

## Attachment C

REPORT OF PLANNING HEARING OFFICER ACTION  
Adam Stranieri, Planner III, Hearing Officer  
Bradley Wylam, Planner I, Assisting

August 18, 2021

|                  |  |
|------------------|--|
| ITEM NO: 8       |  |
|                  | DISTRICT 8   |
| SUBJECT:         |  |
| Application #:   | PHO-2-21--Z-63-05-8 <b>(Continued from 7/21/21 agenda)</b>   |
| Location:        | Approximately 820 feet east of the northeast corner of 24th Street and Baseline Road   |
| Existing Zoning: | C-1 BAOD   |
| Acreage:         | 4.17   |
| Request:         | <ol style="list-style-type: none"><li>1) Modification of Stipulation 1 regarding general conformance to the site plan and elevations date stamped February 19, 2016.</li><li>2) Deletion of Stipulation 2 regarding maximum one access point on 25th Street.</li><li>3) Deletion of Stipulation 3 regarding cross access to the commercial site to the west.</li></ol> |
| Applicant:       | Cassandra Ayres, Beus Gilbert McGroder   |
| Owner:           | Vahik Sahakian   |
| Representative:  | Paul Gilbert, Beus Gilbert McGroder  |

### **ACTIONS**

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

Village Planning Committee (VPC) Recommendation: The South Mountain Village Planning Committee heard this request on July 13, 2021 and recommended denial as filed and approval with modifications by a vote of 10-2-1.

### **DISCUSSION**

Paul Gilbert, representative with Beus Gilbert McGroder, gave an overview of the project team and property location. He reviewed the South Mountain Village Planning Committee meeting on August 10, 2021, which resulted in a recommendation for approval with modifications for Case Nos. PHO-2-21—Z-63-05-8 and PHO-1-21—Z-59-18-8 and denial as filed, approval with modifications for Case No. PHO-1-21—Z-10-18-8. He stated the proposed uses are allowed in the C-1 BAOD zoning district and stipulation modifications are needed to allow development per the proposed conceptual site plan for each case. He stated the

proposed conceptual site plan depicts 138 multifamily residential units at a density of 16.99 dwelling units per gross acre on the northern portion of the combined site with 5 commercial pads to provide retail or restaurants on the southern portion of the combined site. He stated that the proposed site plan complies with the regulations of the Baseline Area Overlay District (BAOD) and is compatible with the rural, agricultural, and equestrian character of the surrounding area.

Mr. Gilbert stated that the applicant is opposed to the South Mountain VPC recommendation regarding the realignment of 27th Street with the existing portion of 27th Street south of Baseline Road, limiting the number of drive-throughs permitted on the site, and providing pedestrian and vehicular access to the commercial property to the west. He stated that the applicant completed a door-to-door survey within an 850-foot radius of the site and found residents supported the proposed development and no resident surveyed was in support of the realignment of 27th Street. He noted that they have submitted letters from the public generally showing support for the development and letters of opposition regarding the existing stipulated realignment of 27th Street. He also noted that a petition of 24 people was provided that supports the proposed development generally. He discussed the recommended realignment and stated that CivTech, a traffic engineering firm, completed a study on the intersection that noted a realignment would not alleviate traffic concerns near the site. He stated the study noted the potential number of users of 27th Street would not necessitate a realignment or a traffic signal at the intersection of 27th Street and Baseline Road. He noted that the wait times to cross Baseline Road would not decrease due to a realignment and that a traffic signal at the intersection could increase cut-through traffic through the neighborhood south of the subject property and across Baseline Road. He stated that traffic accidents that have occurred at the intersection have largely been rear-end collisions and not due to the existing turn movements at the existing intersections. He stated that the realignment is not an exaction that meets the proportionality requirement as established by previous court cases and existing state statutes. He addressed the VPC recommendation regarding drive-throughs and stated that a limit on the number of drive-through restaurants was not appropriate as this is a land use otherwise permitted by right, subject to performance standards, in this zoning district. He stated that the VPC recommended a stipulation regarding vehicular and pedestrian access to the site to the west, but conditions on this adjacent site do not allow for cross access and the stipulation is both impractical and unenforceable. He stated that the VPC also recommended a stipulation regarding pedestrian and vehicular access between the commercial and residential portions within the subject site, which the applicant supports.

