

## ATTACHMENT C

### REPORT OF PLANNING COMMISSION ACTION September 1, 2022

ITEM NO: 23	
	DISTRICT NO.: 1
SUBJECT:	
Application #:	PHO-1-22--Z-58-04-1
Location:	Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road
Request:	<ul style="list-style-type: none"><li>• Modification of Stipulation 1 regarding general conformance with the site plan date stamped May 24, 2004 and elevations date stamped July 7, 2004</li><li>• Deletion of Stipulation 4 regarding parking lot landscaping</li><li>• Technical corrections for Stipulations 2 and 3</li></ul>
Acreage:	1.08
Applicant:	Daniel Istrate, Kontexture LLC
Owner:	Benjamin and Corina Covaciu
Representative:	Daniel Istrate, Kontexture LLC

#### **ACTIONS:**

Village Planning Committee (VPC) Recommendation:  
**North Mountain** 5/18/2022 Denial. Vote: 13-2.

Planning Hearing Officer Recommendation: The Planning Hearing Officer heard the request on June 15, 2022 and recommended a continuance to the July 20, 2022 hearing. The Planning Hearing Officer heard the request on July 20, 2022 and recommended approval with a modification and an additional stipulation.

Staff Recommendation: Approval, with a modification and an additional stipulation, as recommended by the Planning Hearing Officer.

Planning Commission Recommendation: Approval, per the Planning Hearing Officer recommendation with an additional stipulation.

Motion Discussion: N/A

Motion details: Commissioner Boyd made a MOTION to approve PHO-1-22- -Z-58-04-1, per the Planning Hearing Officer recommendation with an additional stipulation to include enhanced landscaping to include coverage along the south side of the site to address privacy.

Maker: Boyd  
Second: Gaynor  
Vote: 7-0  
Absent: Busching and Simon  
Opposition Present: Yes

## Findings:

1. The request to modify Stipulation 1 regarding general conformance to a site plan and elevations is recommended for approval with a modification to provide more standard conformance language. The original rezoning case consisted of three distinct areas, with commercial zoning proposed along Cactus Road and 43rd Avenue, and a single-family residential subdivision at the southwest portion of the site. The subject property of this case is the commercially zoned parcel along 43rd Avenue only.

The stipulated site plan for this area depicted an approximately 9,000 square foot commercial building located along the north property line and parking along the south and west property lines. The proposed conceptual site plan depicts a 14-unit multifamily residential development at approximately 12.96 dwelling units per gross acre. Units have private garages which are located in the center of the site. Parking is located along the west property line and a portion of the south property line. Open space is located along the south property line. The site offers no vehicular access to any single-family neighborhoods to the west or south. The proposed site plan was significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign moves the 10-plex building to the north property line, approximately in the same location as the original proposed commercial building. This change significantly reduces the impact of building massing on homes to the south and west. A smaller 4-plex building is now located along the south property line, shifted towards the 43rd Avenue frontage, to allow (previously) disconnected common areas to be combined along the south property line and further from the arterial street.

No building elevations were stipulated for the proposed commercial uses in the original case. The proposed conceptual elevations depict a maximum height of two stories at approximately 22 feet 5 inches (24 feet 8 inches to the ridge), which is more restrictive than the two stories and 30 feet otherwise permitted by the current zoning. The proposed elevations were also significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign includes new architectural detailing and features intended to better comply with an existing stipulation regarding four-sided architecture. Additionally, on the south elevation of the 4-plex building, bedroom windows on end units were shifted to the east and west elevations to reduce privacy concerns on adjacent neighbors. The south elevation now includes only two-bedroom windows which are required by building code.

The proposal is compatible with its location near the intersection of two arterial streets. The proposed density and height are below the maximum permitted by the current zoning and consistent with the original approval. The recommendation for general conformance will control for deviation from the proposed plans.

2. The request to delete Stipulation 4 regarding parking lot landscaping is recommended for approval. This stipulation is specific to the layout on the original stipulated plan which would be removed by the recommendation in Stipulation 1. The development will be subject to existing Ordinance requirements for parking lot landscaping relevant to the new, proposed multifamily residential use.

3. The applicant did not submit a Proposition 207 waiver of claims prior to the Planning Hearing Officer hearing. Submittal of this form is an application requirement. An additional stipulation is recommended to require the applicant to record this form and deliver it to the City to be included in the rezoning application file for record.

Stipulations:

1. ~~That~~ THE development shall be in general conformance with the site plan AND ELEVATIONS date stamped JULY 20, 2022, ~~May 24, 2004 and elevations date stamped July 7, 2004 as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.~~
2. ~~That~~ Four sided architectural ~~Ea~~ shall be used on residential development. Examples of the types of details to consider are French windows, ornamentation in the gable area, garages setback to the rear of the house, garage door windows, porches, 18 ~~feet~~ inch eaves, shutters, decorative framing around the windows, windowsills, window fenestrations, balconies, lighting, and other enhancements as approved by THE PLANNING AND Development ~~Services~~ Department.
3. ~~That~~ Mature trees a minimum of 2-inch caliper spaced 20-feet on center or equivalent groupings as approved by the PLANNING AND Development ~~Services~~ Department SHALL be installed along the west side of Parcel B and the south side of Parcel A in order to buffer the proposed commercial development from proposed residential uses.
4. ~~That mature trees a minimum of 2 inch caliper be placed in the three parking islands and the two corners of the parking lot on the south side of Parcel B in order to buffer the proposed commercial development from existing residential uses.~~
4. ~~That~~ Right-of-way totaling 50 feet shall be dedicated for the south half of Cactus Road.
5. ~~That~~ The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping, and other incidentals as per plans approved by the City. All improvements shall comply with all ADA accessibility standards.
6. ~~That~~ Construction vehicle access to the residential Parcel C shall be off of 43rd Avenue or Cactus Road during the construction phase.
7. ~~That~~ Lot 1, and two of Lots 7, 8, 9 and 10, shall be limited to one story, for a total of three lots being limited to one story.
8. 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.
9. **ENHANCED LANDSCAPING SHALL BE PROVIDED TO INCLUDE COVERAGE ALONG THE SOUTH SIDE OF THE SITE TO ADDRESS PRIVACY.**

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