

## Attachment C

Planning Hearing Officer Summary of December 18, 2019  
Application Z-118-14-4  
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### REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Julianna Pierre, Planner I, Assisting

December 18, 2019

ITEM 3

DISTRICT 4

SUBJECT:

Application #: Z-118-14-4 (PHO-2-19)  
Zoning: C-2 HGT/WVR SP  
Location: Approximately 420 feet north of the northeast corner of 7th Street and Indian School Road  
Acreage: 3.13  
Request: 1) Modification of Stipulation 1 regarding general conformance to the site plan date stamped January 10, 2018 and elevations date stamped February 2, 2018.  
Applicant: Susan E. Demmitt, Gammage & Burnham, PLC  
Owner: Quick N Clean 44 LLC/4201 N 7th SP LLC  
Representative: Susan E. Demmitt, Gammage & Burnham, PLC

### **ACTIONS**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with modifications and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Encanto Village Planning Committee heard this case on December 2, 2019 and recommended approval with additional stipulations by a 7-5 vote.

### **DISCUSSION**

*This case was heard concurrently with Item #4, Z-SP-5-14-4 (PHO-2-19).*

Susan Demmitt, applicant and representative with Gammage & Burnham, stated that the site is for the relocation of the Central and Camelback Dutch Bros. restaurant. She stated that the site plan includes an 886 square foot restaurant building and 720 square foot outdoor shaded patio oriented towards 7th Street. She added that the plan reflects the new store prototype for Dutch Bros. with dual drive-through lanes that can accommodate 37 cars. She noted that there are no outdoor speaker-boards, but rather employees using iPads to take customer orders. She added that there are 37 parking spaces provided, with 11 on the south side of the site designated as employee only and the rest on the north side of the site for customers. She stated that the site will maintain 25-foot landscape buffers on 7th Street and Devonshire Avenue. She stated that there will be an access point from 7th Street and another from Devonshire Avenue.

Ms. Demmitt stated that the Encanto Village Planning Committee recommended approval with two additional stipulations by a vote of 7-5. The additional stipulations included the use of permeable pavers and enhanced shade in the landscaped setback. She stated that she would additionally propose new stipulations to increase required tree caliper size within the 7th Street and Devonshire Avenue landscape setbacks and enhance landscaping in the parking lot. Adam Stranieri stated that he had concerns regarding the permeable pavers because alternative dustproofing is approved through an administrative process with the Zoning Division, which is separate from the rezoning process. He stated that he cannot stipulate the applicant to obtain approval from a separate administrative review process. He added that the alternative dustproofing application states that commercial sites should not have alternative dustproofing in primary drive aisles or vehicle maneuvering areas. Alternative materials are typically limited to outdoor storage areas for commercial uses. He stated that the applicant's proposed stipulations regarding increased tree calipers and enhanced landscaping in the parking lot were appropriate alternatives to the dustproofing request and would help to achieve some of the same sustainability goals of the Village's recommendation.

Mr. Stranieri asked for clarification regarding the enhanced landscape setbacks. He asked if the applicant intended to increase half of the two-inch caliper trees to three-inch caliper trees. Ms. Demmitt stated that was correct. Mr. Stranieri stated that he recommended enhancing the landscaping in the parking lot from 60% one-inch caliper and 40% two-inch caliper trees to 100% two-inch caliper trees, which was greater than the applicant's proposal. Ms. Demmitt stated that they had no objection to the modification.

Ms. Demmitt added that she reached out to the Devonshire Neighborhood Association and spoke with the President, John McGarey. She indicated that the applicant would attend the February 2020 Neighborhood Association meeting to update the neighborhood on the project status.

Ms. Demmitt stated that the applicant has also worked with the Street Transportation Department regarding additional stipulations about a right in-right out driveway and right turn deceleration lane along 7th Street. She requested that the stipulations include "...as modified by the Street Transportation Department" to preserve the ability to continue working with staff on a final configuration for vehicular access in this location. She stated that Dutch Bros. are working through a Traffic Analysis to analyze the potential need for a right turn deceleration lane. She added that if the deceleration lane is needed, the site plan will have to be revised to incorporate this feature.

Ms. Demmitt provided an email from the Street Transportation Department with modified stipulation language. Mr. Stranieri stated that he had received an updated recommendation from the Street Transportation Department reviewer that contained language consistent with the email provided by Ms. Demmitt.

