

ATTACHMENT C



City of Phoenix

Staff Report: PHO-1-23--Z-27-15-4

APPLICATION #: PHO-1-23--Z-27-15-4

LOCATION: Northeast corner of Central Avenue and Pierson Street

EXISTING ZONING: PUD

ACREAGE: 2.10

REQUEST:

- 1) Modification of Stipulation 2 regarding a \$25,000 deposit into a Street Transportation Department escrow account
- 2) Deletion of Stipulation 4 regarding a temporary path along 1st Street
- 3) Modification of Stipulation 5 regarding conditional approval upon development commencing within seven years

APPLICANT: Central Avenue Owner, LLC

OWNER: Central Avenue Owner, LLC

REPRESENTATIVE: Ed Bull, Burch & Cracchiolo, PA

STAFF RECOMMENDATION

Approval with modifications and an additional stipulation, as recommended by the Planning Hearing Officer.

PLANNING HEARING OFFICER RECOMMENDATION

The Planning Hearing Officer heard the request on August 16, 2023 and recommended approval with modifications and an additional stipulation.

VILLAGE PLANNING COMMITTEE RECOMMENDATION

The Alhambra Village Planning Committee (VPC) reviewed the request on April 25, 2023. The VPC recommended approval with a modification and an additional stipulation by a vote of 11-0.

BACKGROUND/ANALYSIS

The subject site consists of 2.10 gross acres located at the northeast corner of Central Avenue and Pierson Street and is zoned PUD (Planned Unit Development) for the Omninet - East PUD. The applicant requested a modification of Stipulation 2 regarding a \$25,000 deposit into a Street Transportation Department escrow account. The modification would require the owner to pay an additional \$6,000 to the Street Transportation Department escrow, totaling \$31,000, within 6 months of City Council approval. The applicant's narrative (Exhibit B) notes that the modification accounts for inflation over the past seven years and the proposed deposit deadline will allow for appropriate traffic calming measures to be implemented into the final design.

The applicant requested a deletion of Stipulation 4 requiring construction of a temporary path along 1st Street. The applicant's narrative (Exhibit B) notes that the temporary path was not installed by previous owners and would no longer make sense to install since any development would have to excavate the site to accommodate the proposed below-grade parking structure.

The applicant requested a deletion of Stipulation 5 regarding conditional approval upon development commencing within seven years. The modification would allow an extension of 3 years to commence development. The applicant's narrative (Exhibit B) notes that the COVID-19 pandemic has created construction challenges, such as labor supply and material costs, and the fluctuation of the economy has prevented the completion of the development. The narrative also notes that the development meets the development standards required by the WU Code Transect and envisioned for the site by the Uptown TOD Policy Plan.

The appellant argues that the project does not contribute adequate walkable, urban, commercial, retail, and/or mixed-use space and does not contribute to "walkable urban lifestyle Infrastructure" in the surrounding area. They argue that this is required to create a successful TOD project along a light rail corridor.

PREVIOUS HISTORY

On February 17, 2016, the Phoenix City Council approved Rezoning Case No. Z-27-15-4, a request to rezone approximately 2.10 gross acres located at the northeast corner of Central Avenue and Pierson Street from R-3 TOD-1 (Multifamily Residence District, Interim Transit-Oriented Zoning Overlay District One) and C-2 TOD-1 (Intermediate Commercial, Interim Transit-Oriented Zoning Overlay District One) to PUD (Planned Unit Development), subject to stipulations (Exhibit F). This approval established the Omninet – East PUD.

The Omninet – East PUD, was intended to enable the redevelopment of the site with a mixed-use development consisting of multifamily residential and commercial uses. Maximum building setbacks for the site are 12 feet from Central Avenue and 10 feet

from Mariposa, Pierson, and 1st Streets. The minimum interior building setbacks are zero feet. The maximum number of dwelling units is 181. The maximum building height is 56 feet. Design guidelines include requirements for pedestrian connectivity along Central Avenue, Mariposa, Pierson, and 1st Street, including a pedestrian patio and plaza area approximately southwest of the site. Mixed-use buildings are required to provide a community pool and other gathering areas on the second level. Building accents, materials, and details are required to be consistent with elements of the Walkable Urban Code and compatible with the adjacent St. Francis Neighborhood. Streetscape landscaping is required to conform with existing plans and guidelines for Central Avenue including the Central Avenue Beautification Plan and the Central Avenue Development Standards. The complete PUD Development Narrative is available online at <https://www.phoenix.gov/pdd/planning-zoning/pzservices/pud-cases>.

NEIGHBORHOOD CONCERNS

Public Correspondence

Two letters of opposition were received regarding this request. Concerns expressed in the correspondence include the following:

- The timing of the funds being given to the Street Transportation Department.
- The original request language was not agreed on by the Alhambra VPC.
- The lack of commercial/retail mixed-use space for the development.

GENERAL PLAN LAND USE MAP DESIGNATION

Commercial

CHARACTER OF SURROUNDING LAND USE

	Zoning	Land Use
On-site:	PUD	Vacant
North: (Across Mariposa Street)	C-2 HR TOD-1	Multifamily Residential (under construction)
Northwest: (Adjacent)	C-2 TOD-1	Bank
South: (Across Pierson Street)	R-3, C-2 TOD-1	Retail, Office

East: (Across 1st Street)	R1-6, R-3	Single-Family Residential, Multifamily Residential
West: (Across Central Avenue)	PUD	Vacant, Light rail transit line

PLANNING HEARING OFFICER FINDINGS

The Planning Hearing Officer's recommendation was based on the following findings:

- 1) The request to modify Stipulation 2 regarding the amount of money deposited into a Street Transportation Department escrow account is recommended to be approved.

The developer is offering to increase the amount of the deposit to \$31,000 to account for inflation and the time that has passed since the original stipulation was created. It should be noted that the Street Transportation Department received a \$25,000 deposit for traffic calming required by Stipulation 2 on April 7, 2017. The City of Phoenix has not received the \$25,000 required by Stipulation 3.

- 2) The request to delete Stipulation 4 regarding the construction of a temporary 6 foot wide path along the frontage adjacent to 1st Street until the project is under construction is recommended to be approved. The Alhambra Village Planning Committee and City Departments that reviewed this proposal did not object to the removal of this Stipulation. The applicant has made it clear that the project will commence upon approval so a temporary path will be disturbed by excavation.
- 3) The request to extend the commencement date to 10 years instead of 7 years of the City Council approval is recommended to be approved. The site wasn't purchased until 2019, and there were several delaying factors, including the COVID pandemic, that contributed to the delay of this project. In addition, the developer has made it clear that the Omninet North project was the primary focus, and without the development of that portion, the current proposal could not move forward. This stipulation modification is simply intended to provide more time for the construction to commence.
- 4) In response to Mr. Waters and other comments and correspondence, an additional stipulation was proposed by the Applicant. The additional stipulation is recommended to be approved. The stipulation addresses the ground floor of the building, directly incorporating a minimum area to be developed with 4700sq/ft of non-residential uses. This will add more diversity to the project and more mixed-use feel that is appropriate for the area.

- 5) The applicant did not submit a Proposition 207 waiver of claims prior to the Planning Hearing Officer hearing. Submittal of this form is an application requirement. An additional stipulation is recommended to require the applicant to record this form and deliver it to the City to be included in the rezoning application file for record.

