

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Bradley Wylam, Planner I, Assisting

July 21, 2021

ITEM NO: 4

DISTRICT 5

SUBJECT:

Application #: PHO-2-21--Z-16-00-5  
Location: Northeast corner 45th Avenue and Indian School Road  
Existing Zoning: C-2  
Acreage: 3.00  
Request: 1) Deletion of Stipulation 1 regarding general conformance to the site plan dated March 16, 2000, wall and landscape treatments, and elevations submitted to the zoning file.  
2) Deletion of Stipulation 2 regarding the color, materials, and height of the pump island canopy.  
3) Deletion of Stipulation 3 regarding the design of pump island canopy columns.  
4) Deletion of Stipulation 4 regarding light fixtures on the pump island canopy  
Applicant: MGS Plaza LLC  
Owner: MGS Plaza LLC  
Representative: Ashley Marsh, Gammage & Burnham PLC

**ACTIONS**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended denial as filed and approval with a modification and additional stipulation.

Village Planning Committee (VPC) Recommendation: The Maryvale Village Planning Committee heard this request on July 14, 2021 and recommended approval by a vote of 9-0.

**DISCUSSION**

Ashley Marsh, representative with Gammage & Burnham, gave an overview of the proposal and land uses in the surrounding area and noted that the Maryvale Village Planning Committee (VPC) voted unanimously to recommend approval of the request. She stated that the proposal is to redevelop an abandoned gas station into a retail and restaurant site. She that stated Stipulations 2, 3, and 4 are requested to be deleted as they refer to a pump island canopy that has been removed since the gas station closed approximately six years ago. She stated that the Maryvale VPC stated that the proposal

represents the type of development they wish to see in their community. She reviewed the proposed conceptual site plan, which expands the existing retail building footprint by approximately 3,000 square feet and adds restaurants of approximately 2,500 square feet on each end of the building. She stated that the restaurant on the east end of the building will provide a patio for outdoor dining and alcoholic beverage consumption within 500 feet of a residential district, which has already received use permit approval. She stated that they have received no opposition and have only heard positive responses.

Adam Stranieri, Planning Hearing Officer, stated that the property has been an area of interest for community members over time since the gas station shut down and mentioned PHO-1-18--Z-16-00-5 which sought approval for a car wash on the site. He stated that he was hesitant to delete Stipulation 1 regarding general conformance to the site plan and not retain some conformance requirement to the proposed site plan. He noted that the conformance requirement already exists and provides some level of certainty regarding the development outcome. Ms. Marsh stated that the development still needs to go through site planning review and requested the stipulation be deleted due to the lack of concerns raised by the Maryvale Village Planning Committee and Zoning Hearing Officer. Mr. Stranieri stated he would recommend modifying the requested deletion to Stipulation 1 to retain general conformance to the proposed site plan. He stated he had no concerns deleting stipulations 2, 3, and 4 regarding the pump island canopy as it no longer exists and is not depicted on the proposed site plan.

## **FINDINGS**

- 1) The proposed conceptual site plan depicts an adaptive reuse of the existing gas station building on site that includes additional square footage, a reconfiguration and expansion of the original footprint for new retail space, and the creation of two new restaurant spaces. There is no change to the parking location, driveway configuration, or general circulation pattern on site. The elevations depict a commercial retail building with a modern aesthetic including multiple building materials, metal awnings, overhangs, pop outs, and a varied roofline. The proposal is compatible with the scale and intensity of development in the surrounding area.

However, the applicant requested to delete Stipulation 1 regarding general conformance and proposed no conformance requirement to the proposed plans. It is not recommended to remove this requirement. General conformance to the proposed site plan is recommended. This stipulation will provide the community some assurance regarding future development and establish a public process for review of future site plans that deviate extensively from the proposed plan. The applicant indicated the elevations are conceptual in nature and may not reflect a final design. As the elevations are consistent with design review requirements and do not clearly exceed them, general conformance is not necessary.

- 2) Stipulations 2, 3, and 4 contain specific design criteria regarding the pump island canopy relevant to the gas station depicted on the original stipulated plans. The new proposed conceptual site plan depicts commercial retail spaces and no gas station. The stipulations are no longer relevant, and the stipulations are recommended to be deleted.

**DECISION:** The Planning Hearing Officer recommended denial as filed and approval with a modification and additional stipulation.

## **STIPULATIONS**

1.	<del>That The development shall be in general conformance with the site plan DATE STAMPED MAY 26, 2021 dated March 16, 2000, including the wall and landscape treatment at the corner of 45th Avenue and Indian School Road and the elevations submitted to the zoning file, as may be modified by the FOLLOWING stipulations below AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.</del>
2.	<del>That the pump island canopy shall be constructed to match the proposed retail building(s) in terms of color and materials. The maximum height of the canopy shall be 19 feet as measured from finished grade to the tallest point of the canopy structure.</del>
3.	<del>That the pump island canopy columns shall be constructed to match the retail building(s) in terms of color and materials. The construction shall extend completely to the canopy ceiling and leave no gaps. The minimum width and depth of each column shall be two (2) feet.</del>
4.	<del>That any light fixtures mounted in or on the ceiling of the pump island canopy shall be fully recessed and directed downward. Dropped lenses extending below the ceiling of the canopy shall not be permitted.</del>
2. 5.	<del>That the</del> Ground signs on the site shall be designed as monument signs.
3.	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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