

Attachment C

REPORT OF PLANNING HEARING OFFICER ACTION
Adam Stranieri, Planner III, Hearing Officer
Julianna Pierre, Planner I, Assisting

December 16, 2020

ITEM NO: 1

DISTRICT 1

SUBJECT:

Application #: PHO-3-20--Z-14-05-1
Zoning: A-1 DVAO
Location: Approximately 633 feet east of the northeast corner of 7th Avenue and Misty Willow Lane
Acreage: 24.07
Request: 1) Modification of Stipulation 1 regarding general conformance to the site plan date stamped August 31, 2007.
2) Deletion of Stipulation 2 regarding a master architectural theme.
3) Modification of Stipulation 3 regarding landscape setbacks along 7th Avenue, Misty Willow Lane, and internal streets.
4) Deletion of Stipulation 5 regarding parking lot landscaping.
5) Modification of Stipulation 7 regarding recording documents that disclose the existence and characteristics of Goodrich-Universal Propulsion Company.
6) Technical correction to Stipulation 4.
Applicant: Happy Valley II, LLC
Owner: Happy Valley II, LLC
Representative: Law Office of David Cisiewski, PLLC

ACTIONS

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

Village Planning Committee (VPC) Recommendation: The Deer Valley Village Planning Committee heard this case on November 19, 2020 and recommended approval with a modification by a 10-0 vote.

DISCUSSION

David Cisiewski, representative with Law Office of David Cisiewski, PLLC, provided history of the property. He stated that the original rezoning case area was divided into three portions under different ownership. The northern parcel was developed with a medical marijuana dispensary and the central parcel is

vacant. He stated that the subject site of the current Planning Hearing Officer (PHO) request is the southernmost portion of the original rezoning case and the proposal is to develop a medical marijuana cultivation and infusion facility on a portion of that site.

Mr. Cisiewski stated that they were requesting modification of Stipulation 1, regarding general conformance to the site plan date stamped August 31, 2007, to allow for development of a medical marijuana cultivation and infusion facility on a portion of the southernmost parcel. He stated that the stipulated site plan from 2007 included the entire 67.5 acres of the original rezoning case, but the new proposed site plan comprised only the approximately 19 gross acre southernmost parcel and depicted a medical marijuana facility on approximately 5 acres on the western portion of this property. He stated that this is beneficial since the 67.5-acre site has been divided into three parcels and is under separate ownership.

Adam Stranieri stated that the site plan in the presentation was different from the site plan submitted with the PHO application. He asked for clarification regarding changes made to the site plan since the initial filing. Mr. Cisiewski stated that the plan shown in the presentation was the current plan and that there were minor changes to the layout of parking spaces and location of trash receptacles per comments received during the Site Plan Pre-Application process. He added that the plan in the presentation also outlined the area of a future phase two expansion. He clarified that this would be an expansion of the cultivation and infusion facility. Mr. Stranieri stated that the new site plan needed to be submitted to the City and would be date stamped with the hearing date.

Mr. Stranieri asked for clarification regarding the Zoning Adjustment for the property. Mr. Cisiewski stated that the use permits and variances related to the medical marijuana cultivation and infusion facility was for the entire 24-acre property. Mr. Stranieri stated that asking for general conformance to the proposed site plan may trigger a new PHO in the future if the site was going to be expanded because no development was depicted other than the phase one project on the westernmost 5 acres. Mr. Cisiewski stated that he understood that new development on the site may require a new PHO.

Mr. Stranieri stated that he had no concerns with the request to modify Stipulation 1. He added that the scale, use, and intensity is consistent and compatible with the uses in the surrounding area. He stated that the facility does not drive foot traffic because it does not have customers.

Mr. Cisiewski stated that they were requesting deletion of Stipulation 2 regarding a master architectural theme. He explained that the site of the original rezoning case has been divided and is under separate ownership, so a unified theme across all the properties would not be appropriate. Mr. Stranieri stated that the requirement for a master architectural theme was tied to the original proposed

concept of a large office park. He stated that the unified theme was no longer appropriate given the division of land and different uses being developed on the properties.