PLANNING HEARING OFFICER RECOMMENDED STIPULATIONS

1.	An updated Development Narrative for the Omninet – East PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped October 14, 2015.
2.	The property owner shall provide a deposit in the amount of \$3125,000 into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood within six (6) months of City Council approval. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.
3.	The property owner will deposit an additional \$25,000 (for a total of \$50,000) into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming or management tools for the area bounded by Central Avenue, Camelback Road, 7th Street, and Pierson Street at the time of construction. These funds may be contributed toward the purchase and installation of such devices as roundabouts, speed humps/cushions, or raised crosswalks (speed tables), limiting turning, traffic diverters or other such traffic calming or management tools. Distribution of funds shall be at the mutual agreement of the five member Neighborhood Traffic Team, the residents on affected streets and the City of Phoenix Streets Department Safety and Neighborhood Traffic Section. Owner may apply for reimbursement of escrow funds from the Street Transportation Department if no formal petition has been submitted within 5 years from the issuance of a Certificate of Occupancy.
4.	The property owner shall construct a temporary 6-foot wide path constructed of 3/4 inch decomposed granite 2-inches thick along their frontage adjacent to 1st Street until the project is under construction, as

	approved by the Planning and Development Department.
5. 4.	The approval shall be conditioned upon development commencing within <u>10</u> seven (7) years of the City Council approval of this change of zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site).
5.	THE GROUND FLOOR AREA OF THE DEVELOPMENT SHALL INCLUDE A MINIMUM 4,700 SQUARE FEET OF NON-RESIDENTIAL USES. NON-RESIDENTIAL USES SHALL NOT INCLUDE LOBBY, EXERCISE, RECEPTION AREAS, OR OTHER SIMILAR USES INTENDED FOR EXCLUSIVE USE BY RESIDENTS. ALL NON-RESIDENTIAL USES SHALL FRONT PERIMETER RIGHTS-OF-WAY.
6.	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.

Exhibits:

- A- Appeal Document (2 pages)
- B- Applicant's Narrative date stamped February 16, 2023 (3 pages)
- C- Applicant's Revised Narrative date stamped August 9, 2023 (1 page)
- D- Aerial Map (1 page)
- E- Zoning Map (1 Page)
- F- Recorded Ordinance from Rezoning Case No. Z-27-15 (5 pages)
- G- Sketch Map from Rezoning Case No. Z-27-15 (1 page)
- H- PHO Summary for PHO-1-23—Z-27-15-4 from August 16, 2023 (6 pages)
- I- Correspondence regarding PHO-1-23—Z-27-15-4 (6 pages)

EXHIBIT A



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

CITY OF PHOENIX

AUG 17 2023

Planning & Development
Department

The PLANNING HEARING OFFICER agenda for August 16, 2023 is attached.

The City Council May Ratify the Recommendation of the Planning Hearing Officer on September 20, 2023 Without Further Hearing Unless:

- A REQUEST FOR A HEARING BY THE PLANNING COMMISSION is filed by 5:00 p.m. on August 23, 2023. (There is a \$630 fee for hearings requested by the applicant.)

Any member of the public may, within seven (7) days after the Planning Hearing Officer's action, request a hearing by the Planning Commission on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. on August 23, 2023.

APPEAL FORM

I HEREBY REQUEST THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING ON:

PHO-1-23--227-15-4 NEC Central & Pierson St., Phx
APPLICATION NO. LOCATION OF APPLICATION PROPERTY

Ken Waters
NAME (PLEASE PRINT)

☒ OPPOSITION ☐ APPLICANT

126 W. Pierson St
STREET ADDRESS:

KennyWaters602@gmail.com
EMAIL:

Phoenix AZ 85013
CITY, STATE AND ZIP CODE

602 373-1902
TELEPHONE NO

BY MY SIGNATURE BELOW, I ACKNOWLEDGE THE SCHEDULED HEARING DATE AS FOLLOWS:

APPEALED FROM August 16, 2023 PHO HEARING TO Oct 5th 2023 PC HEARING
DATE DATE

SIGNATURE: Ken Waters

DATE: 8-17-23

REASON FOR APPEAL: The TOD project is not contributing enough W.U. comm/Retail Mixed-use space, to the "Walkable Urban Lifestyle Infrastructure" for a successful LRT-TOD symbiotic system. And to strengthen existing

APPEALS MUST BE FILED IN PERSON AT THE 2ND FLOOR ZONING COUNTER, 200 W. WASHINGTON STREET, 602-262-7131, Option 6

Stipulation Re mixed-use space use.

PLANNER TAKING APPEAL: _____

Copies to:

Case File

PHO Planner - Chase Hales

PHO Secretary - Vikki Cipolla-Munillo

PLANNING HEARING OFFICER APPEAL I HEREBY REQUEST THAT THE PLANNING COMMISSION/CITY COUNCIL HOLD A PUBLIC HEARING ON:			
CASE NUMBER:	PHO-1-23—Z-27-15-4		
LOCATION:	Northeast corner of Central Avenue and Pierson Street		
PHO HEARING DATE:	8/16/2023	RECEIVED:	8/17/2023
APPEALED BY:	<input checked="" type="checkbox"/> Opposition <input type="checkbox"/> Applicant		
APPEALED TO:	PLANNING COMMISSION	10/5/2023	TENTATIVE DATE
	CITY COUNCIL	11/1/2023	TENTATIVE DATE
APPELLANT NAME AND ADDRESS/EMAIL:		PHONE:	
Ken Waters 126 West Pierson Street Phoenix, AZ 85013 Kennywaters602@gmail.com		602-373-7902	
RECEIPT NUMBER:			
REASON FOR REQUEST:			
The TOD project is not contributing enough Walkable Urban Commercial/Retail Mixed-Use space, to the "walkable urban lifestyle Infrastructure" for a successful LRT-TOD symbiotic system, and to strengthen existing stipulation remixed-use space use.			
TAKEN BY:	Teresa Garcia, Planner I		

Alan Stephenson
 Joshua Bednarek
 Tricia Gomes
 Racelle Escobar
 Adam Stranieri
 Byron Easton
 Greg Harmon
 Chase Hales
 Teresa Garcia
 Victoria Cipolla-Murillo
 Julie Garcia
 Ben Ernyei - Posting
 GIS Team

EXHIBIT B

GAMMAGE & BURNHAM

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEYS AT LAW

FORTH NORTH CENTRAL AVENUE

20TH FLOOR

PHOENIX, ARIZONA 85004

February 16, 2023

TELEPHONE (602) 256-0566
FACSIMILE (602) 256-4475

CITY OF PHOENIX
WRITER/DIRECT LINE
(602) 256-1616
mvaz@gbllaw.com

FEB 16 2023

**Planning & Development
Department**

Adam Stranieri, Planning Hearing Officer
City of Phoenix Planning & Development Dept.
200 West Washington Street, 2nd Floor
Phoenix, AZ 85003

RE: Omninet - East (Northeast Corner of N. Central Avenue and E. Pierson Street)
Rezoning Case No. Z-27-15-4 – Request to Modify Approval Stipulations

Dear Mr. Stranieri:

We represent Central Avenue Owner, LLC (“CAO”). CAO is the owner of approximately 2.10 gross acres of property located at the northeast corner of N. Central Avenue and E. Pierson Street (the “Site”). See enclosures for aerial and street view photographs of the Site.

The Site, which is currently unimproved, was rezoned to Planned Unit Development (“PUD”) in 2016 to accommodate the development of a five-story (56’-0”) mixed-use building generally comprised of street-level commercial use space along the Site’s Central Avenue frontage, 181 multifamily dwelling units, 272 vehicle parking spaces within three (3) levels of structured parking (two (2) levels below-grade and one (1) level at-grade), 75 bicycle parking spaces and associated landscape, open space and pedestrian infrastructure enhancements (the “Project”).

As reflected by the enclosed portion of the Uptown TOD Policy Plan and associated Walkable Urban (“WU”) Code Transects table, the Project’s uses and building height allowed by the PUD zoning are consistent with the type of development envisioned for the Site by the noted plan and code. In fact, Section D of the enclosed development narrative associated with the Site’s PUD zoning specifies that land uses allowed by the PUD shall be in accordance with uses allowed under Transect T5:5 of the WU Code.

