

Attachment B

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Principal Planner, Hearing Officer
Bradley Wylam, Planner I, Assisting

December 21, 2022

ITEM NO: 1	
	DISTRICT 1
SUBJECT:	
Application #:	PHO-6-22--Z-14-05-1
Location:	Approximately 1,000 feet south of the southeast corner of 7th Avenue and Happy Valley Road
Zoning:	A-1 DVAO
Acreage:	44.91
Request:	<ol style="list-style-type: none">1) Modification of Stipulation 1 regarding general conformance with the site plans date stamped December 16, 2020 (PHO-3-20) and July 7, 2022 (PHO-5-22).2) Modification of Stipulation 2 (PHO-3-20) regarding landscape setbacks along 7th Avenue and Misty Willow Lane.3) Modification of Stipulation 7 (PHO-3-20) regarding right-of-way for Misty Willow Lane.4) Deletion of Stipulation 10 regarding a bus bay on Happy Valley Road (PHO-3-20).
Applicant:	Michael S. Buschbacher, Earl & Curley PC
Owner:	DIDSTRAW LLC, et al.
Representative:	Michael S. Buschbacher, Earl & Curley PC

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with an additional stipulation.

Village Planning Committee (VPC) Recommendation: The Deer Valley Village Planning Committee opted not to hear this request.

DISCUSSION:

Michael Buschbacher, representative with Earl & Curley, PC, presented the site as well as the proposed conceptual site plan. He gave an overview of the original rezoning case and the associated Planning Hearing Officer (PHO) cases. He explained that the case is being presented because an additional parcel was recently added to the proposed site.

Adam Stranieri, Planning Hearing Officer, noted that staff did not receive correspondence concerning the case prior to the hearing, and the Deer Valley Village Planning Committee opted not to hear the case. He stated that the prior requests were primarily based on the reconfiguration of the parcels and resulting project area changes over the years since the original approval in 2005. He noted that the changes to the proposed conceptual site plan to allow the additional parcel are minor. He stated that the proposal is compatible with the land uses and the scale of the industrial zoning and warehouse distribution uses and zoning in the surrounding area. He stated that the remaining modifications could be considered administrative in nature and that the intent was to harmonize the prior PHO approvals in a single letter.

Mr. Stranieri stated that there were no concerns regarding modifications to Stipulation 1 regarding general conformance with the site plans. He stated the proposed conceptual site plan brings in the new parcel and recommended approval. He recommended approval of the proposed modifications for Stipulations 2 and 7 and noted that they were administrative changes to clarify a name change of Misty Willow Lane to Alameda Road. He recommended approval of the deletion of Stipulation 10 regarding a bus bay on Happy Valley Road and stated that the bus bay was off-site and that it was consistent in what was recommended in PHO-5-22—Z-14-05-1. He stated that a recorded Proposition 207 Waiver is required prior to preliminary site plan approval and the requirement is recommended to be added as a stipulation. He noted that no comments had been submitted by any of the City's departments.

FINDINGS:

- 1) The subject property of this request includes approximately 44.91 gross acres, located within the southern portion of the subject property in the original rezoning case. The current request involves the addition of one parcel at the southwest portion of the site along Alameda Road to the subject property of PHO-5-22—Z-14-05. This one parcel is currently subject to the stipulations of PHO-3-20—Z-14-05. Therefore, the applicant's request includes modifications to the approval letters for both PHO-3-20—Z-14-05 and PHO-5-22—Z-14-05. There are no substantive changes to the stipulations in PHO-5-22—Z-14-05. The following PHO recommendation coordinates the recommended modifications, deletions, and additional stipulations in both letters so that the result is the same in both cases and can be represented by a single approval letter under Case No. PHO-6-22—Z-14-05.
- 2) The request to modify Stipulation 1 (PHO-3-20 and PHO-5-22) regarding general conformance is recommended to be approved. The proposed conceptual site plan is consistent with the site plan originally approved in PHO-5-22, with the addition of one parcel at the southwest portion of the site along Alameda Road. The proposed development on this parcel is one additional warehouse/distribution building that is compatible in scale and intensity with the existing and planned development in the surrounding area.

- 3) The requests to modify Stipulations 2 and 7 (PHO-3-20) are recommended to be approved. The modifications only update the name of Misty Willow Lane to Alameda Road, per the request of the Street Transportation Department.
- 4) The request for the inclusion of three additional stipulations (New Stipulations 7-9 in PHO-3-20) is recommended to be approved. These three stipulations will provide consistency with the previously approved stipulations in PHO-5-22, as recommended by the Street Transportation Department.
- 5) The request for deletion of Stipulation 10 (PHO-3-20) is recommended to be approved. The referenced bus bay is off-site to this request. Additionally, the deletion will provide consistency with the existing stipulations in PHO-5-22.

STIPULATIONS:

Stipulations: PHO-3-20—Z-14-05-1

PHO recommended legislative edit of stipulations applicable to that portion of the site subject to PHO-3-20—Z-14-05-1.

