

**REPORT OF PLANNING HEARING OFFICER ACTION**

Adam Stranieri, Planner III, Hearing Officer  
Sofia Mastikhina, Planner I, Assisting

March 20, 2019

**ITEM 2**

**DISTRICT 7**

**SUBJECT:**

Application #: Z-114-06-7 (PHO-1-19)  
Zoning: C-1 (Approved C-2)  
Location: Southeast corner of 67th Avenue and Lower Buckeye Road  
Acreage: 2.01  
Request: 

- 1) Deletion of Stipulation No. 1 regarding general conformance to site plan date stamped October 20, 2006.
- 2) Deletion of Stipulation No. 2 regarding general conformance to elevations date stamped August 29, 2006.
- 3) Deletion of Stipulation No. 3 regarding a landscaped pedestrian entryway feature at the southeast corner of 67th Avenue and Lower Buckeye Road.
- 4) Modification of Stipulation No. 5 regarding a 30-foot easement for a multi-use trail along Lower Buckeye Road.
- 5) Deletion of Stipulation No. 6 regarding a minimum 200 square feet of shaded outdoor eating area.
- 6) Deletion of Stipulation No. 7 regarding a landscape buffer between the carwash and the surrounding planned commercial parcel.
- 7) Modification of Stipulation No. 10 regarding a transit pad at eastbound Lower Buckeye Road.
- 8) Technical corrections to Stipulation Nos. 4, 8 and 9.

Applicant: Esencia, LLC  
Owner: Carioca Company  
Representative: Bret Ryan/Esencia, LLC.

**ACTIONS**

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

Village Planning Committee (VPC) Recommendation: At its March 19, 2019 meeting, the Estrella Village Planning Committee reviewed this request and recommended approval with modifications and an additional stipulation by a 6-0 vote.

## **DISCUSSION**

Bret Ryan, applicant with Esencia Architects, addressed Rezoning Case No. Z-114-06, and explained the history of the site, which was previously approved for a gas station, convenience store, Jack in the Box, and car wash. He explained that the new design has eliminated the restaurant and car wash components. He noted that the stipulated site plan and elevations were outdated due to the new design. He explained what was discussed at the March 19, 2019 Estrella Village Planning Committee regarding the stipulated 50-foot by 50-foot landscaped entry feature at the southeast corner of 67th Avenue and Lower Buckeye Road. He explained that the proposed site plan meets the required dimensions, with landscaping throughout, but that he would like to avoid needing to provide a concrete pad in that area, which would eliminate the landscaping from the area. He noted that the pharmacy on the northeast corner of that intersection was stipulated to a 75-foot by 75-foot landscaped entry feature, which was developed as a landscape buffer and did not include a concrete pad. He addressed the required multi-use trail along Lower Buckeye Road and explained that he would like to dedicate the easement required for the trail but wait until adjacent properties construct their portions of the trail to construct their portion. He then reiterated that the proposed development does not have a restaurant or car wash component, so he would like to remove the requirement for a shaded outdoor eating area, fountain, and a landscape buffer between the car wash and the surrounding commercial property. He stated that he had met with the Street Transportation Department regarding the proposed bus bay and that they had concerns with the proximity of the required bus bay and shelter to the intersection, so he is proposing to modify the stipulated language to require just a bus pad. He then addressed Rezoning Case No. Z-111-98 and noted that most of the stipulations in this case were related to the residential portion of the original development. He explained that no elevations had previously been submitted for the Phase II portion of the property as there were no concrete plans for what would be developed there. He noted that he had submitted a conceptual site plan for this portion of the site but had chosen not to submit elevations at this time.

Adam Stranieri asked if the conceptual site plan for the Phase II portion of the property had been copied from the original case and asked for confirmation that there is no definitive development plan for that portion of the site. He also asked if the Phase II portion lies entirely within the C-1 zoned portion of the property. Mr. Ryan replied yes and stated that there is presently no timeline for the Phase II portion of the development.

He then addressed the design-related stipulations of Rezoning Case No. Z-111-98 - Stipulation Nos. 27b through 27h - stating that the features that are asked for are not consistent with most commercial developments, and the origin of these stipulations is unknown since the previous case did not have any elevations. He further explained that this development would go through the standard development review process and that any major design concerns would be addressed at that time. He then stated that he would like to remove the requirement to contact the City Archaeologist regarding conducting an archaeological survey because the City already has a survey on file for this property and he would like to avoid any future delays in the development process.

Mr. Stranieri explained that this case is unique in that there are two separate zoning cases whose boundaries do not align with the parcel lines. He addressed Rezoning Case No. Z-114-06 and stated that he does not support the request to delete the general conformance stipulation without replacing it with a new stipulated site plan. As such, he will replace the date from the general conformance stipulation with the applicant's proposed site plan. He further explained that, since there are no proposed elevations, that the applicant will be required to return to the Estrella Village Planning Committee for review and comment prior to final site plan approval. He then addressed Mr. Ryan's concerns with the lack of trail connectivity in the area, stating that the city requires that trails be constructed on private properties that are identified on the Parks Trails Master Plan at the time of development. He stated that, regardless of the timing of adjacent trail sections, constructing this portion of the city's trail system is how trail connectivity will begin. He further explained that it is not typical to add conditional future stipulations that would delay trail development contingent on adjacent property developments, as this would be difficult to enforce once the site has been built.