Mr. Gilbert gave an overview of the proposed stipulation modifications on PHO-2-21—Z-63-05-8 regarding general conformance to the conceptual site plan and a deletion of stipulations regarding 25th Street access and cross access to the commercial site to the west. He gave an overview of the proposed stipulation modifications on PHO-1-21—Z-59-18-8 and noted a comment from a VPC member that supported the multifamily housing design depicted on the conceptual site plan. He stated that the proposed deletion of Stipulation 1.a and 1.b regarding pedestrian and vehicular cross access would be addressed through the proposed conceptual site plan. He gave an overview of the proposed stipulation modifications on PHO-1-21—Z-10-18-8. He stated the limitations on drive throughs and stipulation regarding the alignment of 27th Street should be deleted per the rationale discussed earlier. He stated that modification to Stipulation 2.a was discussed at the VPC meeting and recommended to be retained and that the applicant had decided to not pursue the original proposed modification of that stipulation. He stated Stipulation 3.b regarding equestrian corral areas is requested to be modified to change the language to allow for more reasonably sized and feasible equestrian facilities.

JoJo Jones, Mountain Grove community member, stated there are existing issues in the traffic movements at the 27th Street and Baseline intersection. She expressed concerns regarding increased traffic on 27th Street related to the proposed multifamily residential development in addition to the commercial portion of the development. She stated that the previous developer agreed that a realignment would be necessary, but that this disagreement during the original rezoning case had largely centered around who would be responsible for the improvements.

Rhonda Neff, Mountain Grove community member, stated she is opposed to the realignment of 27th Street and stated that the proposed realignment would require residents of Mountain Grove to enter their neighborhood from within the proposed commercial development. She stated that property values and public safety would be decreased by entering through the proposed commercial development. She stated the applicant has responded to the concerns raised by the surrounding community after the original rezoning case regarding the realignment. She stated that she spoke to her neighbors that mentioned that they would consider selling their properties if 27th Street was realigned per the staff recommendation due to concerns with property values and public safety. She stated that she understood the legal concerns from the applicant regarding the limitation on drive-through uses, although she hoped there would be sit-down restaurants included within the development. She stated that regardless of the final alignment, 27th Street would likely see increased traffic with any development on the subject site, but that should be expected.

Mr. Gilbert stated that concerns regarding increased traffic are understood but noted that the entrance near the current alignment of 25th Street would be the main entrance to the development and allow for trucks and other vehicles to enter at this location rather than at 27th Street. He stated that most residents in the surrounding area support the plan as proposed and oppose the realignment of 27th Street.

Trent Marchuk, member of the South Mountain VPC, stated that the purpose of the VPC's recommendation regarding limiting the number of drive-throughs is in response to the South Mountain Village Character Plan which noted a lack of healthy restaurants in the area. He discussed the Village's recommendation regarding the realignment of 27th Street and the suggestion to allow the applicant to explore alternative options and noted that the original stipulation regarding the realignment of 27th Street asked the developer to work with the Street Transportation Department to come up with potential options for the realignment. He noted that the rationale behind the applicant's disagreement with the recommended cross access to the site to the west made sense and that he supported their request.

Mr. Gilbert stated that the presence of drive-throughs does not guarantee that the restaurants themselves are solely unhealthy restaurants and noted two restaurants they are in discussions with regarding the site. He noted that the BAOD does not contain limitations on the number of drive-through restaurants permitted on a site and only addresses design guidelines for these uses.

Adam Stranieri, Planning Hearing Officer, agreed that the BAOD does not limit the number of drive-throughs, but does include design guidelines for drive-throughs including screening and grouping of pads. He noted that the Street Transportation Department does not support the request to delete the stipulation regarding the realignment of 27th Street in PHO-1-21--Z-10-18-8. He asked the applicant if they believed the CivTech study would provide information that would potentially alter the recommendation made by the Street Transportation Department regarding the realignment. Mr. Gilbert stated he believed the results of that study could potentially change their recommendation, but he would not want to continue the case at this time to wait for this analysis. He noted he supported how the VPC worded the stipulation in their recommendation to allow the developer to work with the Planning and Development and Street Transportation Department to come to a decision. Mr. Stranieri stated that the CivTech documents have not been received by staff and that he would not make a recommendation based on a study that neither he nor Street Transportation Department staff had reviewed, particularly if the applicant wished to have a decision during this hearing. He stated he would be moving forward using the recommendation from the Street Transportation Department regarding the realignment with a modification to include the South Mountain Village

recommendation regarding the option for alternative alignments. He noted that the intent with the recommended modification was not to allow the applicant to avoid the realignment, but rather allow flexibility in how the alignment would be implemented.

