

Attachment C

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Principal Planner, Hearing Officer
Chase Hales, Planner I, Assisting

February 15, 2023

| | |
|-----------------|---|
| ITEM NO: 1 | |
| | DISTRICT 2 |
| SUBJECT: | |
| | |
| Application #: | PHO-1-22--Z-174-05-2 |
| Location: | Northeast corner of Tatum Boulevard and Deer Valley Drive |
| Zoning: | S-1 DRSP (Approved R-4 DRSP) |
| Acreage: | 41.18 |
| Request: | <ol style="list-style-type: none">1) Modification of Stipulation 1 regarding general conformance with the site plan date stamped November 23, 2005.2) Modification of Stipulation 2 regarding general conformance with the elevations date stamped November 23, 2006.3) Modification of Stipulation 3 regarding parking structure architecture.4) Modification of Stipulation 4 regarding useable outdoor private space, patio, and balconies.5) Deletion of Stipulation 5 regarding vertical landscaping enhancements.6) Deletion of Stipulation 6 regarding general conformance with the site plan date stamped November 23, 2005 and an 882 unit maximum on Parcel 4HW.7) Deletion of Stipulation 8 regarding private trails.8) Deletion of Stipulation 15 regarding a crosswalk that connects the 404 wash corridor trail with the south side of Deer Valley Drive.9) Deletion of Stipulation 17 regarding a pedestrian bridge across the 404 Wash Corridor.10) Deletion of Stipulation 19 regarding view corridors to the south.11) Technical corrections to Stipulations 9, 10, 11, 12, 14, 16, and 18. |
| Applicant: | Ed Bull, Burch and Cracchiolo PA |
| Owner: | Ari Astalos, Garden Deer Valley LLC |
| Representative: | Ed Bull, Burch and Cracchiolo PA |

ACTIONS:

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

Village Planning Committee (VPC) Recommendation: The Desert View Village Planning Committee heard this request on February 7, 2023 and recommended approval with a modification by a vote of 7-3.

DISCUSSION:

Ed Bull, representative with Burch and Cracchiolo P.A., gave an overview of the site's geography and topography. He introduced the developer, the general planned design for the proposal, and explained the intent of the requests, which was to update the stipulations to what is standard in 2023, and address issues related to the 404 wash that bifurcates the site. He stated that his team had been told by the Army Corps of Engineers that they would not be able to build within the 404 wash, making multiple stipulations regarding amenities within the 404 wash impossible to implement. He presented a screenshot of an email received from the Army Corps of Engineers as evidence of this. He gave an overview of the zoning history of the site and clarified that the Planning Hearing Officer (PHO) request was not to rezone or increase density or height. He addressed each request and gave rationale for each.

Mr. Bull introduced supplemental materials that were presented to the VPC. He showed conceptual elevations that highlighted architectural style and a conceptual color palette. He presented a unit count breakdown and explained that the final unit counts on the two development areas may vary slightly, but that the proposal does not modify the maximum of 882 dwelling units stipulated in the original rezoning case. He showed the proposed conceptual site plan, with all two-story buildings highlighted, and stated that view corridors would be preserved. He presented a conceptual cross section of the north perimeter landscape setbacks and stated that landscape buffers would be maintained, which would also help maintain view corridors. He presented the proposed conceptual site plan with pedestrian routes highlighted and explained that although they were not able to build the stipulated bridge or pathways within the wash corridor, they still have plans to build pathways that run parallel to the wash, which still made the wash a visual amenity for the development. He gave an overview of the neighborhood outreach that was done for the case.

Gary Kirkilas, member of the Desert View Village Planning Committee (VPC), stated that he had voted in favor of the crosswalk stipulation that had been recommended by the VPC. He expressed support for the creation of trails within the wash corridor. He suggested that not providing the stipulated amenities in the

wash may attract trash and unhoused people, while making the wash an amenity akin to a park may reduce these potential impacts.

Damian Glaze stated that he was neutral on the overall request and wanted to express some concerns with the design. He stated that the information that informed the original rezoning case had changed and that he had concerns with the current proposal utilizing the same data. He also stated that there were several washes in nearby communities that had trails within them that were used frequently. He stated that he recognized the limitations of the site and that a trail may run into the private property to the north but recommended that the pedestrian bridge should still be considered.

