

# ATTACHMENT C

## REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Danielle Jordan, Planner I, Assisting

April 21, 2021

ITEM NO: 1

DISTRICT 1

SUBJECT:

Application #: PHO-1-21--Z-47-07-1  
Location: Approximately 775 feet north of the northwest corner of I-17 and Old West Trail  
Existing Zoning: C-2  
Acreage: 18.04  
Request: 1) Review of conceptual site plan and elevations by the Planning Hearing Officer per Stipulation 1.  
2) Modification of Stipulation 2 regarding approval of a comprehensive sign plan.  
Applicant: Brennan Ray, Burch & Cracchiolo PA  
Owner: Transwestern Investments LLC  
Representative: Brennan Ray, Burch & Cracchiolo PA

### **ACTIONS**

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

Village Planning Committee (VPC) Recommendation: The Rio Vista Village Planning Committee heard this request on April 13, 2021 and voted 4-2 to recommend denial.

### **DISCUSSION**

Brennan Ray, the applicant and representative for the request, gave an overview of the proposal. He stated that NexMetro is the developer of the approximately 18.04-acre site located north of the northwest corner of I-17 and Old West Trail, along the I-17 frontage road. He stated that the site is designated Commercial on the General Plan Land Use Map and has been zoned C-2 since 2007. He stated that a neighborhood meeting was held on March 31, 2021 where 8 neighbors attended, and the discussion revolved around traffic at the intersection of 43rd Avenue and Anthem Way. He stated that they are requesting review and approval of site plan and elevations per Stipulation 1 and modification to Stipulation 2 regarding the requirement for a comprehensive sign plan for the entire development. He stated that Stipulations 3 through 7 have been satisfied. He indicated that the site plan showed a gated community consisting of 191

single-story rental casitas with primary access from 43rd Avenue and a secondary access along the I-17 frontage road. He stated that amenities include a central open space area, a main amenity area, a dog park, and sidewalks that connect the open spaces. He stated that Stipulation 1.f takes into consideration the site design for residential uses and how the proposed use needs to mitigate impacts of the proximity to I-17. There are no units fronting I-17, with a setback of approximately 90 feet, and a noise barrier wall which meets this stipulation's intent. He stated that the elevations consist of three different floor plans and elevations styles which meet the intent of Stipulations 1.a regarding architectural consistency, Stipulation 1.b. regarding using natural desert material, and Stipulation 1.g regarding an architectural plan.

Terry Mullarkey, speaking in opposition to the request, stated that he opposed the density proposed in the plan and that he would prefer either a commercial development or a traditional R1-6 zoned single-family neighborhood. He stated that he is opposed to the proposed landscaping as it is not consistent with the north Valley, which does not include palm trees. He stated that he is also opposed due to traffic on 43rd Avenue and would like to see a full four traffic lanes on 43rd Avenue, and additional enhancements on the I-17 frontage road.

Brennan Ray responded that this is not a rezoning request but a request to meet conditions and modify existing stipulations. He stated that the property is zoned C-2 which allows for multifamily residential uses subject to the R-3 development standards by right. He stated that compared to what would be allowed by right in the C-2 zoning, they are proposing 191 units compared to 274 without density bonus points. He stated that the City of Phoenix is planning on making improvements to 43rd Avenue in summer of 2021. He stated that they are not asking to modify any traffic related stipulations from the original rezoning request.

Adam Stranieri asked Mr. Ray what the percentage of open space is. Mr. Ray responded stating that under the R-3 standards 5% is required and the development is providing 12% open space. He stated that in addition to the common areas there is private open space being provided at 9.6% of the site. He stated in combination of common areas and private open space it is 22% of the site and when including landscaping areas, it will be 48% of the site. Mr. Stranieri asked what the common open space calculation would be solely related to the Ordinance's definition of the development standard. Mr. Ray responded that it is 12.7%.

Mr. Stranieri responded to a public comment made by Mr. Mullarkey regarding the landscape palette. He stated that while there are no stipulations that address conformance to a landscape plan or legislative review of a landscape plan through the PHO process, he also had questions regarding the palette. He asked

if the proposed palm trees are only in the entrance. Mr. Ray stated that the palms are only at the entrance off 43rd Avenue and around the pool area.

Mr. Stranieri noted that the original rezoning request was approved in 2007 and that Stipulation 1 regarding review of conceptual plans was established because there were no conceptual drawings during the original rezoning request. However, while the staff report did anticipate commercial uses as the most likely future development option, they did take potential residential uses into account with the criteria in Stipulation 1.f regarding site design of residential uses. He stated that Stipulation 1 establishes the criteria for the review of these plans. He stated Stipulation 1.a. requiring the elevations to provide architectural consistency regarding mass, style, wall and lighting is common for large scale commercial developments that have multiple users to ensure that there is consistency between the multiple sites. However, he noted that the proposed residential elevations are consistent without being monotonous.