As CAO evaluates options related to the Site, the purpose of this correspondence is to modify three (3) stipulations in order to allow CAO time to evaluate its options. Specifically, the purpose of this letter is to request modifications to stipulations associated with the Site’s PUD zoning (Rezoning Case No. Z-27-15-4) approved by the City Council on February 17, 2016 (the “2016 Approval”).

As reflected by the enclosed approval ordinance (Ordinance G-6115), the 2016 Approval is subject to five (5) stipulations.

CAO is proposing to modify three (3) of the five (5) stipulations associated with the 2016 Approval. The remaining stipulations will remain as previously approved through the public hearing process. Specifically, CAO proposes the following modifications to stipulations two (2), four (4) and five (5) of the 2016 Approval (collectively, the "Request"):

2. The property owner shall provide a deposit in the amount of ~~\$3125~~,000 into a Street Transportation Department escrow account at the city of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood PRIOR TO FINAL SITE PLAN ~~within (6) months of City Council approval~~. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.
- ~~4. The property owner shall construct a temporary 6 foot wide path constructed of 3/4 inch decomposed granite 2 inches thick along their frontage adjacent to 1st Street until the project is under construction, as approved by the Planning and Development Department.~~
5. The approval shall be conditioned upon development commencing within 10 ~~seven (7)~~ years of the City Council approval of this change of zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence within the issuance of building permits and erection of building walls on site).

In essence, CAO would generally like to modify two (2) stipulations to extend deadlines for depositing funds for traffic calming measures along 1st Street and for commencing development of the Project. The proposed extensions pertaining to stipulations two (2) and five (5) listed above are needed due to:

- 1) CAO not acquiring the Site until the middle of 2019 and the subsequent onset of the Covid-19 pandemic at the beginning of 2020;
- 2) The numerous, unforeseen, and uncontrollable construction challenges (material costs, labor supply etc.) caused by the pandemic that continue to this day;
- 3) The uncontrollable uncertainties and fluctuations that have been occurring in the lending markets over the past year; and,
- 4) The owner's appropriate focus on completing the One Camelback tower development located immediately north of the Site across Mariposa Street.

In addition, the proposed modification to stipulation two (2), which has accounted for inflation over the past seven (7) years, will allow for appropriate traffic calming measures accounting for the Project's final design to be implemented. While CAO is making this request to provide sufficient time to redevelop the Site, CAO is not seeking to modify any of the zoning requirements for the development of the Site established by the enclosed final PUD development narrative for Omninnet - East.

In regard to the proposed modification / removal of stipulation four (4) of the 2016 Approval, the temporary path along the Site's 1st Street frontage was envisioned as being in place for up to seven (7) years. The temporary path, which was not installed by previous owners of the Site, probably no longer makes sense since any development will have to excavate of the Site to accommodate the Project's below-grade parking structure.

While the proposed modifications provide an appropriate amount time for CAO to redevelopment options for the Site, these modifications will not adversely affect adjoining and nearby properties. As noted above, the Project's approved five-story building height and uses are consistent with the maximum height and uses allowed by the WU Code Transect and projected for the Site by the Uptown TOD Policy Plan. These extensions and modification do not change the approved development and the Project remains consistent with current planning policies applicable to the Site and neighborhood.

CAO intends to leave the zoning requirements established by the Site's PUD zoning in place as is. The purpose of this request is limited to extending deadlines associated with two (2) stipulations of the 2016 Approval and removing a stipulation associated with 2016 Approval pertaining to the provision of a temporary improvement that is no longer appropriate in consideration of the Project's anticipated development timeline. In making this request, CAO has preserved all design and development standards approved for the Project while allowing sufficient time to redevelop the Site in a manner consistent with the Site's PUD zoning.

Thank you for your consideration of this request. Please let me know if you need any other information to evaluate this request. We look forward to discussing these proposed modifications with you at the upcoming hearing.

Sincerely,
GAMMAGE & BURNHAM, PLC



By
Manjula M. Vaz

Enclosures

EXHIBIT C

PHO-1-23—Z-27-15-4

MODIFIED/DELETED STIPULATIONS

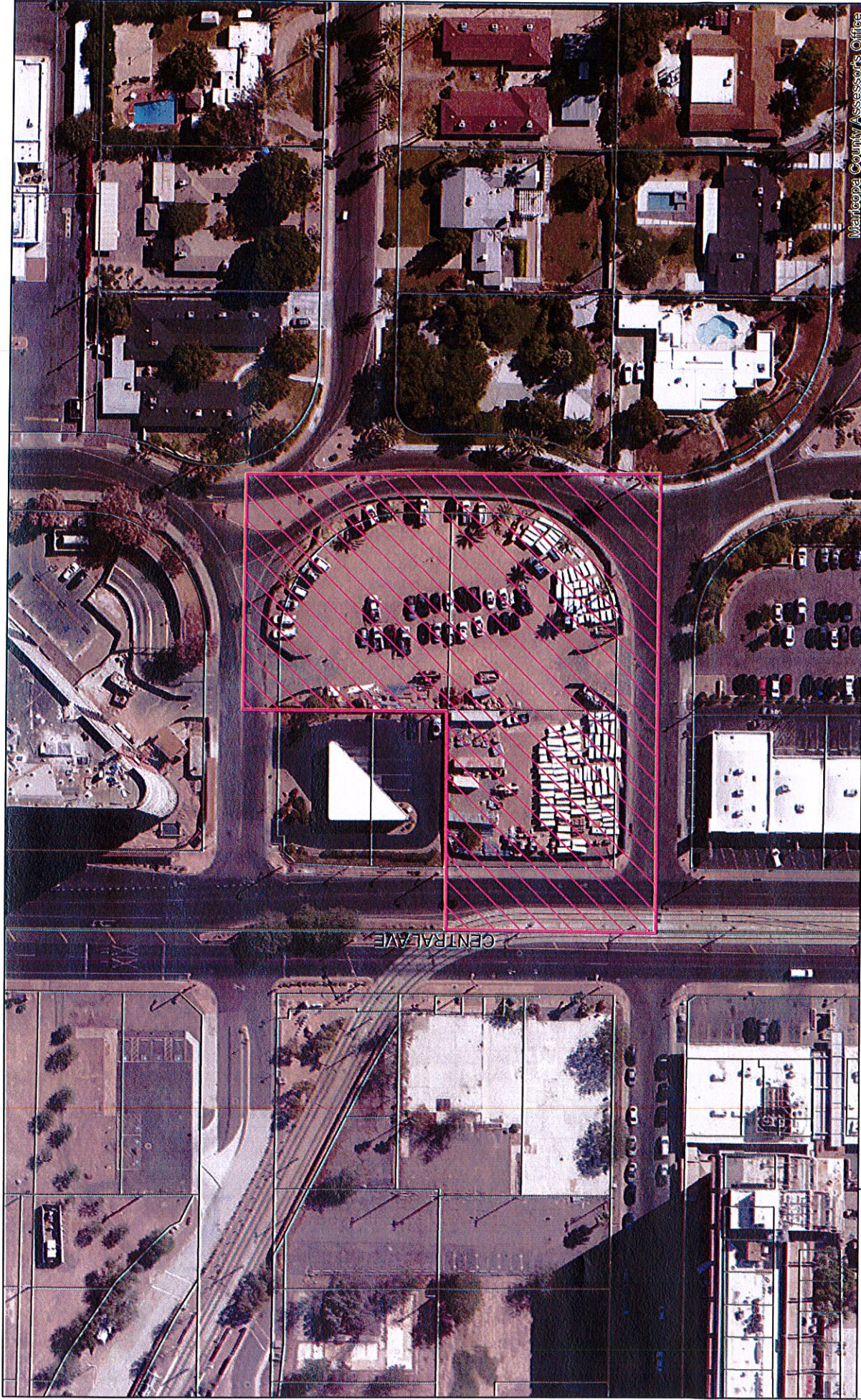
2. The property owner shall provide a deposit in the amount of \$3125,000 into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood within (6) months of City Council approval. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.
4. ~~The property owner shall construct a temporary 6-foot-wide path constructed of 3/4 inch decomposed granite 2 inches thick along their frontage adjacent to 1st Street until the project is under construction, as approved by the Planning and Development Department.~~
5. The approval shall be conditioned upon development commencing within ~~ten (10)~~ seven (7) years of the City Council approval of this change of zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site).
6. THE GROUND FLOOR AREA OF THE DEVELOPMENT SHALL INCLUDE A MINIMUM 4,700 SQUARE FEET OF NON-RESIDENTIAL USES. NON-RESIDENTIAL USES SHALL NOT INCLUDE LOBBY, EXERCISE, RECEPTION AREAS, OR OTHER SIMILAR USES INTENDED FOR EXCLUSIVE USE BY RESIDENTS. ALL NON-RESIDENTIAL USES SHALL FRONT PERIMETER RIGHTS-OF-WAY.