Mr. Bull stated that the easy solution would be for the developer to place a trail in the wash, however because of recorded covenants, as stated by the Army Corps of Engineers in their email response, a trail would not be allowed in the wash. He presented the approved site plan from 2005 that showed the setbacks for the site. He showed the proposed conceptual site plan and explained that the proposed conceptual site plan had the buildings pulled significantly further back from the north property line than what was approved in 2005.

Mr. Stranieri noted that staff did not receive any correspondence prior to the hearing. He stated that he had been briefed regarding the outcome and recommendation of the Desert View VPC meeting. He stated that the proposal had the same scale and intensity to what was approved in Z-174-05 and recommended approval with a modification for Stipulation 1 regarding general conformance to the site plan. He recommended approval with modifications for Stipulation 2 regarding elevations and noted that the proposed plans included more detail than what was originally approved. He recommended approval with a modification for Stipulation 3 regarding parking garage architecture to clarify that the stipulation should apply to parking garages generally. He expressed concern that it was unclear what constituted a 'visible' garage. He recommended approval with a modification to provide more standard language for Stipulation 4 regarding outdoor amenities. He recommended approval of the deletion of Stipulation 5 regarding vertical landscape features noting that this was specific to the original designs and was no longer relevant. He discussed the existing language of Stipulation 6 regarding general conformance and noted that the stipulation was both unclear and could be interpreted to conflict with other stipulations. He recommended approval of the request to delete this and noted that all relevant issues in Stipulation 6 would be separately addressed in the recommendation regarding Stipulation 1.

Addressing Stipulations 8 and 17 regarding the 404 wash, Mr. Stranieri noted that he was not aware the applicant had communicated with the Army Corps of Engineers. He stated that the email in the applicant's presentation was not provided, and the written narrative stated that this conversation had not occurred. He asked the applicant to clarify what they had asked the Army Corps of Engineers, noting that only a reply email was shown. Mr. Bull explained that he

did not realize that a copy of the email had not been provided. Rob Anderson, a member of the development team familiar with 404 washes, explained that he had asked the Army Corps of Engineers generally if they would be able to build a trail within the wash and that they had replied they could not. Mr. Stranieri responded that staff would have preferred to be included in or notified of the correspondence with the Army Corps to be able to respond and coordinate with the Army Corps on their response and potential alternatives. He stated that without this opportunity, he did not support deleting the stipulations at this time. He recommended that the request be denied as filed and approved with modifications. The modified stipulation would allow staff the opportunity to respond and coordinate with the Army Corps while acknowledging that the ultimate designs require approval by the U.S. Army Corps of Engineers whose authority would trump the City's in such matters.

Mr. Stranieri noted that there were four potential options in play regarding Stipulation 15: maintaining the original stipulation, deleting the stipulation as requested by the applicant, a modified stipulation as recommended by the Desert View VPC, and a staff recommendation for a new stipulation from the Street Transportation Department. He recommended the request for deletion be denied as filed and approved with a modification to adopt the recommended stipulation from the Street Transportation Department. Mr. Bull expressed concerns regarding the potential delay that the new stipulation might cause, which is out of the control of the applicant. He noted multiple unknown factors, including the existence of utilities on the south side of Deer Valley Drive and the need to coordinate cooperation with the property owner to the south of Deer Valley Drive. Mr. Stranieri stated that these factors were unrelated to the stipulation itself and that the stipulation language was standard regarding the requested street infrastructure and only specified the infrastructure, location, and funding mechanism.

Mr. Stranieri recommended approval of the deletion of Stipulation 19, as its content was specific to the proposed site layout in the original rezoning case.

FINDINGS:

- 1) The requests to modify Stipulations 1 and 2 regarding general conformance to a conceptual site plan and building elevations are recommended to be approved with modifications. The modifications are solely to provide more standardized conformance language.

