

# Attachment C

Planning Hearing Officer Summary of December 18, 2019  
Application Z-84-04-7  
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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 6

### DISTRICT 7

#### SUBJECT:

Application #: Z-84-04-7 (PHO-2-19)  
Zoning: C-2  
Location: Approximately 300 feet east of the northeast corner of 75th Avenue and Lower Buckeye Road  
Acreage: 1.29  
Request: 

- 1) Modification of Stipulation 1 regarding general conformance to site plan date stamped June 17, 2005 and elevations date stamped June 17, 2005 and June 28, 2005.
- 2) Deletion of Stipulation 2 regarding Planning Hearing Officer approval of a landscape plan.
- 3) Deletion of Stipulation 4 regarding a covered walkway and shading requirements.
- 4) Deletion of Stipulation 5 regarding shaded walkways and paving materials.
- 5) Deletion of Stipulation 6 regarding parking at rear of the site.
- 6) Deletion of Stipulation 8 regarding a 55-foot right-of-way dedication for the east half of 75th Avenue.
- 7) Deletion of Stipulation 9 regarding right-of-way, bus-bay, and transit pad on 75th Avenue north of Lower Buckeye Road.
- 8) Deletion of Stipulation 10 regarding a 55-foot right-of-way dedication for the north half of Lower Buckeye Road.
- 9) Deletion of Stipulation 11 regarding a right-of-way triangle dedication at the northeast corner of 75th Avenue and Lower Buckeye Road.
- 10) Deletion of Stipulation 12 regarding a Traffic Impact Study.
- 11) Technical corrections to Stipulations 3 and 13.

Applicant: Sterling Margetts, Kimley-Horn and Associates  
Owner: Demergasso Family Marital Deduction Share Trust  
Representative: Sterling Margetts, Kimley-Horn and Associates

### ACTIONS

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

Village Planning Committee (VPC) Recommendation: The Estrella Village Planning Committee heard this case on December 17, 2019 and recommended approval by a 5-0 vote.

## **DISCUSSION**

Jason Morris, representative with Withey Morris, stated that the use on the site will be a McDonald's with a drive-through and circulation pattern similar to that on the stipulated site plan. He clarified that the strip retail and office space stipulated in the original rezoning action was not developed, and instead there will be a multifamily development on the adjacent property to the north. He stated that the requests will modify and delete stipulations that are no longer relevant to the site.

Adam Stranieri stated that while sub-stipulations A, B, and C of Stipulation 2, regarding Planning Hearing Officer approval of a landscape plan, did not apply to the current proposed land uses, sub-stipulation D would still apply because the site has a driveway along Lower Buckeye Road. He asked if the applicant would be willing to retain the language of sub-stipulation D. Mr. Morris stated that he was unsure if the developer could accommodate the 50-foot by 50-foot enhanced landscape entry area and retain their parking. He stated that the developer might be able to provide enhanced planting in a smaller area. He stated that the developer would be able to provide enhanced landscaping in the existing landscape setback. Mr. Stranieri asked if the applicant could increase half of the two-inch caliper trees to three-inch caliper trees in the landscape setback. Mr. Morris stated that was feasible.

Mr. Stranieri stated that the intent of Stipulation 4, regarding a covered walkway and shading requirements, and Stipulation 5, regarding shaded walkways and paving materials, was to enhance connectivity and pedestrian safety. He stated that this intent is still relevant to the proposed multifamily project. He stated that residents of the multifamily property would likely walk to the restaurant and asked if the applicant could provide a pedestrian pathway along the east property line. Mr. Morris stated that they had no issue providing a pathway and would work with staff regarding the placement.

Mr. Stranieri stated that Stipulation 6, regarding parking at rear of the site, was no longer relevant. He added that the proposed deletion of Stipulations 8-12 had no objections from the Street Transportation Department, but they did recommend that the developer provide 37-feet of paving from the monument line to the face-of-curb on Lower Buckeye Road. Mr. Morris had no issues with that recommendation.

## **FINDINGS**

- 1) The subject property comprises a small portion of the 19.8 acres in the original rezoning case which proposed a mixed-use project including commercial pad sites, strip retail, and a large office complex. 16.2 acres of the original rezoning case were modified in PHO-1-18—Z-84-04 to allow a multifamily residential development consisting of detached casita-style units. The proposed drive-through restaurant in the current request will be located along Lower Buckeye Road adjacent to the primary entrance to the multifamily development.

- 2) Original Stipulation 2 established criteria for review of a landscape plan to ensure shaded seating and enhanced landscape features at intersections and entry drives throughout the complex. Due to the new proposed land use and the separately planned multifamily residential project surrounding the parcel, most of this stipulation is no longer relevant. Additionally, the stipulated entry feature at the intersection of 75<sup>th</sup> Avenue and Lower Buckeye Road is off-site to the subject property in this request.

However, Stipulation 2.d requiring enhanced landscaping at all entry drives remains relevant. In PHO-1-18—Z-84-04, the applicant also requested a deletion of this sub-stipulation. However, they also proposed general conformance to a landscape plan that depicted enhanced entry features at all entry drives. In this request, no landscape plan is proposed. The applicant stated that because the subject property is considerably smaller than the originally proposed mixed-use parcel, the enhanced entry drive would impact their ability to provide parking. An appropriate trade-off for the enhanced entry feature is the requirement for enhanced landscaping in the required setback along Lower Buckeye Road. An additional stipulation is recommended.