CITY OF PHOENIX

AUG 09 2023

Planning & Development
Department

EXHIBIT D



PHO-1-23--Z-27-15-4

Property Location: Northeast corner of Central Avenue and Pierson Street



Planning & Development Department

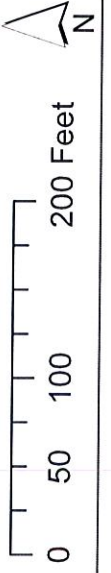
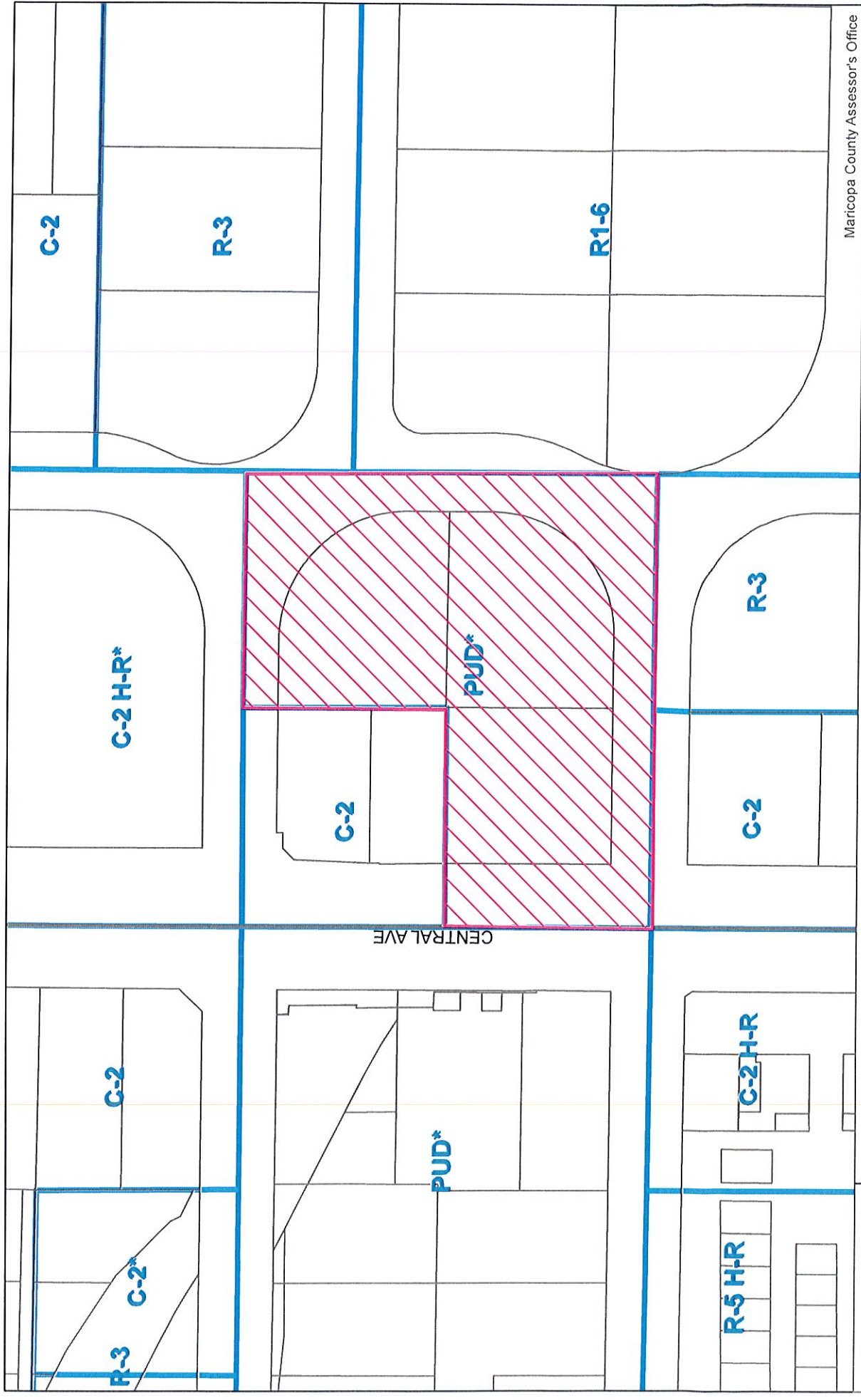


EXHIBIT E



Maricopa County Assessor's Office

Property Location: Northeast corner of Central Avenue and Pierson Street

PHO-1-23--Z-27-15-4



Planning & Development Department

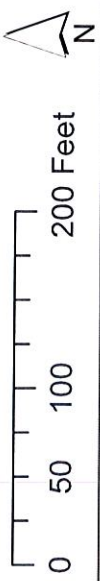


EXHIBIT F

ORDINANCE G-6115

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP ADOPTED PURSUANT TO SECTION 601 OF THE CITY OF PHOENIX ZONING ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL DESCRIBED HEREIN (CASE Z-27-15-4) FROM R3 TOD-1 (MULTIPLE FAMILY RESIDENCE, INTERIM TRANSIT ORIENTED DISTRICT ONE), C-2 TOD-1 (INTERMEDIATE COMMERCIAL, INTERIM TRANSIT ORIENTED ZONING OVERLAY DISTRICT ONE) TO PUD (PLANNED UNIT DEVELOPMENT).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as follows:

SECTION 1. The zoning of an approximately 2.10-acre property located at the northeast corner of Central Avenue and Pierson Street in a portion of Section 20, Township 2 North, Range 3 East, as described more specifically in Attachment "A", is hereby changed from R3 TOD-1 (Multiple Family Residence, Interim Transit Oriented Zoning Overlay District One), C-2 TOD-1 (Intermediate Commercial, Interim Transit Oriented Zoning Overlay District One) to PUD (Planned Unit Development).

SECTION 2. The Planning and Development Director is instructed to modify the Zoning Map of the City of Phoenix to reflect this use district classification change as shown in Attachment "B".