Mr. Stranieri stated that Stipulation 1.b requires the primary finished materials to be of a desert material or context. He noted that there are a variety of materials on the proposed elevations that are consistent with what the City looks for in the design review process and is compatible with surrounding developments. He stated that Stipulation 1.c regarding drive through facilities, Stipulation 1.d regarding shaded walkways and arcades and Stipulation 1.e regarding breaking up large parking expanses are specific to the potential site being developed as a commercial center.

Mr. Stranieri stated that Stipulation 1.f addressed mitigating features to lessen impacts of the I-17 on potential residential developments. He stated that the proposed site plan showed a prioritized primary entry on 43rd Avenue, and the driveway on I-17 is a secondary access point. Also, the curve of the secondary access point minimizes interruption to the sound barrier wall and reduces impacts of freeway noise on units. He stated that the increased building setback from the I-17 frontage road also reduces the impact.

Mr. Stranieri recommended an additional stipulation regarding the use of native and drought-resistant plant species drawn from the Desert Character Overlay Districts in order to allow the applicant to continue working with staff on a plant palette more compatible with the desert environment in the surrounding area. Mr. Ray was amenable to the recommendation.

Mr. Stranieri stated that Stipulation 1.g. required an architectural plan to be approved along with the elevations. The conditions for the plan are talking about accent material, detailing, street appurtenances and detail section for screening. He noted that while this stipulation is more concerned about the possibility of the property being split into multiple commercial users, that in the proposed elevations these items have been addressed to an appropriate extent.

Mr. Stranieri stated that Stipulation 2 established a requirement for a comprehensive sign plan for the entire property. He suggested a minor modification to the applicant's request to clarify that the requirement would remain for commercial land uses only.

Mr. Stranieri stated that the site was archaeologically sensitive, and staff recommended three additional stipulations regarding the requirements for surveys, data testing and coordination with the Archaeology Office.

## **FINDINGS**

- 1) The original rezoning case contemplated development of the site with commercial uses. As there were no site plans or elevations included in the original application, it was unknown at the time how the site would ultimately develop, what specific uses would be implemented, and the scale and intensity of future development. Therefore, Stipulation 1 was adopted to require Planning Hearing Officer review through the public hearing process once these became available. However, this stipulation did recognize that the site may develop with residential uses as permitted in the approved C-2 zoning designation. Stipulation 1.f directly addressed this by establishing criteria for mitigating impacts of the I-17 on potential residences.

The proposed conceptual site plan in this request depicts a 191-unit multifamily complex consisting of bungalow-style homes with a maximum height of one story and 18 feet 11 inches. The proposed density is 10.59 dwelling units per gross acre, which is less than the 17.40 dwelling units per gross acre permitted in the R-3 PRD development option with bonus points. The maximum building height is one story and 18 feet 11 inches, which is less than the two stories and 30 feet permitted in the R-3 PRD development option. The applicant noted that the proposed open space consisted of approximately 11.2% of the gross project area. The proposed units consist of a mix of detached, stand-alone units and duplexes, rather than a traditional multifamily apartment complex. The scale and intensity of the proposal is appropriate for its location along the I-17 frontage road, consistent with the mix of uses between 43rd Avenue and the freeway in the surrounding area, and provides a buffer between existing single-family development to the west and the I-17 freeway.

- 2) Stipulations 1.a through 1.g established specific criteria regarding the review of the site plan and elevations. General conformance to the proposed conceptual site plan and elevations is recommended as discussed throughout these findings.

- 3) Stipulation 1.a requires architectural consistency in the elevations regarding building mass, building style, wall treatments, lighting, and signage. This stipulation was originally intended to address the potential development of the site with multiple commercial uses. With the conversion of this stipulation to general conformance for the proposed residential development, this concern is not wholly relevant. However, the residential elevations do provide an appropriate level of consistency while still providing for architectural diversity with three home styles (Spanish, farmhouse, prairie). Architectural features include multiple window styles, gable ornamentation, multiple building colors, wainscot, shutters, siding, and other details. Material diversity is achieved using board and batten, stucco, stone and brick veneers, and multiple roof materials.
- 4) Stipulation 1.b requires the use of finishing materials that are appropriate for a desert context. The proposed conceptual elevations utilize a variety of materials and include a detailed color palette that is compatible with existing development and the desert context of the surrounding area.
- 5) Stipulation 1.f requires special consideration for residential uses regarding mitigating impacts of the I-17. It addresses four conditions that are addressed in the applicant's submittal as follows:
  - a) **Innovative Site Design** - The primary entry to the community is located along 43rd Avenue, not along the I-17 frontage road. There is a secondary access point along the I-17 frontage road which was designed with a curve that limits the size of the break in the sound wall which is located along the entire east property line.
  - b) **Increased Setbacks** - Along the I-17 frontage road, an approximately 80-foot building setback is proposed which greatly exceeds the zoning requirement. Additionally, all units either front or side along the east property line reducing potential noise issues on the private rear yards. Finally, there are proposed detached garages depicted between the units and the sound wall intended to further dampen noise.
  - c) **Sound barriers** - A sound wall is proposed along the entire east property line which is further buffered by proposed detached garages as discussed above.
  - d) **Increased Landscaping** – The conceptual landscape plan depicts a variety of large and medium canopy shade trees along the east property line. In most areas, trees are proposed in a double-row configuration and with trees on either side of the sound barrier wall.
- 6) Stipulations 1.c, 1.d, 1.e, and 1.g addressed specific considerations that were relevant to the original vision of the site developing with multiple

commercial users. Regarding Stipulation 1.g, the majority of the considerations are reflected in the conceptual elevations and the recommendation for general conformance.