Mr. Stranieri stated that the ordinance for PHO-1-18 included the legal description for the base zoning case, causing the stipulation modifications for the car wash to be applied to the storage facility. He indicated that bringing in the entire site in the current request will allow for restoration of stipulations for the storage facility that were removed

and provide a clear distinction between stipulations that apply to each individual land use within the subject property. He stated that the method to best organize the stipulations is to create individual general conformance stipulations for each land use with additional requirements included as sub-stipulations. He added that keeping the new Street Transportation Department stipulations coupled with the general conformance requirement to the Dutch Bros. site plan would clearly indicate that the requirement is related to the proposed land use and allow for modifications to implement the Street Transportation Department's recommendations if necessary.

## **FINDINGS**

- 1) The subject property of the original rezoning case consisted of 3.13 gross acres which included approximately 2.33 gross acres proposed for a self-service storage warehouse and approximately 0.80 gross acres proposed to develop for a retail pad site or restaurant. The self-service storage warehouse was developed, and the retail/restaurant site remains vacant. The case was approved concurrently with Special Permit rezoning case no. Z-SP-5-14.

In 2018, Planning Hearing Officer actions were approved which modified the stipulations of both cases to permit a carwash on the retail/restaurant site. The subject property in these cases was the approximately 0.78 gross acre retail/restaurant site adjacent to 7<sup>th</sup> Street; however, the Ordinance Location Map in the adopted ordinances included the entire subject property of the original rezoning action. This resulted in several errors which included the inadvertent deletion of the applicability of Stipulation 1.a from the self-service storage warehouse site, where the intent was solely to remove this restriction for the proposed carwash. It is recommended to reintroduce this stipulation for the storage site. To correct these issues, the current applicant has included the entire subject property of the original rezoning action in their request. Therefore, this recommendation includes modifications to clearly distinguish which stipulations apply to the different uses individually and to the site as a whole. In the current request, no modifications were requested regarding the self-service storage warehouse site. The request is limited to issues regarding the proposed restaurant.

The difference between the subject property of the proposed restaurant in the current request and the previously approved carwash site is the inclusion of approximately 0.79 gross acres of additional property along Devonshire Avenue. Approximately 0.66 gross acres of this property, located at the immediate southeast corner of the intersection is not in the boundary of either rezoning case and is zoned C-2.

- 2) The Street Transportation Department recommended two additional stipulations requiring the developer to dedicate and construct a right-turn deceleration lane along 7<sup>th</sup> Street and prohibit left turn ingress and egress movements along 7<sup>th</sup> Street within 300 feet of Devonshire Avenue. These stipulations are included as sub-stipulations 2.E and 2.F of the general conformance stipulation. Placing these stipulations in this location clearly identifies these as applying to the

subject property of the proposed restaurant, applying to the proposed use as depicted on the site plan, and ensures that they do not apply to the self-service storage warehouse site. Additionally, New Stipulation 2 includes the caveat that site plan general conformance is predicated on modifications that may be required to implement these additional requirements.

- 3) The Encanto Village Planning Committee recommended an additional stipulation requiring enhanced shade in the landscape setback. This recommendation is appropriate for a site located along 7<sup>th</sup> Street, a major arterial street with heavy pedestrian and multi-modal use, and in close proximity to major community destinations and amenities including but not limited to the Montecito Community School, the VA Hospital, Indian Steele Park, and the Grand Canal. The enhanced shade will contribute to achieving goals in the City of Phoenix Tree & Shade Master Plan Tree which seeks to treat the urban forest as infrastructure, reduce the urban heat island effect, and provide thermal comfort for pedestrians. An additional stipulation is recommended to increase the minimum caliper size of trees in required landscape setbacks and groundcover percentage. This stipulation is consistent with an additional stipulation proposed by the applicant as an alternative to the Encanto Village Planning Committee's recommendation for use of permeable pavers in the parking lot.
- 4) The Encanto Village Planning Committee also recommended an additional stipulation requiring the use of permeable pavers throughout the site. For commercial properties, alternative dustproofing is typically limited to areas used for open storage only. Employee and customer parking, main circulation drives and vehicle maneuvering areas must be paved. Equipment maneuvering areas or drive aisles may qualify for the use of alternative paving; however, this requires the review and approval of an alternative dustproofing request through the Zoning division. Rezoning stipulations should not mandate provision of a design standard that requires approval through a separate administrative process.
- 5) The applicant proposed additional stipulations to increase the minimum percentage of landscaping in parking lot areas from 10% to 15%, increase the size of required trees in the parking lot, and decrease the distance between parking lot landscape islands from 110 feet to 76 feet. These proposals are intended to provide mitigation of the heat island effect on the site and improve sustainability. Additionally, these were proposed as alternatives to the permeable pavers proposed by the Encanto Village Planning Committee described in more detail above. These stipulations are recommended for inclusion.