The original, stipulated site plan depicted three distinct development areas: 1) Pavilions Phases I and II, located west of the wash, depicted garden style apartments at a density of approximately 19.0 du/ac (228 units) for Phase 1, and 32 du/ac (224 units) for Phase II. 2) Mondrian Phases I and II, located east of the wash, depicted a low-rise multifamily

residential development at a density of approximately 32 du/ac (441 units) for Phase 1, and 26 du/ac (269 units). 3) The southeastern corner of the site was reserved as a future hotel site, noting that this proposal may require an amendment to the Desert Ridge Specific Plan.

The proposed conceptual site plan depicts multifamily residential garden-style apartments across the entirety of the site with a total of 882 units (504 units located east of the wash, and 378 units located west of the wash). This is consistent with the original approved unit cap in Stipulation 6 (See Finding 6 for more detail). The proposal is compatible with existing development in the surrounding area, appropriate for its location along major arterial (Tatum Boulevard) and arterial (Deer Valley Drive) streets and is in proximity to a major regional shopping destination at Desert Ridge Marketplace.

The stipulated elevations consisted only of photographs and renderings, showing finishing materials, and features, rather than detailed architectural plans or specific designs. The proposed conceptual elevations include a variety of building materials, colors, and architectural features. These designs are compatible with existing development in the surrounding area.

The deletion of Stipulation 2.a is consistent with the recommended change in elevations. The modification of Stipulation 2.b removes the outdated reference to the original plans and retains the original height restriction with updated language.

- 2) The request to modify Stipulation 3 regarding parking garage architecture is recommended to be approved with a modification. The modification clarifies that complementary architecture is required for parking structures generally, and not only where 'visible'. This update is also consistent with the new conceptual plans which show tuck-under parking in the main residential buildings and stand-alone garages for which all sides may be considered 'visible'.
- 3) The request to modify Stipulation 4 regarding useable outdoor private space, patio, and balconies is recommended to be approved with a modification. The modification is solely to simplify the language. The request removes the outdated reference to the original plans and retains the original intent with updated language.
- 4) The request to delete Stipulation 5 is recommended to be approved. This is consistent with the recommended change in elevations. The applicant also noted that the deletion will allow a more water-efficient landscape design.

- 5) The request to delete Stipulation 6 is recommended to be approved. This stipulation contains regulations that were redundant or conflicted with the original Stipulation 1. The first sentence establishes a maximum unit count of 882 units and requires general conformance to a site plan. However, Stipulation 1 required general conformance to a plan that depicted 1,162 units. The applicant has proposed to require general conformance to a new conceptual site plan and retain the 882 maximum unit count in new language in Stipulation 1, which is recommended for approval (See Finding 1). The second sentence stated that the development shall be comprised of the Mondrian and Pavilions developments as depicted on the stipulated site plan. It is unclear if this requirement was intended to be more restrictive than the deviation permitted by general conformance to the stipulated site plan. Further, the third sentence noted that development not depicted on the stipulated site plan may be developed if a site plan was approved pursuant to the requirements of the Desert Ridge Specific Plan (DRSP). Compliance with the DRSP is already required simply by virtue of the property being located within its boundaries. Therefore, it is unclear what level of deviation was intended to be permitted, given the stipulation's references to general conformance, substantial conformance, and approval processes for unknown future proposals. Deletion of Stipulation 6, coupled with the recommended modifications in Stipulation 1, will eliminate this uncertainty.
- 6) The requests to delete Stipulations 8 and 17 regarding trails within the 404 wash corridor, along the north property line east of the wash, and a bridge across the wash, are recommended to be denied as filed and approved with modifications. The modifications are intended solely to clarify the U.S. Army Corps of Engineers authority to approve these features and remove references to the original development names.

In their written narrative, the applicant argued that they have been advised that the U.S. Army Corps of Engineers is “almost certainly going to deny” a request for construction of trails in the wash. During the hearing, the applicant noted that they had received a response prohibiting any trails or bridges in the wash. When asked what they had proposed to the U.S. Army Corps of Engineers, the applicant noted that they had enquired about trails and bridges generally and did not have any specific design proposal. The content and context of this conversation was not provided to any staff prior to the hearing. Had staff been included, they would have had the opportunity to coordinate with the U.S. Army Corps of Engineers regarding the response and to discuss options and alternatives. This opportunity should be retained.