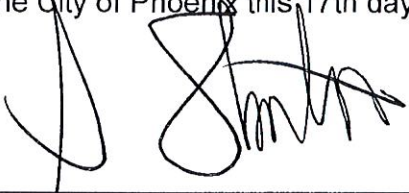
SECTION 3. Due to the site's specific physical conditions and the use district applied for by the applicant, this rezoning is subject to compliance with the PUD narrative and the following stipulations, violation of which shall be treated in the same manner as a violation of the City of Phoenix Zoning Ordinance:

1. An updated Development Narrative for the Omninet – East PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped October 14, 2015.
2. The property owner shall provide a deposit in the amount of \$25,000 into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood within (6) months of City Council approval. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.
3. The property owner will deposit an additional \$25,000 (for a total of \$50,000) into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming or management tools for the area bounded by Central Avenue, Camelback Road, 7th Street, and Pierson Street at the time of construction. These funds may be contributed toward the purchase and installation of such devices as roundabouts, speed humps/cushions, or raised crosswalks (speed tables), limited turning, traffic diverters or other such traffic calming or management tools. Distribution of funds shall be at the mutual agreement of the five member Neighborhood Traffic Team, the residents on affected streets and the City of Phoenix Streets Department Safety and Neighborhood Traffic Section. Owner may apply for reimbursement of escrow funds from the Street Transportation Department if no formal petition has been submitted within 5 years from the issuance of a Certificate of Occupancy.
4. The property owner shall construct a temporary 6-foot wide path constructed of $\frac{3}{4}$ inch decomposed granite 2-inches thick along their frontage adjacent to 1st Street until the project is under construction, as approved by the Planning and Development Department.
5. The approval shall be conditioned upon development commencing within seven (7) years of the City Council approval of this change of

zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site).


SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED by the Council of the City of Phoenix this 17th day of February, 2016.



MAYOR


ATTEST:



City Clerk



APPROVED AS TO FORM:



Acting City Attorney pm

REVIEWED BY:



City Manager

PL:tml:1216263v1(CM#17) (Item #80) 2/17/16

Attachments:

A - Legal Description (1 Page)

B - Ordinance Location Map (1 Page)

ATTACHMENT A

LEGAL DESCRIPTION FOR Z-27-15-4

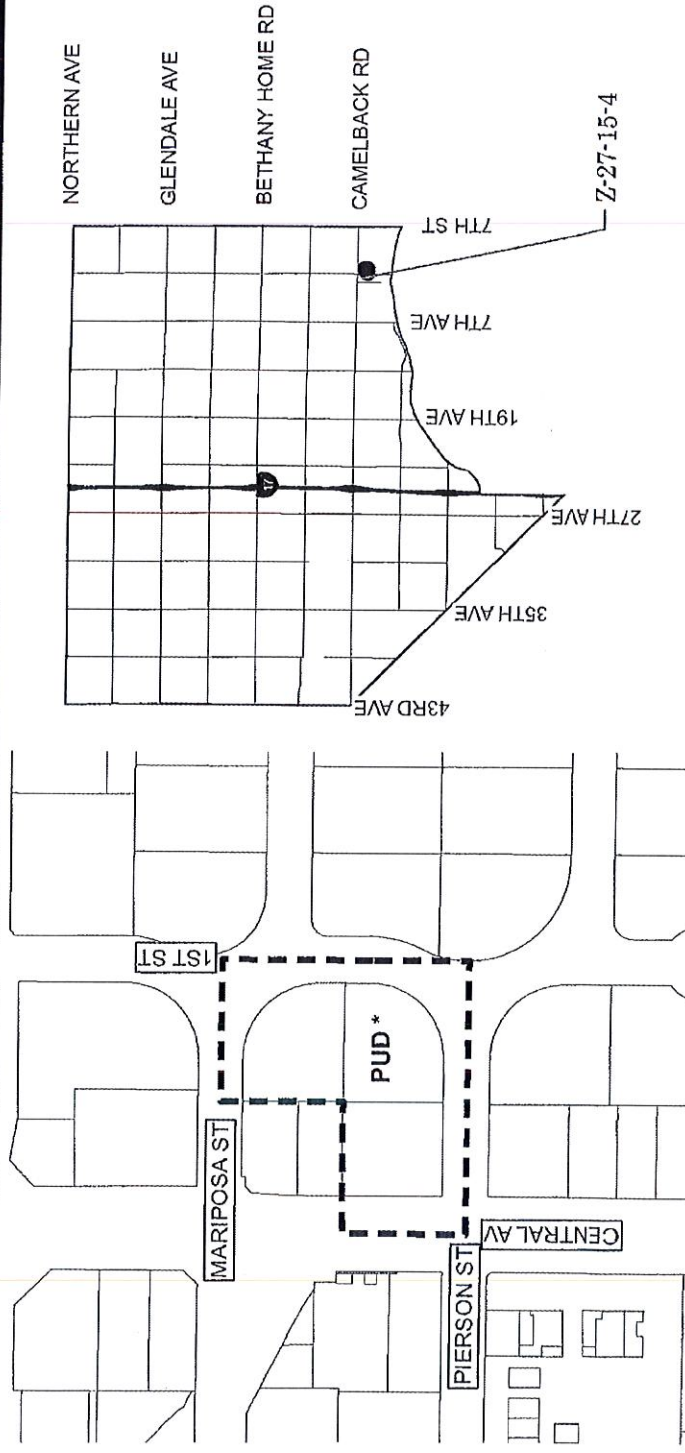
LOTS 25, 27 AND 28, SAINT FRANCIS PLACE, SECTION 20, TOWNSHIP 2 NORTH,
RANGE 3 EAST, ACCORDING TO THE MAP IN THE OFFICE OF THE COUNTY
RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 24 OF MAPS, PAGE 47.

ORDINANCE LOCATION MAP

ATTACHMENT B

Zoning Case Number: Z-27-15-4
 Zoning Overlay: Transit Overlay District (TOD-1)
 Planning Village: Alhambra

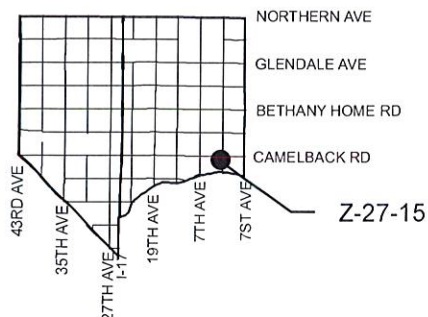
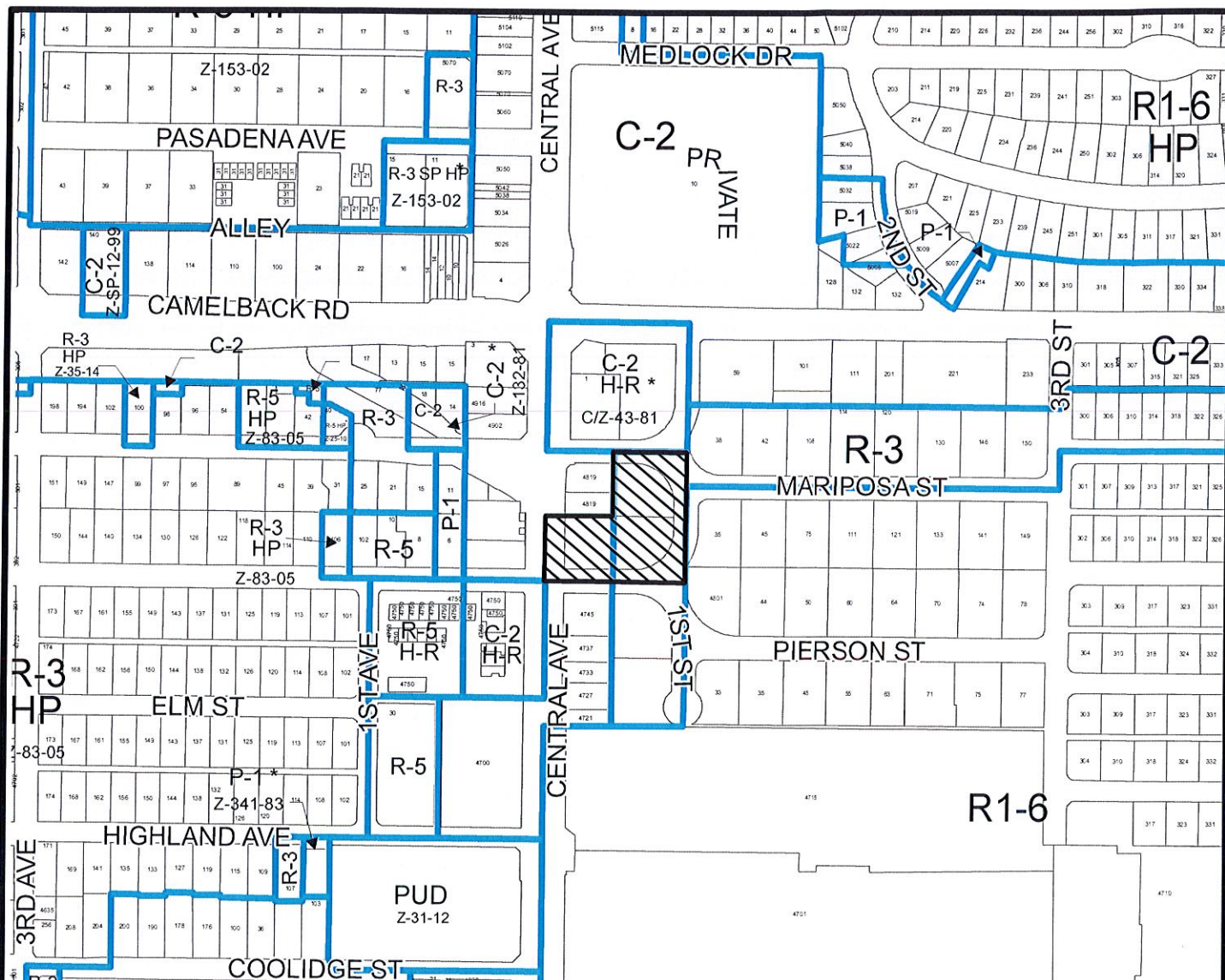
ZONING SUBJECT TO STIPULATIONS: *
 SUBJECT AREA: - - - - -