Mr. Cisiewski stated that they were requesting modification of Stipulation 3 regarding landscape setbacks along 7th Avenue, Misty Willow Lane, and internal streets. He added that a large landscape buffer along Misty Willow Lane is not warranted given that the street will not extend further west or east and is adjacent to heavy industrial uses. Mr. Stranieri stated that the stipulation was more applicable when the proposed use was going to be an office park. He added that it would be more appropriate for the property to utilize the landscape standards for industrial properties given the context of existing land uses and connectivity on Misty Willow Lane. Mr. Cisiewski asked for clarification about the meaning of internal streets. Mr. Stranieri clarified that the stipulated landscape setbacks would not apply to driveways, parking lots, or internal drive aisles and maneuvering areas, but if a street was developed and came through the property, the landscape setback would be required.

Mr. Cisiewski stated that they were requesting deletion of Stipulation 5 regarding parking lot landscaping. He stated that increased landscape standards are not warranted when considering the surrounding industrial uses. Mr. Stranieri stated that the property would not have customers, is surrounded by industrial uses, and Misty Willow Lane has limited use and connectivity. He added that there would be no benefit to having increased planting standards in the parking lot for this parcel.

Mr. Cisiewski stated that they were requesting modification of Stipulation 7 regarding recording documents that disclose the existence and characteristics of Goodrich-Universal Propulsion Company. He explained that the Goodrich-Universal facility has been closed and decommissioned, so notification would not be necessary. Mr. Stranieri stated that he was inclined to approve the request as submitted to decouple this requirement from the aviation notification but retain some notification regarding the Goodrich-Universal facility in a separate stipulation. He noted that the Deer Valley Village Planning Committee (VPC) expressed concerns about environmental remediation efforts at the site. The VPC recommended that the stipulation be modified to require notification of aquifer contamination resulting from the facility. Mr. Stranieri stated that he was unsure if aquifer contamination was the sole issue with the site and was inclined to use language referencing environmental remediation efforts generally as the recorded Declaration of Environmental Use Restriction (DEUR) may contain additional important information. Mr. Cisiewski stated that he had no issues with this recommendation.

Mr. Stranieri stated that the Street Transportation Department requested an additional stipulation for a 40-foot dedication for the north half of Misty Willow

Lane. Mr. Cisiewski stated that he was aware of the requirement since they received the same comment during the Site Plan Pre-Application process.

FINDINGS

- 1) The subject property of this request consists of approximately 24 acres of the 67.5 acres in the original rezoning case. The original case comprised property in an area between Happy Valley Road to the north, Misty Willow Lane to the south, the south bank of the Central Arizona Project (CAP) canal to the east, and 7th Avenue to the west. Rezoning Case No. PHO-1-07--Z-14-05 modified stipulations for the entire case area and represents the current stipulations for the subject property. The subject property is at the southern portion of the rezoning area adjacent to Misty Willow Lane. The current stipulated site plan, which took the form of a preliminary plat, depicted 22 separate parcels ranging from 0.85 acres to 2.08 acres in area. No specific development proposal was included for buildings on individual parcels.

The proposed conceptual site plan depicts a nonprofit medical marijuana cultivation and infusion facility on approximately 5 acres on the western portion of the site. The remaining 19 acres do not depict any proposed development. Future development on that area may require further PHO action. The proposed use is compatible with land uses in the surrounding area which include intense industrial activities such as an outdoor landscape supply company and an auto salvage and storage yard on the south side of Misty Willow Lane, and an ADOT fueling station adjacent to the west. General conformance to the site plan is recommended.

- 2) Stipulation 2 regarding a master architectural theme for landscaping and building materials throughout the entire original rezoning case area was established when it was envisioned that the 67.5 acres would develop concurrently in a unified fashion. This is no longer the case and the larger, original property is now subdivided and owned by multiple entities. Further, a nonprofit medical marijuana dispensary was developed on the northern portion of the site. It is appropriate to delete this stipulation as requested by the applicant as the original development plan is no longer viable and an unrelated portion of the site has already developed.
- 3) Stipulation 3 established enhanced landscape setback requirements along 7th Avenue, Misty Willow Lane, and internal streets. This stipulation was established in Rezoning Case No. PHO-1-07--Z-14-05, where the north and south portions of the site were intended to develop as office park style developments. However, this is no longer the case and Misty Willow Lane is dominated by intense, outdoor industrial uses. Further, Misty Willow Lane offers no connectivity to the east across the CAP canal and is unlikely to develop west of 7th Avenue. The modification to the landscape

setback as requested by the applicant is appropriate given these conditions. The same rationale applies to the applicant's request for deletion of Stipulation 5 regarding parking lot landscaping standards which is recommended for deletion.

