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REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Sofia Mastikhina, Planner I, Assisting

March 20, 2019

ITEM 3

DISTRICT 8

SUBJECT:

Application #: Z-95-02-8 (PHO-3-19)
Zoning: R-4 RI
Location: Approximately 150 feet east of the northeast corner of 3rd Street and Windsor Avenue
Acreage: 0.71
Request: 1) Modification of Stipulation No. 1 regarding general conformance to site plan and elevations date stamped October 19, 2005.
2) Modification of Stipulation No. 3 regarding a limit of 17 units.
3) Deletion of Stipulation No. 7 regarding development to be completed within 60 months from City Council approval of the time extension.
4) Modification of Stipulation No. 10 regarding units not rented for one year after close of escrow.
5) Modification of Stipulation No. 11 regarding the location of perimeter landscaping.
6) Technical correction to Stipulation No. 11.
Applicant: John Labahn - Windsor
Owner: John Labahn - Windsor
Representative: Jacob Zonn - Tiffany & Bosco, PA

ACTIONS

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

Village Planning Committee (VPC) Recommendation: At its March 4, 2019 meeting, the Encanto Village Planning Committee recommended approval by a 13-0 vote.

DISCUSSION

Jacob Zonn, with Tiffany & Bosco, presented the proposed project, noting that the site is 1,500 feet from the closest light rail station, just outside the Interim Transit-Oriented Zoning Overlay District One, and is located in the Midtown TOD Policy Plan area. He explained that the site has been vacant for several years and that it has faced development difficulties due to its small size and the high cost of land in this area. He noted that the surrounding zoning districts are comprised of multifamily, commercial, and commercial office zones, and that the single-family attached product being

proposed would serve as an appropriate transition between those uses and the existing single-family residences to the east and south of the property.

Adam Stranieri asked if the site plan is designed according to the Single-Family Attached development option.

Mr. Zonn replied yes. He explained the ownership history of the site and presented the previously approved plans for the property. He noted that the zoning on the property allows for up to 24 units, but that they are proposing 20 units due to the constraints of the site. He stated that each unit will have two bedrooms, a two-car garage, and a rooftop patio either facing north or along Windsor Avenue. He stated that the north, south and east property lines will be heavily vegetated, all units will be accessed from a private driveway, and Windsor Avenue will be activated for pedestrian use via landscaping. He noted that the zoning district allows a maximum height of 48 feet but that this development will have a maximum height of 4 stories and 44 feet, and the units along the east side of the property will have a maximum height of 3 stories and 35 feet due to discussions with the neighbors to the east.

Mr. Stranieri asked if the roof decks fall above or below the 44-foot height. Mr. Zonn explained that the rooftop patios are below the 44-foot maximum height. He stated that this property had received multiple variances, including reduction of setbacks on the north and west side, lot widths, parking dimensions, and required open space. He explained the proposed stipulation modifications, stating that some are unenforceable by the City, and that the new development will require a new stipulated site plan. He stated that extensive neighborhood outreach had been conducted, and two residents had submitted letters of support for the project. He noted that there have been multiple discussions between the applicant and neighbors directly to the east and south of the project, and that the applicant had postponed any public hearings until they had addressed all their concerns and redesigned the site accordingly. He stated that one of the changes made to the site was the relocation of the driveway to the west side of the property to ensure that vehicles exiting the site would not shine their lights onto adjacent properties, but towards an existing parking lot. He also stated that the applicant had moved the building further north, per the request of the neighbor to the south of the property, which triggered the need for one of the setback variances.

Mark Ryan, a resident of the neighborhood, noted that a requirement for completion of the project within a certain timeframe after approval would be ideal, and stated that he does not understand why this stipulation is unenforceable by the City. He also stated that the stipulation that would have the greatest impact on the neighbors is Stipulation No. 11 regarding landscaping on the eastern perimeter of the property and that he would like to ensure that this would not take away from landscaping along the south side of the property. He also requested clarification regarding what the technical corrections to stipulations are.

