

## ATTACHMENT C

### REPORT OF PLANNING HEARING OFFICER ACTION Byron Easton, Planner III, Hearing Officer Teresa Garcia, Planner I, Assisting

June 12, 2024

ITEM NO: 3	
	DISTRICT NO. 4
SUBJECT:	
Application #:	<b>PHO-2-24--Z-23-95-7(4)</b>
Location:	Approximately 175 feet west of the southwest corner of 35th Avenue and Melvin Street
Zoning:	P-1
Acreage:	0.22
Request:	1) Request to modify Stipulation 1 regarding general conformance with the site plan date stamped February 11, 2022. 2) Request to delete Stipulation 2 regarding vehicular access to Melvin Street.
Applicant:	Brian Greathouse, Burch & Cracchiolo, P.A.
Owner:	Ruben Rodela SK&M Investments, Inc.; c/o GWA Architects, Inc.
Representative:	Brian Greathouse, Burch & Cracchiolo, P.A.

### **ACTIONS:**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with modifications.

Village Planning Committee (VPC) Recommendation: The Estrella Village Planning Committee heard the request on May 21, 2024 and recommended approval with a additional stipulation by a vote of 8-0.

### **DISCUSSION:**

Brian Greathouse, representative of Burch & Cracchiolo P.A. 1850 North Central Avenue, presented the current case (PHO-2-24--Z-23-95-7(4)) and the companion case (PHO-2-24--Z-1-93-7(4)) concurrently. Mr. Greathouse gave an overview of the site and project proposal. He stated the proposed Panda Express is appropriate for the area and would be a good fit for the under-utilized site. He stated there have been discussions with Phoenix City Staff regarding a conditionally approved alley abandonment and the applicant has received five variance approvals for reduced perimeter setbacks. He stated the Estrella VPC recommended approval to the modification requests and an additional stipulation regarding a deterrent to encourage right turn only on Melvin Street for the site. He stated they have modified the site plan to

match the VPC's recommendations and are requesting to allow access on Melvin Street instead of Van Buren due to a bus stop stipulation and the driveway would be to close to the intersection of 35<sup>th</sup> Avenue and Van Buren. He stated Section 507 Tab A.II.A.6.3.1, recommended by the Streets Department is more of a guideline than a requirement and there is not enough adequate access on the site for the proposed use. He stated their variance approvals will provide a 10-foot landscape setback and a 5-foot sidewalk within the 7-foot easement that they are proposing.

Byron Easton, Planning Hearing Officer, recommended approval with a modification to Request 1. He recommended approval with a modification to Request 2, indicating the new language will reflect what was recommended by the Laveen VPC.

### **FINDINGS:**

- 1) The request to modify Stipulation 1 regarding general conformance to a site plan is recommended to be approved with a modification to incorporate the correct date stamp/submittal date.

The applicant is proposing a Panda Express restaurant on the approximately 1.18 acre vacant lot. The previous PHO (PHO1-21—Z-23-1-93-7), for the development of a packaged liquor sales as an accessory use to a convenience store never materialized. The proposed site plan is in general conformance with the stipulated plan and is the use is allowed within the C-2 zoning district.

- 1) The request to delete Stipulation 2 regarding vehicular access to Melvin Street is recommended to be approved with a modification. The applicant's proposal to completely delete the stipulation is approved but Staff will replace the stipulation with new language that allows access to Melvin Street but with limitations to the movements allowed at the intersection of Melvin Street and 35<sup>th</sup> Ave. This decision is in line with the Estrella Village recommendation and removes any barrier that would prevent the applicant from demonstrating compliance with Section 507 Tab A.II.A.6.3.1. during the site plan review process.

### **STIPULATIONS:**

1.	The development shall be in general conformance with the site plan date stamped JUNE 10, 2024 <del>February 11, 2022</del> , as modified by the following stipulations and approved by the Planning and Development Department.
2.	ANY NONRESIDENTIAL USES ACCESSING MELVIN STREET SHALL BE RESTRICTED TO RIGHT-IN, RIGHT-OUT, AND LEFT-IN TURNING MOVEMENTS ONLY, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. <del>Vehicular access to Melvin Street shall be prohibited.</del>

3.	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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