Mr. Ryan asked why other developments in the area, since 2006, weren't held to the same standard. Mr. Stranieri stated that he can't speak to the other developments in the area. He explained that in the companion case, which he will address later, the stipulation regarding the multi-use trail is for 67th Avenue, which does not require a trail per the current Trails Plan, so that stipulation will be modified to conform to the current plan, which requires a trail along Lower Buckeye Road. He noted that when the companion case was processed in 1998, the map may have identified different locations for required trails. Mr. Ryan stated that the properties surrounding the site are not likely to ever have trails constructed. He noted that there was a county island to the west of the site and that the residential subdivision to the east had not implemented this trail either. Mr. Stranieri stated that this development will be required to conform to the Parks and Recreation Department's recommendation, but that he could permit flexibility by allowing modification of the stipulation by the Parks and Recreation Department but was unaware of any approval akin to what Mr. Ryan was asking.

He addressed the stipulations requiring a 200 square foot shaded outdoor seating area, a fountain, and a landscape buffer, stating that the new site plan does not have a restaurant or car wash component, so deletion of these stipulations is reasonable.

Mr. Stranieri then stated that the Public Transit Department recommended the use of the 1258 and 1260 details for the required bus pad. He explained that the pad will be located on the western portion of the site on Lower Buckeye Road, which falls completely within the 2006 zoning case and, as such, the stipulations for a transit pad in the 1998 case will be removed. He stated that the language in the 2006 case will be updated to reflect the Public Transit Department's recommendation.

Mr. Stranieri then addressed Rezoning Case No. Z-111-98, reiterating that the bus pad requirement will be removed since the location of the pad falls entirely within the 2006 zoning case. He stated that Stipulation Nos. 27b through 27h will be discussed together, and that these modification requests will be denied as filed and approved with a modification. He explained that since the site will be developed in two phases, there

needs to be a clear distinction between the conformance requirements for site plan and elevations for each portion of the site. He noted that there are only very small portions of the property at the hard corner that cross the zoning district boundary into the 1998 case, so these will be required to conform to the site plan presented for the 2006 zoning case, and to return to the Estrella Village Planning Committee for review and comment of elevations prior to final site plan approval. He stated that the remainder of the site, currently labeled Phase II, will be required to return to the Planning Hearing Officer for review and approval of both site plan and elevations. He explained that the required multi-use trail stipulation will be revised from 67th Avenue to Lower Buckeye Road. He then addressed the stipulation requiring an archaeological survey be conducted, noting that the city's Archaeology Department does have surveys on file for this site, and that the new stipulation language to be added is standard to all zoning cases on archaeologically sensitive sites.

Mr. Ryan asked if the requirement to dedicate a multi-use trail easement along 67th Avenue will be deleted.

Mr. Stranieri replied yes, since there is no requirement for a multi-use trail on 67th Avenue per the Parks and Recreation Department trails map. He then stated that the Maricopa County Department of Transportation has plans for widening and improvements along Lower Buckeye Road. He also stated that the stipulated right-of-way dedications on both zoning cases are not consistent with the City's approved cross-sections, and that the applicant will be required to work with the City's development team to address the appropriate right-of-way dedications.

## **FINDINGS**

- 1) The proposal includes the development of a convenience store and gas station with fuel canopies. The proposal represents a minor deviation from the original stipulated site plan which included a drive-through restaurant and car wash integrated with the convenience store. The proposal is compatible with the site's location at the intersection of two arterial streets.
- 2) The applicant's request to delete general conformance to the site plan is not recommended. Retaining the general conformance language will provide predictability to the community and offer a process for additional review if an alternative use is proposed. The applicant's request to delete the requirement for general conformance to elevations is not recommended because they did not submit new elevations with their request. The stipulation for review and comment by the Village Planning Committee will allow this body an opportunity to provide input on the design prior to final site plan approval.
- 3) The landscaped pedestrian entryway feature at the northwest corner of the site is consistent with development in the surrounding area. There is a similar entryway feature already developed on the property at the northeast corner of the intersection of 67th Avenue and Lower Buckeye Road. With the development of the Loop 202 freeway, this intersection may come to serve as a gateway to the

Estrella Village for people exiting the freeway. The Estrella Village Planning Committee recommended the retention of this stipulation.

- 4) Additional stipulations were specific to the car wash and drive-through restaurant which are no longer proposed. These stipulations are not relevant and the general conformance requirements establish public processes for modifying the proposal.