Mr. Stranieri asked if the project is going through Single-Family Design Review, as he does not believe that this is a requirement for this type of development. Mr. Zonn replied that he does not believe it will be going through Single-Family Design Review.

Mr. Stranieri provided context regarding the Midtown TOD Policy Plan, stating that it was approved by the City Council as a component of the Reinvent Phoenix initiative for conceptual plans and master plans for new projects along the light rail line. He highlighted three components of this plan that impact future planning for this site, the first being the Housing Opportunities Map which identified this location for urban housing. He stated that the R-4 RI designation provides an appropriate transition between the "Maintained Housing" designation to the east, which has multifamily zoning but has single-family character, and the "Mixed Use" designation to the west. He stated that this housing product is consistent with what the City envisioned for this area. He noted that the Mobility Opportunities Map identifies 3rd Street as a future bike lane corridor which is currently under construction with the 3rd Street Promenade Improvement Project. He explained that the proposed development will promote the density to support the city's infrastructure investments for this area. He noted that the third component is that the master plan for the Midtown TOD Policy Plan identifies this property and the surrounding area as a Priority Development Area. He noted that there are not many opportunities on this site for permeable surfaces, given the reductions in landscape setbacks and common open space requirements that were obtained. He asked if the developer had considered what types of materials would be used for the pathways along the east and north perimeter of the site or the individual paths that lead to the units. Jonathan Labahn with Urban-Windsor LLC stated that they would like to look into alternative paving material options since too much concrete or asphalt on a site contributed to the urban heat island effect. He stated that they are considering exposed aggregate concrete or compacted decomposed granite pathways if they meet the requirements of the city.

Mr. Stranieri noted that the proposed elevations are an improvement from the designs that were previously approved for this site, which lacked articulation and diversity of materials, and had a repetitive façade design. He stated that the new proposed design provides depth and relief in the building massing and has improved building materials and design. He asked what primary material will be used for screens shown on the east and west elevations. Mr. Labahn stated it would be either translucent glass or a similar material. He noted that this feature was added to address neighbor's privacy concerns. Mr. Stranieri addressed the stipulation regarding the time restriction for completion of development after City Council approval, noting that although it is not unenforceable, the Planning and Development Department's use of this type of stipulation has changed over the years. He noted that entitlement and development timelines are very different. He explained that zoning cases are to determine whether the requested land use category is appropriate for a site, while development timelines are subject to many factors throughout the plan review process. He stated that any major changes to the design of the site would require that the developer return to the public hearing process, and that any possible zoning reversions to determine the appropriateness of the zoning would require a different public hearing process. He stated that since the R-4 RI zoning is appropriate for this site, the stipulation for a time limit on construction will be deleted. Mr. Zonn added that one of the stipulations from their zoning adjustment case was to apply and pay for building permits within 18 months, so they are tied to a specific time constraint with the city.

Mr. Stranieri addressed Stipulation No. 10 regarding units not being rented for one year after close of escrow and on-street resident parking and explained that he could not find any indication of the reasoning behind this requirement at the time of the original zoning case and it is unenforceable. Therefore, deletion of the stipulation is appropriate. He noted that the restriction of resident parking on Windsor is interesting because on-street parking for public use and the City cannot restrict this right unless signage is obtained for resident parking only, through the Street Transportation Department. He also stated that the Residential Infill zoning district has a provision that allows properties to provide a portion of their required parking on the street. He asked why Mr. Zonn had not requested to modify or remove that portion of the stipulation. Mr. Zonn stated that he had decided to leave this portion of the stipulation due to neighborhood concerns that were voiced in the original zoning case.

Mr. Stranieri stated that the entire stipulation will be deleted due to the reasons he outlined, as well as enforceability problems that the parking restriction creates, as the city would not be able to effectively distinguish resident and guest parking on the street.

He then addressed the proposed modification to Stipulation No. 11 regarding the location of the perimeter landscaping, noting that the applicant had not requested to modify Stipulation No. 5 which requires that landscape buffering be provided between the site and the adjacent residences in excess of what is required by the Zoning Ordinance, which means that the developer will be working with the City's plan review team to determine how this requirement will be satisfied. He also stated that the remainder of Stipulation No. 11 requires a minimum of 3-inch caliper trees placed 20 feet on center, which exceeds Zoning Ordinance requirements. He addressed Mr. Ryan's concerns regarding landscaping, stating that there are two stipulations that ensure that the landscaping provided exceeds Zoning Ordinance requirements.