Mr. Stranieri stated that public correspondence was received prior to the hearing. This included a petition with 24 signers that indicated support for the development but did not address the alignment, 21 letters of support for the development that did not address the alignment, and 12 letters in opposition to the alignment which highlighted safety hazards and concerns about residential access to Mountain Grove. He stated that a letter submitted by Rhonda Neff also highlighted many points made during her comments earlier in the hearing. He stated that a letter from Marcia Busching, South Mountain VPC member, was received which expressed communication issues with the applicant and noted a desire to see the VPC recommendation upheld.

#### **Recommendation regarding PHO-2-21--Z-63-05-8**

Mr. Stranieri stated PHO-2-21—Z-63-05-8 is located on the southwestern side of the proposed conceptual site plan and includes both residential and commercial portions of the development. He stated that the complete multifamily residential complex provides 138 units at a density of 16.99 dwelling units per gross acre and noted that conceptual elevations were submitted for the residential portion but not the commercial portion. He stated the elevations depict a variety of desirable architectural features and recommended general conformance. He stated that the scale and intensity is compatible with the surrounding area and the character intended by the BAOD. He stated that Stipulation 2 regarding one access point on 25th Street is no longer applicable due to the proposed abandonment of 25th Street and the lack of single-family units to the east, which the stipulation was originally intended to address. He stated that Stipulation 3 regarding one point of cross access to the site to the west is recommended to be deleted due to circumstances regarding development of the neighboring property. He stated that the VPC recommendation regarding limitations on the number of drive-through restaurants will not be approved because it would improperly prohibit uses otherwise allowed by right in the zoning district. He noted that the recommendation regarding screening of drive-throughs is established by the BOAD as a design presumption, but it could be included as a stipulation to create a requirement and provide consistency with the existing stipulations in Z-10-18-8.

#### **Recommendation regarding PHO-1-21--Z-59-18-8**

Mr. Stranieri stated PHO-1-21—Z-59-18-8 is located at the northwestern side of the proposed conceptual site plan and includes a residential portion of the development. He stated that the complete multifamily residential complex

provides 138 units at a density of 16.99 dwelling units per gross acre and noted that conceptual elevations were submitted for the residential portion but not the commercial portion. He stated the elevations depict a variety of desirable architectural features and recommended general conformance. He stated that the scale and intensity is compatible with the surrounding area and the character intended by the BAOD. He stated Stipulations 1.a and 1.b were intended to provide connectivity with the property to the east from Z-10-18-8 and that the unified proposed conceptual site plan between the cases alleviates the concerns regarding connectivity. He stated that the request to delete Stipulation 3 regarding a conditional requirement to dedicate and construct 25th Street if the property was developed as a stand-alone parcel is recommended to be approved because the conceptual site plan shows a unified development and the applicant would pursue abandonment of 25th Street. He stated that the VPC proposed modifications of Stipulations 1.a and 1.b would not be required because the property lines are internal and cross-access would be reviewed as part of the conceptual site plan review process.

**Recommendation regarding PHO-1-21--Z-10-18-8**

Mr. Stranieri stated PHO-1-21—Z-10-18-8 is located on the eastern side of the proposed conceptual site plan and includes both residential and commercial portions of the development. He stated that the complete multifamily residential complex provides 138 units at a density of 16.99 dwelling units per gross acre and noted that conceptual elevations were submitted for the residential portion but not the commercial portion. He stated the elevations depict a variety of desirable architectural features and recommended general conformance. He stated that the scale and intensity is compatible with the surrounding area and the character intended by the BAOD.