- 3) Original Stipulations 4 and 5 established requirements for pedestrian pathways along the façade of the proposed 30,000 square foot strip retail center (Shops A) and between the office complex and nearby commercial sites within the property. While the specific language of these stipulations is no longer relevant to the proposed drive-through restaurant, this use should also provide safe, accessible pedestrian pathways along its perimeter.

The proposed conceptual site plan already depicts an accessible pathway along the south property line connecting to Lower Buckeye Road. However, the east property line is immediately adjacent to the primary entrance of the proposed multifamily residential development and will likely be a primary point of access for pedestrian traffic from this development walking to the restaurant. An additional stipulation is recommended requiring the developer to provide an alternative surface pathway along this property line with direct connectivity to a main building entrance.

- 4) Original Stipulations 8-12 primarily address off-site or previously constructed right-of-way improvements. The Street Transportation Department indicated no concerns with the applicant's proposal for deletion of these stipulations. However, they did recommend an additional stipulation requiring 37 feet of paving from the monument line to the face-of-curb on Lower Buckeye Road.

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

## **STIPULATIONS**

GENERAL CONFORMANCE	
1.	<del>That</del> The development shall be in general conformance with the site plan <del>date stamped June 17, 2005,</del> and elevations <del>date stamped OCTOBER 31, 2019</del> <del>June 17, 2005 and June 28, 2005 to include common architecture, building materials, and colors, with particular attention to varied roof lines and breaking up building massing, within the southern 1,258 feet of the development site, and to include common architecture, building materials, and colors within the northern 308 feet of the development site, as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.</del>
LANDSCAPE	
2.	THE REQUIRED LANDSCAPE SETBACK ADJACENT TO LOWER BUCKEYE ROAD SHALL BE PLANTED WITH MULTI-TRUNK OR LARGE CANOPY SHADE TREES PLACED 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 TREES SHALL BE MINIMUM 4-INCH CALIPER.
2.	<del>That the applicant shall provide a landscape plan to be administratively approved by the Planning Hearing Officer (PHO), prior to preliminary site plan approval with specific regard to landscaped office courtyards, plaza areas, and enhanced entry drives:</del>
A.	<del>That the circular courtyards within the Offices shall include shaded seating areas;</del>
B.	<del>That the plaza area between Shops A and the Day Care shall include shaded seating areas;</del>
C.	<del>That the 75th Avenue/Lower Buckeye Road corner shall be developed with a 75-foot by 75-foot enhanced landscape area;</del>
D.	<del>That all entry drives shall be developed with 50-foot by 50-foot enhanced landscape areas.</del>
3.	<del>That a</del> Arterial street landscape development shall conform to the Estrella Village Arterial Street Landscaping PROGRAM <del>Plan.</del>
PEDESTRIAN WALKWAYS	

4.	THE DEVELOPER SHALL PROVIDE A PEDESTRIAN PATHWAY PROVIDING CONNECTIVITY BETWEEN THE EAST PROPERTY LINE AND A MAIN BUILDING ENTRANCE, CONSTRUCTED OF DECORATIVE PAVERS, STAMPED OR COLORED CONCRETE, OR ANOTHER MATERIAL, OTHER THAN THOSE USED TO PAVE THE PARKING SURFACES AND DRIVE AISLES, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
4.	<del>That a minimum 10-foot covered walkway with a staggered front façade shall be provided on Shops A. Patios, trellises and recesses of the building façade may also be used to provide shade and break up the building mass, as approved by the Development Services Department.</del>
5.	<del>That the walkways between the Offices and from the Offices to Pad A, and the Day Care located outside of driving aisles, shall be shaded, and alternate paving materials shall be used where the walkways cross driving aisles, as approved by the Development Services Department.</del>
OTHER	
6.	<del>That the parking at the rear of Shops A and the Day Care shall be eliminated.</del>
PARKS & RECREATION	
5. 7.	<del>That aA multi-use trail shall be constructed on the north side of Lower Buckeye Road in accordance with the City of Phoenix Standard Trail Details, as approved by the Parks and Recreation Department.</del>
STREETS	
8.	<del>That right-of-way totaling 55 feet shall be dedicated for the east half of 75th Avenue.</del>
9.	<del>That right-of-way on 75th Avenue north of Lower Buckeye Road shall be dedicated along with construction of a bus bay (P1257) and transit pad (P1261), as approved by the Transit Department.</del>
10.	<del>That right-of-way totaling 55 feet shall be dedicated for the north half of Lower Buckeye Road.</del>
11.	<del>That a 21-foot by 21-foot right-of-way triangle shall be dedicated at the northeast corner of Lower Buckeye Road and 75th Avenue</del>
12.	<del>That the applicant shall submit a Traffic Impact Study to the City for this development. The study shall be reviewed and approved by the City prior to or concurrent with preliminary site plan submittal. Contact the Street Transportation</del>

	<del>Department to set up a meeting to discuss the requirements of this study.</del>	
	A.	<del>Additional right-of-way may be required at the time of the site plan review process for right-turn lanes and other additions as required by the approved Traffic Impact Study;</del>
	B.	<del>Traffic signals shall only be installed at locations approved by the Street Transportation Department when warrants are met.</del>
6.	THE DEVELOPER SHALL PROVIDE 37 FEET OF PAVING FROM THE MONUMENT LINE TO THE FACE-OF-CURB ON LOWER BUCKEYE ROAD, AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.	
7. 13.	<del>That</del> The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping, and other incidentals as per plans approved by the PLANNING AND Development Services Department. All improvements shall comply with all ADA accessibility standards.	
8. 14.	<del>That</del> The applicant shall complete and submit the Developer Project Information Form for the MAG Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the EPA to meet clean air quality standards.	

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