



Village Planning Committee Meeting Summary

PHO-1-22--Z-26-22-4

Date of VPC Meeting	December 5, 2022
Date of Planning Hearing Officer Hearing Request	December 21, 2022
Request	1) Modification of Stipulation No. 1 regarding a 5-foot-wide detached sidewalk and minimum 10-foot-wide landscape area
Location	Approximately 430 feet east of the northeast corner of Central Avenue and Osborn Road
VPC Recommendation	Approval with an additional stipulation
VPC Vote	7-6

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

No members of the public registered to speak on this item.

Committee members Searles and Cothron joined during this item, bringing quorum to 13.

STAFF BACKGROUND PRESENTATION

Sarah Stockham, staff, provided a brief background presentation highlighting the site location, existing zoning, the applicant's request to modify the streetscape standard along Osborn Road, and the standards in the current stipulation and the Street Classification Map.

APPLICANT PRESENTATION

Michael Maerowitz, representing the applicant with Snell & Wilmer LLP, introduced himself and several members of the design and applicant team who were present: Mark Sanford with Mill Creek Residential, Phil Fossen and James Williams with Davis Partnership Architects, and Brandon Sobiech with Dig Studio. Mr. Maerowitz reviewed site location and history, proposed project and site plan, and proposed modification to Stipulation No. 1. Mr. Maerowitz shared that the design of the building is challenging as the underground parking structure underneath the site has columns that are designed to carry the load of a potential building, and that their design team has worked diligently to ensure that the potential structure can fit on the site, in addition to new structural columns that will be added. Mr. Maerowitz shared that the intent of the project is to create a

pedestrian-friendly street frontage by wrapping the parking structure with residential units and providing landscaping along the street frontages. Mr. Maerowitz added that there was not enough space between the building and the street to provide a ten-foot-wide landscape area between the curb and sidewalk due to the underground parking structure and support columns and displayed images of the proposed streetscape area and right-of-way with the proposed modified stipulation. Mr. Maerowitz concluded that the proposed stipulation is a good design solution given the site constraints and will exceed baseline Walkable Urban Code standards.

QUESTIONS FROM THE COMMITTEE

Committee Member Matthew Jewett asked why the ten-foot landscape area between back of curb and sidewalk was proposed to begin with as it sounds like the minimum requirement is five feet. **Mr. Maerowitz** replied that the requirement is five feet, but staff has the ability to increase the baseline standards using their discretion, given the Climate Action Plan and other policy plans. **Ms. Stockham**, staff, shared that the Walkable Urban Code does not address collector streets, which Osborn Road is, and the Street Classification Map for Osborn Road calls for a minimum eight-foot-wide detached area, which is what the Street Transportation Department commented as a stipulation for the case. The Village Planner also considered the goals of the Tree and Shade Master Plan and the Office of Heat Response and Mitigation, so the landscape area was then increased from eight to ten feet.

Vice Chair Nicole Rodriguez asked what type of vegetation is planned for the proposed five-foot landscape strip. **Brandon Sobiech**, the landscape architect on the project, shared that they want to provide single-trunk trees such as oaks and pistaches, which will be alternated along the streetscape, and a mix of ground covers, accents and hedge material to be maintained at a maximum height of 24 inches. Vice Chair Rodriguez asked if the applicant believes that the pistache and oak trees will be viable within a five-foot landscape area. Mr. Sobiech replied affirmatively, adding that they are limited in types of trees which can survive in an urban environment, but they will excavate and backfill the entire streetscape area. Vice Chair Rodriguez shared that she did not think it was going to work to get the trees to reach full maturity in a five-foot landscape area, this is not a good solution, the ten feet makes sense and asked what the height of the crown would be for a three-inch caliper tree. Mr. Maerowitz replied that there is not an ability for them to provide the full ten feet of landscape area when working within the constraints for the site, and they are not changing the 75 percent shade requirement which they will comply with.

