BACK-OF-CURB ARE WITHIN DEDICATED RIGHT-OF-WAY. THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY AND SIDEWALK EASEMENTS SUCH THAT ALL SIDEWALKS ARE FULLY LOCATED WITHIN DEDICATED RIGHT-OF-WAY OR EASEMENTS AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
19.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY AND CONSTRUCT ONE BUS STOP PAD ALONG NORTHBOUND 75TH AVENUE NORTH OF LOWER BUCKEYE ROAD. BUS STOP PAD SHALL BE CONSTRUCTED ACCORDING



	TO CITY OF PHOENIX STANDARD DETAIL P1260 WITH A MINIMUM DEPTH OF 10 FEET. BUS STOP PAD SHALL BE SPACED FROM THE INTERSECTION OF 75TH AVENUE AND LOWER BUCKEYE ROAD ACCORDING TO CITY OF PHOENIX STANDARD DETAIL P1258. TREES SHALL BE PLACED TO PROVIDE 50% SHADE COVERAGE TO BUS STOP PAD AT FULL MATURITY.
20.	PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS IN A FORM APPROVED BY THE CITY ATTORNEY'S OFFICE. 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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