Further, the U.S. Army Corps of Engineers trumps the City of Phoenix regarding their level of authority in these matters. Stipulations 8 and 17 will not be enforced if they ultimately prohibit any variant of the stipulated trail, as suggested by the applicant.

Finally, Stipulations 8, 15, and 17 are all interrelated. The trails will support pedestrian movement and access to the signal recommended in Stipulation 15. The bridge and trails will act to link the developments, as originally planned, and offer improved connectivity both within the site and to adjacent public rights-of-way on the east and south.

Provision of the stipulated bridge and trails is consistent with the central vision of the General Plan for the “Connected Oasis”, the General Plan’s Core Value “Connect People and Places”, and numerous land use and design principles. Prominently, the “River, Washes, and Waterways” subsection calls for “design and management standards for natural major washes and connected open spaces that will allow preservation of the natural ecological and hydrological systems of major washes while allowing for appropriate public use.”

- 7) The request to delete Stipulation 15 is recommended to be denied as filed and approved with a modification. The modification is to replace the stipulation in its entirety with a new stipulation as recommended by the Street Transportation Department. The Street Transportation Department does not support the proposed deletion and recommends an updated and revised requirement to provide a traffic signal to provide access to the south side of Deer Valley Drive.

Street Transportation Department staff noted that the proposed development will add a significant number of multifamily residential units directly across from a major pedestrian generator. The pedestrian generator includes a grocer as well as a major commercial center (Desert Ridge Marketplace) and comprises the Desert View Village Core. The mall attracts pedestrians to various retail, indoor recreation, and dining destinations. The Street Transportation Department has identified that such locations create mid-block crossings. The recommended stipulation addresses pedestrian safety concerns, as requested by the Traffic Services Division. Such activity along an arterial street with speed limits of 40 miles per hour warrants a traffic signal. This recommendation complies with the Phoenix City Council approved Complete Streets and Vision Zero policies.

- 8) The request to delete Stipulation 19 is recommended to be approved. The stipulation was intended to address specific concerns regarding the proposed building layout on the original stipulated site plan. Zoning

Ordinance Section 507 Tab A contains guidelines for design review that address preservation of view corridors.

STIPULATIONS:

| | | |
|----|--|---|
| 1. | That THE development shall be in general conformance with the site plan date stamped November 23, 2005 DECEMBER 22, 2022, as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department, WITH SPECIFIC REGARD TO THE FOLLOWING: | |
| | A. | THE PROJECT SHALL NOT EXCEED 882 DWELLING UNITS. |
| 2. | That THE development shall be in general conformance with the elevations date stamped November 23, 2006 DECEMBER 22, 2022, with specific regard to the below items, as MODIFIED BY THE FOLLOWING STIPULATIONS AND approved by the PLANNING AND Development Services Department, WITH SPECIFIC REGARD TO THE FOLLOWING: | |
| | a. | Landscape trellises shall be placed where there is 10 feet of open building façade (Exhibit 2). |
| | A. b. | WITHIN 950 FEET OF TATUM BOULEVARD, the Pavilions Phase II development shall be limited to 38 feet MAXIMUM building height SHALL BE 38 FEET. |
| | B. c. | The remaining parcels shall be limited to 48 feet building height. |
| 3. | That, where visible, the Parking structures on the Mondrian project shall be of complementary architecture to the primary residential structures, as approved by the PLANNING AND Development Services Department. | |
| 4. | That the buildings identified as "Pavilions" ALL DWELLING UNITS LOCATED WEST OF THE 404 WASH shall provide usable outdoor private space, patioS, and/or BALCONIES balcony for 100% of the units, as approved by the PLANNING AND Development Services Department. | |
| 5. | That all buildings shall feature vertical landscaping enhancements as shown in Exhibit 2, as approved by the Development Services Department. | |
| 6. | That the development on Parcel 4HW as described below be limited to 882 units and be in general conformance with the zoning Site Plan date | |

