

## ATTACHMENT C

### REPORT OF PLANNING COMMISSION ACTION August 1, 2024

ITEM NO: 11	
	DISTRICT NO.: 2
SUBJECT:	
Application #:	PHO-1-24--Z-37-07-2
Location:	Approximately 480 feet south of the southwest corner of Scottsdale Road and Sweetwater Avenue
Existing Zoning:	R-O
Acreage:	1.17
Request:	<ol style="list-style-type: none"><li>1) Request to modify Stipulation 1 regarding general conformance to the site plan date stamped February 9, 2009.</li><li>2) Request to delete Stipulation 4 regarding cross access and parking agreements.</li><li>3) Request to delete Stipulation 5 regarding Scottsdale Road improvements.</li><li>4) Request to modify Stipulation 7 regarding building height.</li><li>5) Request to modify Stipulation 8 regarding rear building setbacks.</li><li>6) Request to delete Stipulation 10 regarding street improvements.</li><li>7) Request to delete Stipulation 11 regarding archaeological assessment.</li><li>8) Request to modify Stipulation 12 regarding a requirement to obtain final site plan approval.</li><li>9) Request to delete Stipulation 13 regarding walls along the rear property line.</li><li>10) Technical corrections to Stipulations 2, 3, 6, 9, and 15.</li></ol>
Applicant:	David E. Richert
Owner:	Linda Cohn, Beldar Properties Arizona, LLC and Steven R. Bund
Representative:	David E. Richert

#### **ACTIONS:**

##### Village Planning Committee (VPC) Recommendation:

**Paradise Valley:** No recommendation.

Planning Hearing Officer (PHO) Recommendation: The Planning Hearing Officer heard the request on April 17, 2024 and took the case under advisement. On May 21, 2024 the Planning Hearing Officer took the case out from under advisement and recommended denial as filed and approval with modifications and an additional stipulation.

Staff Recommendation: Denial as filed and approval with modifications and an additional stipulation, as recommended by the Planning Hearing Officer.

Planning Commission Recommendation: Denial as filed, and approval with modifications and an additional stipulation, per the Planning Hearing Officer recommendation, with two deletions.

##### Motion Discussion:

Commissioner Matthews made a MOTION to deny as filed and approve with modifications, an additional stipulation, and a deletion. Commissioner Hu seconded, but the motion was withdrawn.

Commissioner Matthews made a second MOTION to deny as filed and approve with modifications and an additional stipulation for PHO-1-24—Z-37-07-2, per the Planning Hearing Officer recommendation, and striking out stipulations 5 (new 4) and 13 (new 12).

Vice-Chairperson Busching seconded the motion.

Chairperson Gaynor called for a roll call vote.

Motion details: Commissioner Matthews made a MOTION to deny as filed and approve with modifications, and an additional stipulation for PHO-1-24—Z-37-07-2, per the Planning Hearing Officer recommendation, and striking out stipulations 5 (new 4) and 13 (new 12).

Maker: Matthews  
Second: Vice-Chairperson Busching  
Vote: 6-2 (Gaynor, Gorraiz)  
Absent: Read  
Opposition Present: No

Findings:

1. The request to modify Stipulation 1 regarding general conformance to the site plan is recommended to be approved with a modification. This modification is to provide more standardized general conformance stipulation language and combine both lots into one general conformance stipulation.

The original rezoning case (Z-37-07-2) stipulated general conformance to the site plan date stamped February 9, 2009 with specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers.

Lot 5 received approval for a detached garage in the rear yard prior to the City Council approval of the original rezoning case. The intent of the garage, as explained in a letter written by prior Principal Planner/Planning Hearing Officer Alan Stephenson on February 5, 2010, was for the client to continue utilization of the property as a single-family residence with a detached garage for their personal use. The letter from Mr. Stephenson also noted that the current owner of Lot 5 may not utilize the detached garage for a Residential Office (R-O) use unless a PHO modification of Stipulation 1 regarding general conformance to the site plan is approved. The applicant did not complete this step as directed and has been using the site for R-O uses for several years and is now asking for the necessary modification.