**DECISION:** The Planning Hearing Officer recommended approval with modifications and additional stipulations.

## **STIPULATIONS**

1.	The SELF-SERVICE STORAGE WAREHOUSE development shall be in general conformance to the site plan date stamped October 27, 2014 <del>and January 10, 2018</del> and elevations date stamped October 27, 2014, AND January 13, 2015, <del>and February 2, 2018</del> with specific regard to:	
	A.	EXCEPT FOR INGRESS/EGRESS POINTS, NO PARKING/MANEUVERING SHALL BE ALLOWED BETWEEN THE BUILDINGS AND THE 7TH STREET FRONTAGE.
	B. a.	The sidewalk along 7th Street shall be detached from the curb;
	C. b.	Maximum east elevation building height of 39 feet.
2.	THE RESTAURANT DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE TO THE SITE PLAN AND ELEVATIONS DATE STAMPED NOVEMBER 1, 2019, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT, WITH SPECIFIC REGARD TO:	
	A.	THE SIDEWALK ALONG 7 <sup>TH</sup> STREET SHALL BE DETACHED FROM THE CURB.
	B.	REQUIRED LANDSCAPE SETBACKS SHALL INCLUDE MULTI-TRUNK OR LARGE CANOPY SHADE TREES PLANTED 20 FEET ON CENTER OR IN EQUIVALENT GROUPINGS AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. TWENTY-FIVE PERCENT OF TREES SHALL BE MINIMUM 2-INCH CALIPER, FIFTY PERCENT OF TREES SHALL BE MINIMUM 3-INCH CALIPER, AND TWENTY-FIVE PERCENT OF THE TREES SHALL BE MINIMUM 4-INCH CALIPER. FIVE 5-GALLON SHRUBS PER TREE, AND ADDITIONAL SHRUBS OR LIVE GROUNDCOVER, SHALL PROVIDE MINIMUM 75% LIVE COVER AT MATURE SIZE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	C.	A MINIMUM OF 15% OF THE PARKING LOT INTERIOR SURFACE AREA SHALL BE LANDSCAPED, EXCLUSIVE OF PERIMETER LANDSCAPING AND ALL SETBACKS. REQUIRED TREES SHALL CONSIST OF MINIMUM 2-INCH CALIPER, MULTI-TRUNK OR LARGE CANOPY SHADE TREES, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	D.	LANDSCAPED PLANTERS IN THE PARKING LOT AREA NORTH OF THE RESTAURANT BUILDING SHALL BE PROVIDED AT THE ENDS OF

		EACH ROW OF PARKING AND SPACED APPROXIMATELY 76 FEET OR LESS.
	E.	THE DEVELOPMENT TO DEDICATE AND CONSTRUCT A RIGHT-TURN DECELERATION LANE FOR THE DRIVEWAY ALONG 7TH STREET OR AS MODIFIED BY THE STREET TRANSPORTATION DEPARTMENT. THE LENGTH OF THE DECELERATION LANE SHALL BE DETERMINED AND APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
	F.	THE DEVELOPER SHALL CONSTRUCT OR RECONSTRUCT ANY NEW OR EXISTING DRIVEWAY ACCESS FROM 7TH STREET IN A MANNER TO PROHIBIT LEFT TURN INGRESS AND EGRESS MOVEMENTS TO THE SITE WITHIN 300 FEET OF THE CENTERLINE OF DEVONSHIRE AVE. SUCH DRIVEWAYS SHALL CONFORM TO CITY OF PHOENIX STANDARD DETAILS P1243-2 OR P1243-3, OR AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
2.	Required trees in the 7th Street and Devonshire Avenue landscape setbacks shall be placed adjacent to the sidewalk in order to provide shade for pedestrians, as approved by the Planning and Development Department.	
3.	<del>That</del> THE development shall provide bicycle parking with an inverted-U design, as approved by the Planning and Development Department, as follows:	
	a.	A minimum of two spaces to serve the self-storage facility;
	b.	A minimum of one space per 500 square feet for general retail;
	c.	A minimum of one space per 300 square feet for a restaurant/bar.
4.	A 10-foot sidewalk easement shall be dedicated on the 7th Street frontage, as approved by the Planning and Development Department.	
5.	<del>That</del> The development shall comply with all ADA accessibility standards, as per plans approved by the Planning and Development Department.	
6.	The developer shall record a Notice to Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International-Airport (PHX) to future owners or tenants of the property.	
7.	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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