Committee Member Drew Bryck asked if a five-foot-wide sidewalk and a three-foot-wide landscape strip would be provided. Mr. Maerowitz replied that they are proposing a five-foot-wide sidewalk and five-foot-wide landscape strip adjacent to the lobby and adjacent to the residential units, they are providing a five-foot-wide sidewalk, five-foot-wide landscape strip and an additional three and a half feet of landscaping between the sidewalk and building. Committee Member Bryck asked if the lobby could be smaller to match the landscaping along the residential units. **James Williams**, architect on the project, replied that the challenge is due to the underground parking garage, they have fixed locations for the main elevator shafts and staircases, and then the lobby is a tight fit to place between those other

fixed aspects of the floor plan. Mr. Williams shared that adding the ten feet of landscaping would push the stairwell back, encroaching over the top of the void of the parking garage which creates a cantilever condition with a much more complex structure and a narrower lobby would encroach on the ADA-accessible vestibule space. Committee Member Drew Bryck commented that it sounds like it is possible, just not convenient. Mr. Williams replied that it adds a lot of complexities and is unfavorable to the existing structural system on site. Mr. Maerowitz added that it creates a windfall of events which creates other design challenges, and the proposed stipulation modification would allow them to build the project as proposed, and they are looking for flexibility to be able to build the project given the current restraints.

Committee Member Opal Wagner asked what has changed from the time the rezoning case was approved to the request now. Mr. Maerowitz replied that the design has not changed, they believed they could meet the requirements of the stipulation language and during their design process, they discovered that they are not able to do so. Committee Member Wagner shared that the applicant said they are within the five-foot landscape strip requirement of the WU Code, and that staff showed the Street Classification Map asking for an eight-foot detached landscape strip and asked if this request would comply with the minimum requirements of the WU Code. Ms. Stockham replied that the WU Code has requirements for different types of streets (arterials, minor collectors, local) and that it does not have a requirement for collector streets, and in those situations the minimum requirements are those of the Street Classification Map, Cross Section E, which is an eight-foot detachment area.

Phil Fossen, architect for the project, commented that anything is possible however it needs to be practical and constructable, and in this case they have a set foundation holding up the main body of the seven-story structure. Mr. Fossen added that they will be placing new footings at grade, and you can't create spaces that span over that structural gap, if you do, it will create cracks in the flooring and drywall. Mr. Fossen added that if they were to push the building back by five feet, the building will be pushed across that structural threshold which would create cracks in the finishes and building.

Committee Member Jeremy Thacker asked what was the next space increment that the building could be pushed back to (to the next pillar or column support structure). Mr. Fossen replied that it is not as black or white to say that the building could be pushed back to the next structural bay, they are trying to create a workable lobby space between the wall of the garage and the street, and that given all the items within the lobby such as the vestibule space, mailboxes, stairwell and elevator locations, if that space was pushed back the building would start to break down the foundational wall that exists. Mr. Fossen added that they designed to the Walkable Urban Code standard of a five feet detachment from the sidewalk, and that they have since tried to accommodate the stipulation language as they got deeper into the design of the building. Committee Member Thacker then asked if cantilevering above the first floor was an option with structural columns. Mr. Fossen replied that would be a huge structural change and that the garage structure is designed to hold a building, not a building with a cantilever off the end of it.

Committee Member Matthew Jewett asked for clarification on what the WU Code standard is for the detachment between sidewalk and back of curb, adding that he is hearing different answers from staff and the applicant. Mr. Maerowitz replied that the WU Code typically requires a five-foot-wide sidewalk and a five-foot-wide detached area between the back of curb and sidewalk and there is not stated requirement for collector streets, and because the WU Code is silent staff then looks toward the Street Classification Map for guidance, which shows a five-foot-wide sidewalk and an eight-foot-wide landscape strip and that their understanding is that modifications can be made to the Street Classification Map requirements. Committee Member Jewett asked for clarification on what the five-foot landscape width requirement corresponds to. Mr. Maerowitz replied that it corresponds to the streets outlined in the Walkable Urban Code. Ms. Stockham showed the corresponding Walkable Urban Code text and the Street Classification Map cross section.

Vice Chair Nicole Rodriguez asked staff if there were any other examples of a new building being built on top of an existing subterranean parking garage. Ms. Stockham replied that she was not aware of any other examples of a rezoning case where a building was proposed on top of an existing subterranean parking garage, and if a project developed by-right she would not be involved in reviewing those plans. Vice Chair Rodriguez asked if the next step in the process would be the Planning Hearing Officer meeting. Ms. Stockham replied affirmatively.