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

### **STIPULATIONS**

1.	<del>That</del> The development shall be in general conformance with the site plan date stamped <del>October 20, 2006</del> JANUARY 18, 2019, as approved or modified by the PLANNING AND Development <del>Services</del> Department.
2.	<del>That the development shall be in general conformance with the elevations date stamped August 29, 2006, as approved or modified by the Development Services Department.</del>  THE DEVELOPER SHALL PRESENT BUILDING ELEVATIONS TO THE ESTRELLA VILLAGE PLANNING COMMITTEE FOR REVIEW AND COMMENT PRIOR TO FINAL SITE PLAN APPROVAL.
3.	<del>That</del> The site shall be developed with a minimum 50 foot x 50 foot landscaped pedestrian entryway feature at the southeast corner of 67th Avenue and Lower Buckeye Road as approved by the PLANNING AND Development <del>Services</del> Department.
4.	<del>That a</del> A pedestrian pathway shall be provided that connects the 67 <sup>th</sup> Avenue sidewalk to the proposed building on the subject site, and to the east and south property lines. Pedestrian walkways that cross carwash and restaurant drive through lanes, as well as the parking lot shall utilize brick or stamped concrete pavers to differentiate the path from the surrounding asphalt in the lanes and through the landscaped medians. Ground level stop signs shall be placed to accommodate walkways from the front of the restaurant/convenience store to the development on the east. As approved or modified by the PLANNING AND Development <del>Services</del> Department.
5.	<del>That</del> The developer shall dedicate a 30 foot easement and construct a WIDE multi-use trail EASEMENT (MUTE) per the adopted standard trail detail along THE SOUTH SIDE OF Lower Buckeye Road AND CONSTRUCT A 10 FOOT WIDE MULTI-USE TRAIL WITHIN THE EASEMENT IN ACCORDANCE WITH THE MAG SUPPLEMENTAL DETAIL, as approved OR MODIFIED by the Parks and Recreation Department.

6.	<del>That the developer shall provide a minimum 200 square feet of shaded outdoor eating area to include a fountain, decorative pavers and landscaping as approved by Development Services Department.</del>
7.	<del>That a landscape buffer shall be provided between the carwash and the surrounding planned commercial parcel as approved by Development Services Department.</del>
STREETS AND TRANSIT	
6.	RIGHT-OF-WAY TOTALING 55 FEET SHALL BE DEDICATED FOR THE SOUTH HALF OF LOWER BUCKEYE ROAD, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
7.	RIGHT-OF-WAY TOTALING 55 FEET SHALL BE DEDICATED FOR THE EAST HALF OF 67TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
8.	<del>That t</del> 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 PLANNING AND Development Services Department. All improvements shall comply with all ADA accessibility standards.
9.	<del>That d</del> Development of 67th Avenue and Lower Buckeye Road shall conform to the Estrella Village Arterial Street Landscape Program as approved by the PLANNING AND Development Services Department.
10.	<p><del>That right-of-way shall, be dedicated for bus bay (Detail P1256-2) and a transit pad constructed (Detail P1261) at eastbound Lower Buckeye Road as approved by the Public Transit Department.</del></p> <p>THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY AND CONSTRUCT A BUS STOP PAD ALONG EASTBOUND LOWER BUCKEYE ROAD EAST OF 67TH AVENUE. THE BUS STOP PAD SHALL BE COMPLIANT WITH CITY OF PHOENIX STANDARD DETAIL P1260 WITH A MINIMUM DEPTH OF 10 FEET. THE BUS STOP PAD SHALL BE SPACED FROM THE INTERSECTION OF 67TH AVENUE AND LOWER BUCKEYE ROAD AS PER CITY OF PHOENIX STANDARD DETAIL P1258.</p>
OTHER	
11.	IF DETERMINED NECESSARY BY THE PHOENIX ARCHAEOLOGY OFFICE, THE APPLICANT SHALL CONDUCT PHASE I DATA TESTING AND SUBMIT AN ARCHAEOLOGICAL SURVEY REPORT OF THE DEVELOPMENT AREA

	FOR REVIEW AND APPROVAL BY THE CITY ARCHAEOLOGIST PRIOR TO CLEARING AND GRUBBING, LANDSCAPE SALVAGE, AND/OR GRADING APPROVAL.
12.	IF PHASE I DATA TESTING IS REQUIRED, AND IF, UPON REVIEW OF THE RESULTS FROM THE PHASE I DATA TESTING, THE CITY ARCHAEOLOGIST, IN CONSULTATION WITH A QUALIFIED ARCHAEOLOGIST, DETERMINES SUCH DATA RECOVERY EXCAVATIONS ARE NECESSARY, THE APPLICANT SHALL CONDUCT PHASE II ARCHAEOLOGICAL DATA RECOVERY EXCAVATIONS.
13. 14.	That if any previously unidentified archeological materials are encountered during construction, all ground-disturbing activities shall cease within a 33 foot radius of the discovery and the City Archaeologist shall be notified immediately and allowed time to properly assess the materials as approved by the City Archaeologist.

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