- 4) At their November 19, 2020 meeting, the Deer Valley Village Planning Committee voted 10-0 to recommend approval with a modification to revise the notification requirement in Stipulation 7. The modification would revise the reference to the existence and characteristics of the Goodrich Universal Propulsion Company at the northeast corner of Central Avenue and Happy Valley Road (which is no longer present at this location) to notification of aquifer contamination. This property is encumbered by a Declaration of Environmental Use Restriction (DEUR) for Properties with Institutional Controls, which is recorded in the official records of Maricopa County, Arizona as instrument no. 20180899893, and a separate DEUR for Property with Engineering and Institutional Controls, which is recorded in the official records of Maricopa County, Arizona as instrument no. 20200066622. Additional, related information regarding the proposed redevelopment of this property is also available in the Development Narrative for the Central Foothills PUD in Rezoning Case No. Z-37-19-2.

A modification of the stipulation is recommended to address issues regarding the ongoing environmental remediation concerns at this site. However, this notification should be separated from the Deer Valley Airport notification requirement. Therefore, the applicant's request regarding Stipulation 7 is recommended for approval subject to an additional stipulation to establish a separate stipulation solely regarding the former Goodrich site.

- 5) The Street Transportation Department recommends an additional stipulation requiring the dedication of 40-feet of right-of-way for the north half of Misty Willow Lane. This stipulation is recommended to be added.

DECISION: The Planning Hearing Officer recommended approval with modifications and additional stipulations.

STIPULATIONS

GENERAL CONFORMANCE	
1.	That THE development shall be in general conformance to WITH the site plan date stamped DECEMBER 16, 2020 August 31, 2007 , as approved or modified by the PLANNING AND Development Services Department.
2.	That a master architectural theme, that unifies the landscaping and building materials for all development, shall be approved concurrent with

	preliminary site plan approval for the first phase of development as approved by the Development Services Department.
2. 3.	That An average 20-foot (minimum 10-foot) landscape setback shall be REQUIRED provided along 7th Avenue and Misty Willow Lane and an average 10-foot (minimum 5-foot) landscape setback shall be REQUIRED provided along MISTY WILLOW LANE AND all internal streets, as approved by the PLANNING AND Development Services Department.
TRAILS	
3. 4.	That The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the PLANNING AND Development Services Department.
LANDSCAPING	
5.	That landscaping shall be provided within parking lots per C-2 zoning district standards (Section 701.d), as approved by the Development Services Department.
ARCHAEOLOGICAL	
4. 6.	That The subject site has the potential to contain archaeological resources. That The applicant shall submit an archaeological survey for review and approval by the City Archaeologist (602) 495-0901 prior to preliminary approval.
NOTIFICATION	
5. 7.	That, At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport and Goodrich-Universal Propulsion Company. The form and content of such documents shall be reviewed by the City Attorney.
6.	THE PROPERTY OWNER SHALL RECORD DOCUMENTS THAT DISCLOSE TO PROSPECTIVE PURCHASERS OF PROPERTY WITHIN THE DEVELOPMENTS THE NATURE OF ENVIRONMENTAL REMEDIATION ACTIVITIES AT THE FORMER SITE OF THE GOODRICH UNIVERSAL PROPULSION COMPANY. THE FORM AND CONTENT OF SUCH DOCUMENTS SHALL BE ACCORDING TO THE

	TEMPLATES AND INSTRUCTIONS PROVIDED WHICH HAVE BEEN REVIEWED AND APPROVED BY THE CITY ATTORNEY.
STREETS AND TRANSPORTATION	
7.	THE DEVELOPER SHALL DEDICATE 40 FEET OF RIGHT-OF-WAY FOR THE NORTH HALF OF MISTY WILLOW LANE (ALAMEDA ROAD ALIGNMENT), AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
8.	That Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road.
9.	That A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road.
10.	That Sufficient right-of-way shall be dedicated to accommodate a bus-bay on Happy Valley Road at 7th Avenue.
11.	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 by the City. All improvements shall comply with all ADA accessibility standards.
12.	That The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval.
13.	That 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.

Upon request, this publication will be made available within a reasonable length of time through appropriate auxiliary aids or services to accommodate an individual with a disability. This publication may be made available through the following auxiliary aids or services: large print, Braille, audiotope or computer diskette. Please contact the Planning and Development Department, Tamra Ingersoll at voice number 602-534-6648 or TTY use 7-1-1.