| | |
|-----------------------|--|
| | stamped November 23, 2005. That development shall be comprised of Mondrian Phase 1 and 2 and the Pavilions Phase 1 as depicted on the site plan. Any portion of the site plan which is not included as part of the site plan as described above shall not be developed until a site plan is approved pursuant to the procedures outlined in the Desert Ridge Specific Plan. |
| | |
| 5. 7. | That An eight-foot (8) wide multi-use trail shall be constructed along the north side of Deer Valley DRIVE Road in accordance with the City of Phoenix standard trail detail, as approved by the Parks and Recreation Department. |
| | |
| 6. 8. | That Private trails (with a dedicated public use easement) shall be provided within the 404 wash corridor and along the entire north property line east of the 404 wash CORRIDOR, as approved by the U.S. ARMY CORPS OF ENGINEERS AND THE PLANNING AND Development Services Department. |
| | |
| 7. 9. | That Vegetation along the wash shall be preserved in place if feasible, or re-vegetated with natural plant materials, as approved by the PLANNING AND Development Services Department. |
| | |
| 8. 10. | That An internal pedestrian circulation pathway system shall be provided linking open spaces, amenities, parking areas, the dwelling structures, and the external pedestrian access points. These pathways shall be standard sidewalks, except where the path of travel crosses a parking lot or driveway, in which case the path shall be a minimum of 3.5 feet wide and constructed of pavers, decorative concrete, or other non-asphalt material, as approved by the PLANNING AND Development Services Department. |
| | |
| 9. 11. | That The developer shall construct all streets 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. |
| | |
| 10. 12. | That One (1) bus bay (P1256-2) and one (1) transit pad (P1262) shall be dedicated and constructed along the north side of Deer Valley Drive, as approved by the PLANNING AND Development Services Department. |
| | |
| 11. 13. | That The subject site has the potential to contain archaeological resources. The applicant shall submit an archaeological survey or documentation of prior archaeological work, for review and approval by |

| | |
|------------|--|
| | the City Archaeologist prior to issuance of a grading permit. If additional archaeological monitoring, testing, and/or data recovery is necessary, the developer shall complete tasks as determined and required by the City Archaeologist. |
| 12. 14. | That A minimum 20-foot landscape buffer shall be provided along the northern most property line within the Pavilions Phase II development, as approved by the PLANNING AND Development Services Department. |
| 13. 15. | That a crosswalk with signage and safety lights shall be provided that connects the proposed 404 wash corridor trail with the south side of Deer Valley Drive, as approved or modified by the Street Transportation Department. THE DEVELOPER SHALL FULLY FUND AND CONSTRUCT A TRAFFIC SIGNAL ALONG DEER VALLEY DRIVE AT THE DRIVEWAY LOCATED IMMEDIATELY WEST OF THE 404 WASH CORRIDOR, AS DEPICTED ON THE SITE PLAN DATE STAMPED DECEMBER 22, 2022, AND AS APPROVED BY THE PLANNING AND DEVELOPMENT AND STREET TRANSPORTATION DEPARTMENTS. |
| 14. 16. | That No vehicular access shall be allowed to Tatum Boulevard unless emergency vehicle access is required by the PLANNING AND Development Services Department. |
| 15. 17. | That A pedestrian bridge shall be provided across the 404 wash corridor, to link the Pavilions development with the Mondrian Phase I Development as APPROVED may be modified by the U.S. Army Corps of Engineers and approved by the PLANNING AND Development Services Department. |
| 16. 18. | That The applicant shall complete a traffic study as approved by the Street Transportation Department. Any necessary street improvements required by the traffic study (resulting from the increase in density) shall be constructed, as approved by the PLANNING AND Development Services Department. |
| 19. | That the site plan for the Pavilions Phase II development along the northern most property line shall be redesigned to provide additional view corridors to the south, as approved by the Development Services Department. |
| | |

Upon request, this publication will be made available within a reasonable length of time through appropriate auxiliary aids or services to accommodate an individual with a disability. This publication may be made available through the following auxiliary aids or services: large print, Braille, audiotape or computer diskette. To request a reasonable accommodation, please contact Angie Holdsworth at angie.holdsworth@phoenix.gov or (602) 329-5065 or TTY: 7-1-1.