2. The request to delete Stipulation 4 regarding cross access and parking agreements is recommended to be approved. In the original rezoning case, it was envisioned that Lots 3 and 4 would develop concurrently as a combined phase and with a shared parking design. This did not come to pass and Lots 3 and 4 were converted to office uses separately. Lot 3 is also not a party to this case. The two property owners are not working together on a shared design. Further, this recommendation is consistent with the recommendation for modification in Stipulation 1 in which Lot 4 is depicted as a standalone site. This recommendation will allow Lot 4 to move forward with its proposed site plan and not be dependent on redevelopment of Lot 3.

3. The request to delete Stipulation 5 regarding Scottsdale Road improvements is recommended to be approved since there is an existing bus stop just north of Sweetwater Avenue.
4. The request to modify Stipulation 7 regarding building height is recommended to be approved with a modification. References to the maximum number of building stories are recommended to be removed as building height is the appropriate standard to control building massing and impact. There is no proposal to modify the maximum building height of Lot 4 and the existing stipulated height of 13 feet is recommended to be retained. The detached garage in the rear portion of Lot 5 is setback at a minimum of 18 feet from the centerline of the alley and one extra foot of building height beyond the original stipulated 14-foot maximum height will not negatively impact surrounding properties. The modified stipulation is also more restrictive than the maximum 30 feet in height otherwise permitted by the R-O zoning.
5. The request to modify Stipulation 8 regarding minimum rear setbacks is recommended to be approved with a modification. The modification is to remove reference to Lot 5 entirely. The original stipulation (i.e., 111-foot setback) was based on the existing setback of the original primary home at the time of the rezoning action. However, during processing of the rezoning case, there was also a garage constructed at a minimum setback of 10-feet from the rear property line (18 feet to the centerline of the alley). For further context regarding this garage, please see Finding 1 regarding Stipulation 1. The R-O zoning district requires a minimum 25-foot setback measured to the centerline of the alley. The existing garage would not meet this condition. However, as it was legally permitted and constructed per residential standards, it would be allowed to remain. However, if this garage is expanded or redeveloped in the future, a variance would be required. Therefore, it is sensible to remove the reference to Lot 5 entirely as the existing conditions do not meet the requirement and a public hearing would be required for any future expansion.
6. The request to delete Stipulation 10 regarding street improvements is recommended to be denied. The City of Scottsdale holds authority over the west side of Scottsdale Road, extending solely to the back of the curb. Given that sidewalks are constructed behind the curb within the jurisdiction of the City of Phoenix, the City of Scottsdale lacked the capacity to construct sidewalks within the City of Phoenix right-of-way during the improvement of Scottsdale Road. Additionally, both Stipulation 10 and the proposed additional stipulation (see Finding #10) by the Street Transportation Department align with the provisions outlined in Phoenix City Code Section 31-91.a. This section of City Code necessitates enhancements to the right-of-way by the adjacent property owner before the issuance of building permits. The section also ensures compliance with the standards designated for each right-of-way as depicted in the "Minimum Right-of-Way Standards Map".
7. The request to delete Stipulation 11 regarding archaeological assessment is recommended to be denied. This stipulation is standard language and will only be enforced during site plan review if new ground is being disturbed and therefore should be retained.
8. The request to modify Stipulation 12 regarding a requirement to obtain final site plan approval is recommended to be approved with a modification. The modification is to delete the stipulation in its entirety. The zoning was vested with the City Council's adoption of Ordinance No. G-5383 and subsequent development is subject to plan review and approval by existing policy.

9. The request to delete Stipulation 13 regarding walls along the rear property line is recommended to be approved since there are existing walls on both the subject site and across the alley on the neighboring lots.
10. The Street Transportation Department recommended addition of a new stipulation regarding provision of a detached sidewalk and landscape strip along the west side of Scottsdale Road. This stipulation is recommended for inclusion as the new Stipulation 9. In the event the property is redeveloped, this stipulation establishes the streetscape standard for inclusion of a sidewalk in this location. This stipulation aligns with the provisions outlined in Phoenix City Code Section 31-91.a. This section of City Code necessitates enhancements to the right-of-way by the adjacent property owner before the issuance of building permits. The section also ensures compliance with the standards designated for each right-of-way as depicted in the "Minimum Right-of-Way Standards Map". Provision of detached sidewalks is a commonplace stipulated requirement and appropriate for this location in which no current pedestrian infrastructure exists.

