

## ATTACHMENT C

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

June 12, 2024

ITEM NO: 2	
	DISTRICT NO. 4
SUBJECT:	
Application #:	<b>PHO-2-24--Z-1-93-7(4)</b>
Location:	Northwest Corner of 35th Avenue and Van Buren Street
Zoning:	C-2
Acreage:	1.18
Request:	1) Request to modify Stipulation 1 regarding general conformance to the site plan date stamped February 11, 2022. 2) Request to delete Stipulation 3 regarding vehicular access to Melvin Street. 3) Request to modify Stipulation 6 regarding a 10-foot sidewalk easement.
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 denial as filed, 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. He recommended denial to Request 3 per the Streets Department. He stated the full 10-foot easement is necessary to accommodate the required infrastructure.

### **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 the use is allowed within the C-2 zoning district.

- 2) The request to delete Stipulation 3 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 access point. 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.
- 3) The request to modify Stipulation 6 regarding the dedicated sidewalk easement for the north side of Van Buren Street and the west side of 35<sup>th</sup> Ave. is recommended to be denied. A minimum 5-foot-wide detached sidewalk separated by a minimum 10-foot-wide landscape area is a standard requirement along Major Arterials, such as 35<sup>th</sup> Avenue and Van Buren Street. While the Street Transportation Department is agreeable to a sidewalk easement on the west side of 35<sup>th</sup> Avenue due to the offset nature of the roadway, the full 10-foot easement width is necessary to accommodate the required infrastructure.

Additionally, as both Van Buren and 35th Avenue are classified as Arterial D cross-sections on the City Council approved Street Class Map. While the Street Transportation Department is given the authority to substitute up to 10-feet of the minimum 100-foot right-of-way with a sidewalk easement, the total dedicated right-of-way and easement may not total less than the minimum width required by the SCM. The applicant's request to reduce the right-of-way less than the minimum width required by the Street Class Map would require a General Plan amendment to amend the map itself and is not through the PHO or zoning process.

**35th Avenue Half-Street Breakdown:**

- a. 32-foot pavement
- b. 0.5-foot curb
- c. 10-foot landscape buffer
- d. 6-foot sidewalk
- e. 2.5-foot buffer from the back of sidewalk for incidentals, including but not limited to public signage, etc.

**STIPULATIONS:**

1.	The development shall be in the 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.	The developer shall dedicate right-of-way and construct one bus stop pad along westbound Van Buren Street west of 35th Avenue. The bus stop pad shall be compliant with City of Phoenix Standard Detail P1260 with a minimum depth of 12 feet. The bus pad shall be spaced from the intersection of 35th Avenue and Van Buren Street according to the City of Phoenix Standard Detail P1258, approved or modified by the Public Transit Department.
3.	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>
4.	If any driveway is proposed along Van Buren Street, the driveway shall be restricted to right-in/right-out only, as approved by the Street Transportation Department.
5.	The developer shall construct a minimum 5-foot-wide detached sidewalk

	along the west side of 35th Avenue to be detached with a minimum 10-foot-wide landscape strip located between the back of curb and sidewalk. Trees planted in the landscape area to be placed near the sidewalk to provide thermal comfort for pedestrians, as approved by the Planning and Development Department.
6.	The developer shall dedicate a 10-foot sidewalk easement for the north side of Van Buren Street and west side of 35th Avenue, as approved by the Planning and Development Department.
7.	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.

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. To request a reasonable accommodation, please contact Teleia Galaviz at [teleia.galaviz@phoenix.gov](mailto:teleia.galaviz@phoenix.gov) or (602) 291-2559 or TTY: 7-1-1