Committee Member Ann Cothron asked if the lobby would not be ADA accessible if the landscape requirement between curb and sidewalk was to remain at ten feet. Mr. Fossen replied that the building will be ADA accessible in any scenario, but it becomes easier the more room you have to meet those requirements, if the lobby area was to be reduced, it would make things tighter to fit. Committee Member Cothron asked if the proposal was approved with the five-foot landscape requirement, would the existing shade structures on Osborn (mushroom tops) go away. Mr. Fossen replied that they are on the adjacent lot and would remain. Committee Member Cothron shared that this area experiences a lot of traffic on smaller streets due to the location of Taco Guild and Starbucks nearby, and the proposal makes her a bit nervous but thanked the applicant for the presentation.

Committee Member Drew Bryck shared that the stipulation was presented at the Village when the case went through the public hearing process, which means the applicant would have known about it during their development review, so while they might have designed the building before going through the final planning approvals, it is not the fault of the pedestrian that they designed the building too much too soon.

Vice Chair Nicole Rodriguez shared that the ten-foot setback was what was discussed and planned for, she rarely sees trees that are viable and healthy providing shade on collector streets with only a five-foot landscape area, the only complexity is the parking garage and the project is overparked, the project was ill-planned for, and these trees are not going to be able to survive long enough to create shade for the sidewalk within five feet, and that she agrees with the original stipulation requirement for ten feet. Mr. Maerowitz replied that the Walkable Urban Code requires five feet of landscaping between curb and sidewalk for all streets

listed. Vice Chair Rodriguez replied that one of her recommendations was to increase the landscaping requirements within the right-of-way.

PUBLIC COMMENTS

None.

APPLICANT RESPONSE

Mr. Maerowitz concluded by sharing that the scope of the request is regarding the streetscape requirements on Osborn Road, the plans that were shown during the rezoning case have not changed, and they are proposing a solution to meet the intent of the stipulation that works with the site constraints.

FLOOR/PUBLIC DISCUSSION CLOSED: MOTION, DISCUSSION, AND VOTE

Vice Chair Nicole Rodriguez asked if the project was approved by City Council, as she believes that was the last step in the process. Ms. Stockham replied that the rezoning case was approved, but the site has not gone through the development review process.

MOTION

Committee Member Matthew Jewett made a motion to approve PHO-1-22--Z-26-22-4. **Committee Member Rick Mahrle** seconded to the motion.

DISCUSSION

Committee Member Steve Procaccini offered a friendly amendment with an additional stipulation:

If the trees within the streetscape die, they shall be replaced quickly.

Committee Member Matthew Jewett and **Committee Member Mahrle** accepted the friendly amendment.

Chair Brent Kleinman asked staff if tree replacement was already required or if there was a restriction on adding that stipulation language. Ms. Stockham replied that tree replenishment falls under the enforcement of the Neighborhood Services Department (NSD), but she will look into what the minimum requirements were.

Vice Chair Nicole Rodriguez replied that NSD does cover tree replacement enforcement, commercial properties are required to replace dead or dying trees per their landscape plans, but the time frame is not a hard and fast rule as to when the trees get replaced, but that was wrapped into a landscape maintenance text amendment that the committee heard previously which was approved by City Council, and that you only have to replace three-inch caliper trees, but for those who actually use the streets this is very important.

Committee Member Matthew Jewett replied that while the stipulation might not be necessary, he would like to keep it on the motion so that it reflects that tree replacement was a concern of the committee.

Vice Chair Nicole Rodriguez replied that you might not get shade within the five-foot landscape area. Committee Member Jewett replied that the committee could consider that when they vote.

Committee Member Drew Bryck shared that this was handled poorly by the applicant, this feels like a bait and switch, but there is a need for new housing and replacing empty parking lots in Midtown.

Committee Member Matthew Jewett added that while he made the motion, this was poorly handled so he will be voting no.

Committee Member Opal Wagner stated that it was unfortunate that the case came back through the process but the need for housing outweighs the additional five feet of landscaping.

Vice Chair Nicole Rodriguez added she works tirelessly for more affordable housing and landscaping, and that this project will not do anything to move towards those goals.

Chair Brent Kleinman shared that the use of the proposal is better than what is on site today.

VOTE

7-6; motion to approve PHO-1-22--Z-26-22-4 with an additional stipulation passes with Committee Members Benjamin, Bryck, Mahrle, Procaccini, Tedhams, Wagner and Chair Kleinman in support with Committee Members Cothron, George, Jewett, Searles, Thacker, Vice Chair Rodriguez opposed.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

None.