Mr. Stranieri stated that the deletion of Stipulation 1.a regarding the quantity and configuration of drive-throughs is recommended to be approved. He stated the stipulation was originally proposed by staff to stipulate to the configuration of buildings on the original site plan, but that this had been altered through the original rezoning hearing process. He stated that deletion of Stipulation 1.b regarding the realignment of 27th Street is not supported by the Street Transportation Department. He stated that the Street Transportation Department noted the realignment of 27th Street is intended to support and improve traffic safety in the surrounding area. He noted that there are numerous conflicting turn patterns at the intersection with Baseline Road and that the alignment would provide predictability, alignment with the grid, and allow for a potential traffic signal at the intersection. He stated there is no Traffic Impact Study addressing signal warrant analysis and that the most recent study submitted in 2018 does not reference the current proposed land uses.

Mr. Gilbert stated that the applicant would meet with the Street Transportation Department to discuss the findings of the CivTech study. Mr. Stranieri noted that the South Mountain VPC recommended modification of the stipulation to allow the applicant to work with staff to address options for the realignment. He stated that the modification should not allow the applicant to continue the misalignment of 27th Street. Cassandra Ayre, representative with Beus Gilbert McGroder, stated the VPC recommendation allows alternative options to address traffic issues without stipulating the realignment. She stated that the CivTech report provides options for flexibility, which could be worked through with the Planning and Development and Street Transportation Departments. Mr. Stranieri stated that the recommended modification to Stipulation 1.b would address the need to revise the site plan to depict the realignment of 27th Street.

Mr. Stranieri stated that he would recommend the deletion of Stipulation 2.a regarding pitched roof elements to provide consistency with the two companion cases. He stated that pitched roof elements are already a design presumption of the BAOD and could be addressed through the Ordinance. He also noted that it may be unclear to have different standards applied within the site to the same buildings. He stated that the modification of Stipulation 2.b regarding an equestrian corral would be recommended to be modified to allow for some flexibility in the type of amenities to be provided. He stated the original intent was to provide equestrian amenities to support the active equestrian lifestyle and trails along the canal.

Mr. Stranieri stated that the Street Transportation Department recommended an additional stipulation regarding a safe, shaded pedestrian pathway through the site to connect the residential portion of the site to the sidewalk along Baseline Road. He noted that this pathway should be provided in the area with the current alignment of 25th Street. He noted that if 25th Street was developed, a public sidewalk would otherwise have been provided here. Mr. Gilbert sought clarification that the type of shade would be flexible and allow either trees or structural shade. Mr. Stranieri confirmed that the type of shading would not be stipulated and would allow for flexibility.

## **FINDINGS**

- 1) This case was heard as a companion case to PHO-1-21--Z-10-18-8 and PHO-1-21--Z-59-18-8. The conceptual site plan and building elevations are the same in these three cases. The subject property in this case was originally envisioned to develop as a standalone commercial retail center and stipulated to a site plan depicting a variety of drive-throughs and small shops with individual retail spaces ranging from approximately 2,500 to 21,472 square feet.

The proposed conceptual site plan depicts the subject property of the three companion cases developing in a unified fashion with a mixed-use development. A combination of five commercial, retail, and drive-through businesses are depicted along Baseline Road comprising approximately 19,098 total square feet, with individual establishments between 2,050 and 6,500 square feet. Behind the commercial development, adjacent to the Western Canal, is a multifamily residential complex containing 138 units at a density of 16.99 dwelling units per gross acre. Open spaces are distributed throughout the development with a variety of pedestrian, equestrian, and recreational amenities adjacent to the canal. Conceptual elevations were provided for the multifamily buildings only and depict a façade that integrates stone, pop outs, balconies, shade awnings, multiple window sizes and styles, and variation in the roofline and pitches. The proposal is compatible in scale and intensity with existing development in the surrounding area. General conformance to the proposed conceptual plans is recommended.