He then stated that the Aviation Department had requested to add a standard stipulation regarding notifying property owners of proximity to Sky Harbor Airport.

FINDINGS

- 1) The subject property is located within the boundaries of the Midtown TOD Policy Plan and within the 1/2 mile walkshed of a light rail transit station. In this plan, the property is identified on the Housing Opportunities map for potential development of "Urban Housing". This land use provides a desirable transition from the less intense "Maintained Housing" designation to the east and the more intense "Mixed Use" designation to the east, adjacent to 3rd Street. The proposed single-family attached product is consistent with the vision and goals in the policy plan.
- 2) The property is in close proximity to 3rd Street, which is identified on the Mobility Opportunities map in the Midtown TOD Policy Plan for a bike lane. 3rd Street is also identified as a "Priority Development Area" in this plan's Vision and Master Plan. The 3rd Street Improvement Project, which includes this proposed bike lane, is currently underway with the Street Transportation Department. The

proposed housing type and density is consistent with this project and capitalizes on the City's infrastructure investment in the surrounding area.

- 3) Stipulations regarding time restrictions on both the completion of development and the capacity to rent units following close of escrow for the sale of the property are unenforceable by the Planning and Development Department and unnecessary. It is unclear what the original intent of these stipulations was as they would require the property to both be developed, but remain uninhabited. The removal of these stipulations will encourage this vacant property to be developed and utilized, activating the site and benefiting the surrounding community.
- 4) Stipulation language regarding restricting on-street parking on Windsor Avenue is unenforceable by the Planning and Development Department and is unnecessary. On-street parking is intended for public use and residents of adjacent properties should not be restricted from equal use of the public right-of-way. It is unclear why the stipulation originally restricted residents but not guests or non-residents. Typical on-street parking restrictions are achieved through signage approved through the Street Transportation Department and are intended to restrict non-resident parking. Further, the R-I zoning designation permits on-street parking to be counted towards required parking. The proposed site plan depicts two guest parking spaces in the public right-of-way.

DECISION: The Planning Hearing Officer recommended approval with a modification and additional stipulations.

STIPULATIONS

1.	That d THE Development shall be in general conformance with the site plan and elevations date stamped October 19, 2005 JANUARY 8, 2019 and as approved or modified by the PLANNING AND Development Services Department.
2.	That s Shade trees SHALL be planted within the setback prescribed along the eastern boundary of the property. Said trees shall have a minimum caliper size of two inches at the time of planting, shall be placed a minimum of twenty (20) feet on center, and shall be equipped with an appropriate underground automatic watering system.
3.	That t The project shall be limited to 17-20 units.
4.	That t There shall be no penthouse on the east side of the project.
5.	That t The project shall include adequate buffering from the adjacent single-family homes through the use of appropriate landscaping in excess of that required by the City.
6.	That t The project shall restrict the views in the adjacent single-family homes

	through the use of frosted glass (opaque).
7.	That the development be completed within 60 months from City Council approval of this time extension in accordance with Section 506-13 of the Zoning Ordinance.
7. 8.	That The developer shall provide appropriate traffic control/street improvements on their property and shall pay the cost of speed humps for the street. This must be in coordination with and approved by the Neighborhood Traffic Management Team of the Street Transportation Department.
8. 9.	That The project shall include the provision for proper lighting on the premises as well as along the street in order to protect neighborhood children and pedestrians.
10.	Agreements between the applicant and the residents to the south and east. 1. That the units not be rented for one year after close of escrow. 2. That residents will not be allowed to park on Windsor Avenue.
9. 11.	That perimeter Landscaping ON THE EASTERN PERIMETER shall be a minimum of 3 inch caliper trees placed 20 feet on center as approved by the PLANNING AND Development Services Department.
10.	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.
11.	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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