Drawn Date: 12/18/2015

S:\Department Share\US Share\PL GIS\US_Team\Core_Functions\Zoning\SuppMaps_Ord\Maps\2015 Ord\Fomal_Jan_20_2016\Z-27-15-4.mxd

EXHIBIT G



CITY OF PHOENIX PLANNING DEPARTMENT

ALHAMBRA VILLAGE

CITY COUNCIL DISTRICT: 4

APPLICANT'S NAME: Ed Bull/ Burch & Cracchiolo, PA

REQUESTED CHANGE:

FROM: R-3 TOD-1 (1.43 a.c.)
C-2 TOD-1 (0.67 a.c.)

APPLICATION NO. Z-27-15

DATE: 5/21/15
REVISION DATES:

GROSS AREA INCLUDING 1/2 STREET
AND ALLEY DEDICATION IS APPROX.

2.10 Acres

AERIAL PHOTO &
QUARTER SEC. NO.
QS 18-27

ZONING MAP
H-8

TO: PUD (2.10 a.c.)

MULTIPLES PERMITTED

R-3, C-2

PUD

CONVENTIONAL OPTION

20, 9

181

* UNITS P.R.D. OPTION

25, 11

181

* Maximum Units Allowed with P.R.D. Bonus

EXHIBIT H

REPORT OF PLANNING HEARING OFFICER ACTION
Byron Easton, Planner III, Hearing Officer
Teresa Garcia, Planner I, Assisting

August 16, 2023

ITEM NO: 1	
	DISTRICT NO. 4
SUBJECT:	
Application #:	PHO-1-23--Z-27-15-4 (Continued from May 17, 2023)
Location:	Northeast corner of Central Avenue and Pierson Street
Zoning:	PUD
Acreage:	2.10
Request:	1) Modification of Stipulation 2 regarding a \$25,000 deposit into a Street Transportation Department escrow account. 2) Deletion of Stipulation 4 regarding a temporary path along 1st Street. 3) Modification of Stipulation 5 regarding conditional approval upon development commencing within seven (7) years.
Applicant:	Central Avenue Owner LLC
Owner:	Central Avenue Owner LLC
Representative:	Manjula M. Vaz, Gammage & Burnham PLC

ACTIONS:

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

Village Planning Committee (VPC) Recommendation: The Alhambra Village Planning Committee reviewed the request on April 25, 2023. The VPC recommended approval with a modification and an additional stipulation by a vote of 11-0.

DISCUSSION:

Ed Bull, representative of Burch and Cracchiolo, gave an overview of the requests and each respective rationale. He stated that the stipulation requests replicated those of Omninet West, the property to the west of this development. Mr. Bull mentioned how the current economic state and COVID-19 was a big contributing factor as to why the applicant was requesting to increase the time of completion of the project an additional 3 years. He stated that the owner had already contributed \$25,000 for traffic calming measures, but would pay an additional \$6,000 to the Street Transportation Department escrow account at the City of Phoenix.

Jeremy Thacker, nearby property owner, agreed that the removal of the temporary sidewalks is necessary on the east side of the site. He indicated that added retail to the property would be a nice use of the proposed mixed-use development. Mr. Thacker presented a question regarding the rationale for the 3-year extension, noting that the property has been in the works for 7 years and that 3 years seemed like a long time.

Mr. Bull stated that the 3-year deadline is an outside estimate. He stated that the owner of the property is currently working on a separate project next year, so the 3-year deadline made sense to request to fulfill the owner's deadlines,

Shane Gore, nearby property owner, indicated that the current temporary sidewalks are a natural pedestrian pathway and disagrees with the removal of them. Mr. Gore also agreed with Mr. Thacker that requesting an additional 3 years for the project is too long.

Mr. Bull stated that the Alhambra Village Planning Committee agreed on the deletion of the stipulation regarding the pedestrian pathway. He stated that 3 years is a reasonable amount of the time to request, noting that it would require the market and other outside factors to become agreeable to make the project a success.

Ken Waters, nearby property owner, stated that the proposed language being used by the applicant from Omninet West was poorly written and was being duplicated with Omninet East. He asked if the leasing office would be considered commercial space or be considered part of the facilities for the multifamily residential.

Mr. Bull stated that he believed the leasing office might not be included but was not entirely sure. He stated that the stipulation language was edited by the Planning and Development Director, not the applicant.

Mr. Waters stated that the ambiguity of the stipulation was why he was speaking on it. He stated that the intended goal for Transit Oriented Development is to create a more walkable environment in proximity to the Light Rail. He mentioned how developers are not being sold the idea of mixed-use development in that portion of the city due to the lack of commercial development mixed with residential. He stated that the purpose for Transit Oriented Development projects was to be more incorporated, not just adjacent.

Mr. Easton noted that staff had received public correspondence, and mentioned contents of a letter from Natasha Hughes, a nearby property owner. The letter stated that Ms. Hughes attended the Alhambra VPC meeting for this project and mentioned how she had concerns with the timing of the funds being given to the

Street Transportation Department. She also stated that the original language was not agreed on by the VPC.

Mr. Bull stated that the original application, submitted by the previous applicant, had requested for final payment to be given at the time of final site plan approval. He stated that the VPC recommended payment within 6 months of City Council approval. He stated that the applicant agreed with the VPC on the modification.

Mr. Easton continued, stating that Ms. Hughes was against the removal of the pedestrian pathway. She stated that street crossings at the neighboring intersection were not safe, and the pathway made it safer for pedestrians.

Mr. Easton stated that he had determined that the distance of the sidewalk on the east side of the site is safer for people to walk. He stated that he has reviewed the site aerial many times and that the crossings along the two streets to the north of the site are not marked and did not seem safe. He stated that the excavated development currently on site will remove the temporary path potentially within a year. He stated that Mr. Waters has been very involved with this process by meeting with staff and as a public participant. He stated that Mr. Waters had come up with language in collaboration with staff in the Omninet West case. He asked Mr. Waters to clarify if he thought that the proposed commercial space was not sufficient.