- 2) The South Mountain Village Planning Committee recommended a modification to Stipulation 1 that would limit drive-throughs and establish an enhanced screening requirement for drive-throughs. It is not recommended to adopt stipulation language that limits land uses otherwise permitted in the underlying zoning district. However, the recommended language regarding screening is consistent with existing Stipulation 6 in Rezoning Case No. Z-10-18-8 and is compatible with design goals in the Baseline Area Master Plan and Overlay District. The screening language is recommended for adoption as a new additional stipulation.
- 3) Stipulation 2 limits the development to a single access point on 25th Street. This stipulation was established in the original rezoning case when the site was envisioned to develop as a standalone commercial development to mitigate and restrict vehicular access along 25th Street where there were existing single-family residences on the east side of this local street. The conceptual plans recommended for general conformance in this request depict this property developing in conjunction with properties to the north and east, with the single-family residences removed, and 25th Street being abandoned. Therefore, the applicant's request to delete this stipulation is recommended for approval.
- 4) Stipulation 3 requires the developer to provide cross-access with the commercial parcel to the west. This stipulation was established at a time when the adjacent parcels to the west were envisioned to develop as a large-scale commercial retail center. In the ensuing years, the City of Phoenix acquired the northern portion of this site and developed a Park and Ride facility. The Park and Ride parcel is configured with a flag that extends from the Western Canal to Baseline Road, along the entire west



property line of the subject property in this request. Additionally, the commercial parcel to the west, across the flag, was not developed to accommodate a cross-access driveway. Due to these conditions, the applicant's request to delete this stipulation is recommended for approval.

The South Mountain Village Planning Committee recommended that this stipulation be replaced with a new stipulation requiring cross-access easements between all commercial and multifamily portions of the development and to the west. The recommendation regarding the west property line is not recommended for inclusion per the discussion above. The recommendation regarding the easements within the site is not recommended for inclusion as the proposed conceptual plans are for a unified development that already depicts this access. Significant deviation from the proposed plans would necessitate further public hearings in which this recommendation could be reassessed. This stipulation is not recommended to be adopted.

- 5) During the hearing, it was noted that the applicant did not submit a complete, notarized, recorded Proposition 207 waiver of claims form and an additional stipulation was recommended. Later, it was noted that this requirement already exists in Stipulation 10. Therefore, an additional stipulation is unnecessary, and the existing stipulation will remain. The applicant still must submit a complete, notarized, recorded Proposition 207 waiver of claims form per this stipulation for this request.

**STIPULATIONS**

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| 1. | <del>That the subject property shall be developed</del> THE DEVELOPMENT SHALL BE in general conformance to WITH the site plan and elevations date stamped MAY 26, 2021 <del>February 19, 2016</del> , as modified by the following stipulations and as approved by the Planning and Development Department. |
| 2. | <del>That the subject property be developed with only one access on 25th Street as approved by the Planning and Development Department.</del>   |
| 3. | <del>That the developer provide one point of cross access from the subject property to the commercial site located to the west of the site, as approved by the Planning and Development Department.</del>   |
| 2. | DRIVE-THROUGHS SHALL BE SCREENED FROM VIEW OF PUBLIC RIGHTS-OF-WAY AND RESIDENTIAL USES WITH A LANDSCAPED BERM OR A COMBINATION OF A WALL AND LANDSCAPED BERM AT LEAST FOUR FEET IN HEIGHT, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.   |

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| 3.<br>4.  | <del>That</del> Prior to site plan approval, the property owner shall record documentation that discloses to purchasers of property within the development the existence and operational characteristics of Sky Harbor International Airport. The form and content of such documents shall be reviewed and approved by the City Attorney. |
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| 4.<br>5.  | <del>That</del> The developer SHALL provide a 10-foot wide multi-use trail with a 30-foot trail easement along the north side of Baseline Road, as approved by the Planning and Development Department.   |
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| 5.<br>6.  | <del>That</del> Right-of-way totaling 60-feet and a 20-foot sidewalk/trail easement shall be dedicated for the north half of Baseline Road, as approved by the Planning and Development Department.   |
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| 6.<br>7.  | <del>That</del> A 21-foot by 21-foot right-of-way triangle shall be dedicated at the northwest corner of 24th Street and Baseline Road, as approved by the Planning and Development Department.   |
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| 7.<br>8.  | <del>That</del> The developer shall construct all streets adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping, and other incidentals as per plans approved or modified by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards. |
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| 8.<br>9.  | <del>That</del> All perimeter walls shall consist of 3-foot block and 3-foot wrought iron, as approved or modified by the Planning and Development Department.  |
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| 9.<br>10. | 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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