GENERAL CONFORMANCE	
1.	The development shall be in general conformance with the site plan date stamped OCTOBER 20, 2022 December 16, 2020 , as approved or modified BY THE FOLLOWING STIPULATIONS AND APPROVED by the Planning and Development Department.
2.	An average 20-foot (minimum 10-foot) landscape setback shall be required along 7th Avenue and an average 10-foot (minimum 5-foot) landscape setback shall be required along ALAMEDA ROAD Misty Willow Lane and all internal streets, as approved by the Planning and Development Department.
TRAILS	
3.	The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the Planning and Development Department.
ARCHAEOLOGICAL	
4.	The subject site has the potential to contain archaeological resources. The applicant shall submit an archaeological survey for review and

	approval by the City Archaeologist (602) 495-0901 prior to preliminary approval.
NOTIFICATION	
5.	At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport. The form and content of such documents shall be reviewed by the City Attorney.
6.	The property owner shall record documents that disclose to prospective purchasers of property within the developments the nature of environmental remediation activities at the former site of the Goodrich Universal Propulsion Company. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney.
STREETS AND TRANSPORTATION	
7.	THE DEVELOPER SHALL PERFECT THE EXISTING 55-FOOT RIGHT OF-WAY EASEMENT FOR THE EAST HALF OF 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
8.	THE DEVELOPER SHALL DEPOSIT FUNDS IN ESCROW TO THE STREET TRANSPORTATION DEPARTMENT THAT COVER 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND HAPPY VALLEY ROAD AND 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND ALAMEDA ROAD, PRIOR TO PRELIMINARY SITE PLAN APPROVAL.
9.	THE DEVELOPER SHALL CONSTRUCT MINIMUM 5-FOOT-WIDE DETACHED SIDEWALKS ALONG 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
10. 7.	The developer shall dedicate 40 feet of right-of-way for the north half of ALAMEDA ROAD Misty Willow Lane (Alameda Road alignment) , as approved by the Planning and Development Department.
11. 8.	Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road.
12. 9.	A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road.

10.	Sufficient right-of-way shall be dedicated to accommodate a bus bay on Happy Valley Road at 7th Avenue.
13. 41.	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 City. All improvements shall comply with all ADA accessibility standards.
14. 42.	The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval.
15. 43.	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 requirements.
16.	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.

Stipulations: PHO-5-22—Z-14-05-1

PHO recommended legislative edit of stipulations applicable to that portion of the site subject to PHO-5-22—Z-14-05-1.

GENERAL CONFORMANCE	
1.	The development shall be in general conformance with the site plan date stamped OCTOBER 20, 2022 July 7, 2022 , as modified by the following stipulations and approved by the Planning and Development Department.
2.	An average 20-foot (minimum 10-foot) landscape setback shall be required along 7th Avenue and an average 10-foot (minimum 5-foot) landscape setback shall be required along Alameda Road and all internal streets, as approved by the Planning and Development Department.
TRAILS	

3.	The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the Planning and Development Department.
ARCHAEOLOGICAL	
4.	The subject site has the potential to contain archaeological resources. The applicant shall submit an archaeological survey for review and approval by the City Archaeologist (602) 495-0901 prior to preliminary approval.
NOTIFICATION	
5.	At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport. The form and content of such documents shall be reviewed by the City Attorney.
6.	The property owner shall record documents that disclose to prospective purchasers of property within the development(s) the nature of environmental remediation activities at the former site of the Goodrich Universal Propulsion Company. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney.
STREETS AND TRANSPORTATION	
7.	The developer shall perfect the existing 55-foot right of-way easement for the east half of 7th Avenue, as approved by the Planning and Development Department.
8.	The developer shall deposit funds in escrow to the Street Transportation Department that cover 25% of the cost for a traffic signal at 7th Avenue and Happy Valley Road and 25% of the cost for a traffic signal at 7th Avenue and Alameda Road, prior to preliminary site plan approval.
9.	The developer shall construct minimum 5-foot-wide detached sidewalks along 7th Avenue, as approved by the Planning and Development Department.
10.	The developer shall dedicate 40 feet of right-of-way for the north half of Alameda Road, as approved by the Planning and Development Department.

11.	Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road.
12.	A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road.
13.	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 City. All improvements shall comply with all ADA accessibility standards.
14.	The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval.
15.	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 requirements.
16.	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.

Final Stipulations: PHO-6-22—Z-14-05-1

Final stipulations reflecting the PHO recommended legislative edits of both PHO-3-20—Z-14-05-1 and PHO-5-22—Z-14-05-1, resulting in a single set of stipulations for PHO-6-22—Z-14-05-1. See Finding #1 for detailed information.

GENERAL CONFORMANCE	
1.	The development shall be in general conformance with the site plan date stamped October 20, 2022, as modified by the following stipulations and approved by the Planning and Development Department.

2.	An average 20-foot (minimum 10-foot) landscape setback shall be required along 7th Avenue and an average 10-foot (minimum 5-foot) landscape setback shall be required along Alameda Road and all internal streets, as approved by the Planning and Development Department.
TRAILS	
3.	The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the Planning and Development Department.
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STREETS AND TRANSPORTATION	
7.	The developer shall perfect the existing 55-foot right of-way easement for the east half of 7th Avenue, as approved by the Planning and Development Department.
8.	The developer shall deposit funds in escrow to the Street Transportation Department that cover 25% of the cost for a traffic signal at 7th Avenue and Happy Valley Road and 25% of the cost for a traffic signal at 7th Avenue and Alameda Road, prior to preliminary site plan approval.

9.	The developer shall construct minimum 5-foot-wide detached sidewalks along 7th Avenue, as approved by the Planning and Development Department.
10.	The developer shall dedicate 40 feet of right-of-way for the north half of Alameda Road, as approved by the Planning and Development Department.
11.	Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road.
12.	A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road.
13.	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 City. All improvements shall comply with all ADA accessibility standards.
14.	The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval.
15.	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 requirements.
16.	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.

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