Mr. Waters stated that the stipulation language was not adequate when it comes to the proposed commercial space. He stated that the square footage was not adequate to promote TOD development and that several nearby developments, including Omninet West, are bringing in many more residential units instead of focusing on both commercial and residential development.

Mr. Bull stated that Omninet West was almost twice the size of Omninet East and had more ground floor frontage along Central Avenue and the Light Rail. He stated that the proposed commercial space in Omninet East was calculated based on the area of the project fronting. He stated that the site to the northwest of the project site was carved out and belonged to another owner and was planned to remain, limiting the project's frontage along Central Avenue. He stated that he had not read Mr. Water's letter, so he was unsure of what 11,000 square feet Mr. Waters was asking for. He stated that he was not aware of any success stories about bringing commercial property down a neighborhood street, like Pierson Street, and having tenants successfully sustain their businesses. He stated that he could not agree with Mr. Waters on the increase in commercial space because it was technically not legally required to have commercial. He stated he was willing to concede with the 4,700 square feet and acknowledges Mr. Waters efforts with City staff.

Mr. Easton recommended approval for Stipulation 2 regarding the \$25,000 dollar deposit, making the total deposit to the escrow account as \$31,000 to account for

inflation. He recommended approval for deletion of Stipulation 4 regarding the temporary path along 1st Street. He stated that the Alhambra Village Planning Committee and city departments had reviewed these requests and gave no objection. He said the Pedestrian Safety Department reviewed the case and found it was safer to not have the temporary path. He noted that there was already an existing sidewalk, which was safer, wider, and well-marked on the east side of 1st Street. He recommended approval to Stipulation 5 regarding the commencement period within 7 years of City Council approval. He stated that 7 years would put an end to the rezoning case and the developer would need to go through the rezoning process all over again. He stated that he believed that due to the events in the last 7 years, including the COVID-19 pandemic, economic delays, and focus on the development to the west, the request for an additional three years was reasonable. He stated to Mr. Waters and community members in the hearing that the additional stipulation, proposed by the applicant using the language that was discussed, was recommended to be added and approved. He stated that this proposed stipulation would add diversity to the project and more mixed use feel that is more consistent with the TOD goals and policies. He noted that staff did not receive a Proposition 207 waiver and that an additional stipulation would be included requiring a waiver to be submitted prior to final site plan approval.

FINDINGS:

- 1) The request to modify Stipulation 2 regarding the amount of money deposited into a Street Transportation Department escrow account is recommended to be approved.

The developer is offering to increase the amount of the deposit to \$31,000 to account for inflation and the time that has passed since the original stipulation was created. It should be noted that the Street Transportation Department received a \$25,000 deposit for traffic calming required by Stipulation 2 on April 7, 2017. The City of Phoenix has not received the \$25,000 required by Stipulation 3.

- 2) The request to delete Stipulation 4 regarding the construction of a temporary 6 foot wide path along the frontage adjacent to 1st Street until the project is under construction is recommended to be approved. The Alhambra Village Planning Committee and City Departments that reviewed this proposal did not object to the removal of this Stipulation. The applicant has made it clear that the project will commence upon approval so a temporary path will be disturbed by excavation.
- 3) The request to extend the commencement date to 10 years instead of 7 years of the City Council approval is recommended to be approved. The

site wasn't purchased until 2019, and there were several delaying factors, including the COVID pandemic, that contributed to the delay of this project. In addition, the developer has made it clear that the Omninet North project was the primary focus, and without the development of that portion, the current proposal could not move forward. This stipulation modification is simply intended to provide more time for the construction to commence.

- 4) In response to Mr. Waters and other comments and correspondence, an additional stipulation was proposed by the Applicant. The additional stipulation is recommended to be approved. The stipulation addresses the ground floor of the building, directly incorporating a minimum area to be developed with 4700sq/ft of non-residential uses. This will add more diversity to the project and more mixed-use feel that is appropriate for the area.
- 5) The applicant did not submit a Proposition 207 waiver of claims prior to the Planning Hearing Officer hearing. Submittal of this form is an application requirement. An additional stipulation is recommended to require the applicant to record this form and deliver it to the City to be included in the rezoning application file for record.

STIPULATIONS:

1.	An updated Development Narrative for the Omninet – East PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped October 14, 2015.
2.	The property owner shall provide a deposit in the amount of \$3125,000 into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood within six (6) months of City Council approval. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.
3.	The property owner will deposit an additional \$25,000 (for a total of \$50,000) into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming or management tools for

	the area bounded by Central Avenue, Camelback Road, 7th Street, and Pierson Street at the time of construction. These funds may be contributed toward the purchase and installation of such devices as roundabouts, speed humps/cushions, or raised crosswalks (speed tables), limiting turning, traffic diverters or other such traffic calming or management tools. Distribution of funds shall be at the mutual agreement of the five member Neighborhood Traffic Team, the residents on affected streets and the City of Phoenix Streets Department Safety and Neighborhood Traffic Section. Owner may apply for reimbursement of escrow funds from the Street Transportation Department if no formal petition has been submitted within 5 years from the issuance of a Certificate of Occupancy.
4.	The property owner shall construct a temporary 6-foot wide path constructed of 3/4 inch decomposed granite 2-inches thick along their frontage adjacent to 1st Street until the project is under construction, as approved by the Planning and Development Department.
4. 5-	The approval shall be conditioned upon development commencing within TEN (10) seven (7) years of the City Council approval of this change of zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site).
5.	THE GROUND FLOOR AREA OF THE DEVELOPMENT SHALL INCLUDE A MINIMUM 4,700 SQUARE FEET OF NON-RESIDENTIAL USES. NON-RESIDENTIAL USES SHALL NOT INCLUDE LOBBY, EXERCISE, RECEPTION AREAS, OR OTHER SIMILAR USES INTENDED FOR EXCLUSIVE USE BY RESIDENTS. ALL NON-RESIDENTIAL USES SHALL FRONT PERIMETER RIGHTS-OF-WAY.
6.	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.

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.

EXHIBIT I

Chase Hales

From: Natasha Hughes <nmhughes2003@yahoo.com>
Sent: Monday, May 15, 2023 12:12 AM
To: PDD PHO
Subject: PHO-1-23--Z-27-15-4, OMNINET - EAST, NEC OF CENTRAL AVENUE AND PIERSON STREET

To Whom It May Concern:

My name is Natasha Hughes and I live at 301 E Mariposa St, three blocks from the Omninet - East site at Central Ave and Pierson St. These are my observations and concerns regarding the proposed changes to the 2016 rezoning Ordinance G-6115.

CAO, Central Avenue Owner, LLC, wants to modify stipulation number (2) and deposit \$31,000 or \$25,000 (unclear notation in letter) into a Street Transportation Dept escrow account for traffic calming measures PRIOR TO FINAL SITE PLAN rather than within (6) months of City Council approval.

Comment: I disagree with this plan as those funds could be used prior to the finalized site plan which could take years. Funds in the escrow account within (6) months of City Council approval is not unreasonable and shows good faith that the developer will progress with the plan and not delay development; CAO has a vested interest in the development. The funds should be held in escrow and public meetings should be held with the developer, City of Phoenix Streets Department, and affected residents to decide what traffic calming measures should be developed. If the development doesn't come to fruition, the City of Phoenix should keep the remaining escrow funds.

CAO wants to delete stipulation (3) the construction of a 6-foot wide path constructed of decomposed granite along 1st Street.