- 7) Stipulation 2 regarding approval of a comprehensive sign plan was relevant to the assumption in the original rezoning case that the site would develop with multiple commercial uses. This requirement is not relevant to the development of the site with a single multifamily development. The applicant's request to modify this stipulation is recommended to be approved with a modification to the standard language to specify that this requirement is only relevant to development proposals for commercial land uses.
- 8) The applicant submitted a conceptual landscape plan with the application and noted that he had received some concerns during public outreach on the case regarding the use of date palms in the plant palette as they are not consistent with the desert character of the property and the surrounding area. He stated that he had no concern removing the date palms and continuing to hone the plant palette to reflect the desired desert character. An additional stipulation is recommended to require that the plant palette include native and drought resistant species compatible with the surrounding desert environment.
- 9) The site is identified as archaeologically sensitive and three additional stipulations are recommended to be included to address requirements for archaeological survey and testing.

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

### **STIPULATIONS**

1.	<del>That conceptual site plan(s) and elevations shall be approved by the Planning Hearing Officer through the public hearing process prior to Development Services Department preliminary site plan approval. The site plan(s) and elevations shall include the following:</del>  THE DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN AND ELEVATIONS DATE STAMPED MARCH 5, 2021, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.	
	a.	<del>Elevations which provide architectural consistency in building mass and style, wall treatments, lighting, and signage.</del>

	b.	The primary finishing materials for buildings shall consist of natural desert materials or materials which are appropriate for the natural desert context.	
	c.	Drive-thru facilities shall be oriented so that drive-thru windows are not visible from adjacent public streets.	
	d.	Landscaping, arcades, or overhangs which provide shaded walkways shall be utilized.	
	e.	That parking areas shall be designed with landscaped areas to break up the large expanses of parking.	
	f.	Special consideration shall be given to site design in the event residential uses are proposed to adequately mitigate the impacts of the proximity to Interstate 17, such as innovative site design, increased setbacks, sound barriers, and increased landscaping.	
	g.	An architectural plan shall be approved with the elevations. The architectural plan shall convey a sense of continuity throughout the development and at a minimum include the following:	
		i.	Natural accent materials such as brick, stone, or tile for buildings and signage.
		ii.	Architectural detailing such as recesses, pop outs, shade walls, parapets, artistic insets, or pilasters.
		iii.	Street appurtenances such as benches, seat walls, ramadas, shade structures, trash enclosures, lighting, and wayfinding signage.
		iv.	Detail sections for screening and perimeter walls as well as walls interior to the site; said walls shall be designed and finished with materials similar to those of the buildings' architectural detailing.
2.	THE LANDSCAPE PALETTE SHALL INCLUDE NATIVE AND DROUGHT RESISTANT SPECIES COMPATIBLE WITH AND REFLECTING THE SURROUNDING DESERT ENVIRONMENT, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.		
3. 2.	That FOR COMMERCIAL LAND USES, a comprehensive sign plan for the entire property shall be approved by the Zoning Administrator FOR THE ENTIRE DEVELOPMENT in accordance with Section 705 of the Zoning		

	Ordinance prior to Development Services Department final site plan approval for the first phase of development.
4. 3.	That 55 feet of right-of-way shall be dedicated for the east half of 43rd Avenue as approved by the Street Transportation Department.
5. 4.	That Additional right-of-way shall be dedicated for the future expansion of the freeway/frontage road as approved by the Street Transportation Department.
6. 5.	That 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 or modified by the Street Transportation Department.
7. 6.	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 requirements.
8. 7.	That The applicant shall submit an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, and/or grading. Further archaeological monitoring and/or testing (trenching) may be necessary based on the results of the survey.
9.	IF DETERMINED NECESSARY BY THE PHOENIX ARCHAEOLOGY OFFICE, THE APPLICANT SHALL CONDUCT PHASE I DATA TESTING AND SUBMIT AN ARCHAEOLOGICAL SURVEY REPORT OF THE DEVELOPMENT AREA FOR REVIEW AND APPROVAL BY THE CITY ARCHAEOLOGIST PRIOR TO CLEARING AND GRUBBING, LANDSCAPE SALVAGE, AND/OR GRADING APPROVAL.
10.	IF PHASE I DATA TESTING IS REQUIRED, AND IF, UPON REVIEW OF THE RESULTS FROM THE PHASE I DATA TESTING, THE CITY ARCHAEOLOGIST, IN CONSULTATION WITH A QUALIFIED ARCHAEOLOGIST, DETERMINES SUCH DATA RECOVERY EXCAVATIONS ARE NECESSARY, THE APPLICANT SHALL CONDUCT PHASE II ARCHAEOLOGICAL DATA RECOVERY EXCAVATIONS.
11.	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.

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