Stipulations:

1. ~~LOTS 4 AND 5 That development shall be in general conformance to the site plan date stamped FEBRUARY 23, 2024, February 9, 2009, with specific regard to the existing building footprints, maintenance of the existing west property line walls and the addition of enclosed/covered trash containers as approved AS MODIFIED BY THE FOLLOWING STIPULATIONS AND AS APPROVED by the PLANNING AND Development Services Department.~~
2. ~~That A minimum 10-foot-wide landscape setback along the entire west property line of all lots shall be provided with the corresponding phase. Required landscape materials planted in this landscape buffer shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department.~~
3. ~~That A minimum six-foot wide landscape setback shall be provided along the north property line of Lot 1. Required landscape materials shall include a mix of minimum 2 and 3-inch caliper trees placed 20 feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department.~~
4. ~~That cross access and parking agreements for Lots 3 and 4 shall be created and recorded prior to preliminary site plan approval for the corresponding phase as approved by the Development Services Department.~~
- 5. That Right-of-way shall be dedicated to the city along Scottsdale Road south of Sweetwater Avenue and a transit pad installed according to City of Phoenix Detail P1261 as approved by the Public Transit Department.**
- ~~6. That The property owner of Lot 5 shall file for and pursue abandonment of the alley, south of Lot 5 prior to the issuance of a Certificate of Occupancy for the residential office use on Lot 5. In the event the abandonment is not granted, a one foot (1') vehicular non-access easement (VNAE) shall be recorded along the southern property line of Lot 5 as approved by the PLANNING AND Development Services Department.~~
7. ~~That building height shall be limited to one (1) story and 13 feet with the exception of~~

~~6. Lot 5 to be limited to one (1) story and 14 feet.~~

5.

THE MAXIMUM BUILDING HEIGHT OF LOT 4 SHALL BE 13 FEET. THE MAXIMUM BUILDING HEIGHT OF LOT 5 SHALL BE 15 FEET.

~~8. That The rear building setbacks (west side) shall be limited to the following existing setbacks: Lot 1 - 77 feet; Lot 2 - 78 feet; Lot 3 - 97 feet; Lot 4 - 103 feet; and Lot 5 - 111 feet as measured from the centerline of the existing 16-foot alley.~~

~~9. That A one foot (1') vehicular non-access easement (VNAE) along the entire west property line shall be recorded prior to preliminary site plan approval for the corresponding phase as approved by the PLANNING AND Development Services Department.~~

~~9. A MINIMUM 6-FOOT-WIDE DETACHED SIDEWALK SEPARATED BY A MINIMUM 10-FOOT-WIDE LANDSCAPE AREA SHALL BE CONSTRUCTED ON THE WEST SIDE OF SCOTTSDALE ROAD, ADJACENT TO THE DEVELOPMENT.~~

~~10. That The developer shall construct sidewalk, curb ramps, and other incidentals as per plans approved by the PLANNING AND Development Services Department. All improvements shall comply with all ADA accessibility standards.~~

~~11. That 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.~~

~~12. That each individual property owner shall obtain final site plan approval within 24 months of council action.~~

~~13. That An eight-foot wall shall be constructed along the rear property line with the corresponding phase as approved by the PLANNING AND Development Services Department.~~

~~14. That The Street Transportation Department shall study cut-through traffic before and after all five businesses have been established to determine if traffic mitigation is warranted. If warranted, the applicant shall pay their rough proportionality of the costs of mitigation, not to exceed 12 percent.~~

~~15. That Notice shall be provided to all property owners within the 85254 zip code who submitted speaker cards at the City Council hearing of changes to the site plan through either the PLANNING AND Development Services Department site plan review process or the Planning Hearing Officer hearing process.~~

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