Comment: This stipulation should not be deleted but should be enforced. It's a safety issue. 1st Street has a lot of traffic in the mornings and afternoons from students (walking) and parents (driving) to and from Brophy, St. Francis, and Xavier schools. 1st Street has a blind radius where as you walk along the development (west) side of the street, you cannot see oncoming traffic due to the curve of the road. If the fence were removed or moved back 6-7 feet, both pedestrian and auto traffic would have clearer visibility of the road ahead. I disagree with the proposition that, "the temporary path makes no sense since any development will have to excavate the Site to accommodate the Project's below-grade parking structure." We have no idea when that construction will begin. Of course it will be excavated, but isn't there supposed to be a right-of-way? The temporary fencing is within a foot of the curb, there's no room to walk, the weeds have grown up through the fence, and there's always trash up against the fence. It's unsightly and has been that way since the fence was installed. This stipulation must remain as is. (See attached photos.)

CAO wants to modify the development commencement from within (7) years of the City Council approval to within (10) years of City Council approval.

Comment: It has been four years since CAO acquired the site. What have they done to progress the project forward in these four years? CAO has had plenty of time to evaluate its options for the property. Are they appealing for more time to put the property on the market? Remember, when the property was rezoned in 2016, it suddenly became more valuable and was then sold to the current owner. I believe that development commencement within (7) years of City Council approval is more than enough time.

In conclusion, the property known as Omninet - East should be developed as approved in Ordinance G-6115, approved by the City Council on February 17, 2016. The proposed modifications, in my opinion, are frivolous

and unwarranted. These are delay tactics and reduce CAO's financial commitment to the project and the community. CAO says these modifications are needed due to unforeseen circumstances such as the Covid-19 pandemic, unforeseen construction challenges, fluctuations in the lending markets, and the owner's focus on the completion of One Camelback tower development just north of the site. Other than the pandemic, these difficulties are common, except for the completion of the tower. Its completion has been delayed and I'm not sure they will meet the June 15th deadline for in-person tours. I have not seen any workers on site this week (May 9-12) and rumor is that the general contractor may be headed for bankruptcy. If that's the case, then the development of Omninet - East will be delayed for months if not years.

If, however, these modifications are approved, I would ask that the property be cleaned and monitored. The attached photos show the surrounding fence, weeds, trash and dumped materials on the property. I have had pieces of styrofoam blown into my yard and have seen billowing clouds of dust after monsoons coming from the property. It is an eyesore for the neighborhood and leaving it in its current condition is reprehensible. Please have more consideration for the residents and homeowners in the community. Thank you.

Natasha Hughes



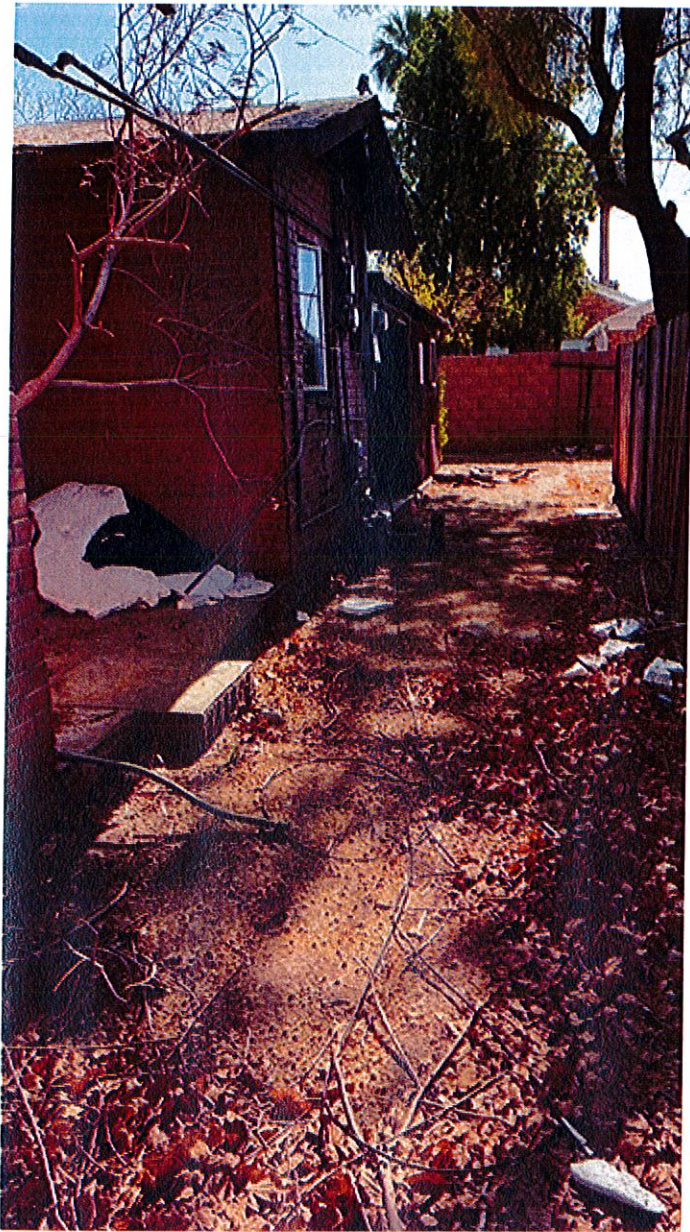
Trash within fenced area.



Trash within fenced area.



1st Street blind radius.



Styrofoam trash blown into neighbor's yard.

From: [Adam Stranieri](#)
To: [Chase Hales](#); [Byron Easton](#)
Subject: FW: Omninet East PHO-1-23-Z-27-15-4 Hearing Today
Date: Wednesday, May 17, 2023 9:38:09 AM

FYI



Thank you,
Adam Stranieri, Principal Planner
City of Phoenix
Planning & Development Department
Planning Division, Zoning Section
Office: 602-262-7142
200 West Washington Street
Phoenix, AZ 85003

From: Kenny W <kennywaters602@gmail.com>
Sent: Wednesday, May 17, 2023 9:32 AM
To: Adam Stranieri <Adam.Stranieri@phoenix.gov>; Alan Stephenson <alan.stephenson@phoenix.gov>; Michael Petersen-Incorvaia <michael.petersen-incorvaia@phoenix.gov>; Joshua Bednarek <joshua.bednarek@phoenix.gov>
Cc: kathryn northcentralnews.net <kathryn@northcentralnews.net>
Subject: Omninet East PHO-1-23-Z-27-15-4 Hearing Today

[https://northcentralnews.net/2022/features/fighting-for-the-future-of-central-avenue/\[northcentralnews.net\]](https://northcentralnews.net/2022/features/fighting-for-the-future-of-central-avenue/[northcentralnews.net])

Adam,

Here we go again, today, fighting for a Stipulation to save the #1 most called-out component for a **successful**, symbiotic LRT-TOD system - that being the Mixed-use commercial-retail component that almost every Central Ave "TOD" developer is abandoning. The Muse from 2014 was our last meaningful Mixed-use Central Ave TOD project in either Uptown or Midtown.

Phoenix Planning and leadership ought to be embarrassed. There appears to be little understanding in our city of how to create a successful symbiotic LRT-TOD system that delivers the WALKABLE URBAN LIFESTYLE.

The only way we, the City of Phoenix, are going to create a successful LRT-TOD system, is to to create the Walkable Urban Lifestyle along our TOD corridors that are RICH in attractions, destinations and commercial/retail services along our Main Street USA corridor in Uptown & Midtown. Please quit authorizing TAD's (Transit Adjacent Developments) only interested in hanging out a shingle "It's next to Light Rail!" and instead, get on the true TOD - Transit **ORIENTED** Development bandwagon. Without Mixed-use projects, that CREATE the Walkable Urban Lifestyle, you are sentencing our Phoenix LRT-TOD system to a very bleak future.

I will be calling for an added Stipulation to save or expand the existing commercial/retail Mixed-use component to Omninet East in order to be awarded an entitlement time extension.

Respectfully,

Ken Waters
