

ATTACHMENT D

PLEASE RESPOND ELECTRONICALLY TO TERESA GARCIA 2ND FLOOR, 602-262-7399



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

To: Departments Concerned

Date: May 10, 2024

From: Joshua Bednarek

Planning & Development Department Director

Subject: P.H.O. APPLICATION NO. PHO-2-24-Z-1-93-7(4) – Notice of Pending Actions by the Planning Hearing Officer

1. Your attention is called to the fact that the **Planning Hearing Officer** will consider the following case at a public hearing on **June 12, 2024**.
2. Information about this case is available for review at the Zoning Counter in the Planning and Development Department on the 2nd Floor of Phoenix City Hall, telephone 602-262-7131, Option 6.
3. Staff, please indicate your comments and respond electronically to pdd.pho@phoenix.gov or you may provide hard copies at the Zoning Counter in the Planning and Development Department on the second floor of Phoenix City Hall by **May 17, 2024**.

DISTRIBUTION

Mayor's Office (Tony Montola), 11th Floor

City Council (Stephanie Bracken), 11th Floor

Aviation (Jordan D. Feld)

CED (Michelle Pierson), 20th Floor

Fire Prevention (Joel Asisan), 2nd Floor

Neighborhood Services (Gregory Gonzales, Lisa Huggins), 4th Floor

Parks & Recreation (Todd Shackelford), 16th Floor

Public Transit (Michael Pierce)

Street Transportation Department (Maja Brkovic, Josh Rogers, Alan Hilty, Chris Kowalsky), 5th Floor

Street Transportation - Ped. Safety Coordinator (Kurt Miyamoto), 5th Floor

Street Transportation - Floodplain Management (Tina Jensen, Priscilla Motola, Rudy Rangel), 5th Floor

Water Services (Don Reynolds, Victor Romo), 8th Floor

Planning and Development (Joshua Bednarek, Tricia Gomes), 3rd Floor

Planning and Development/Information Services (Ben Ernyei, Andrew Wickhorst), 4th Floor

Planning and Development/Historic Preservation Office (Kevin Weight), 3rd Floor

Planning Hearing Officer (Byron Easton, Teresa Garcia), 2nd Floor

Village Planner (Nayeli Sanchez Luna, Estrella Village)

Village Planning Committee Chair (Lisa Perez, Estrella Village)



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

APPLICATION FOR PLANNING HEARING OFFICER ACTION

APPLICATION NO: PHO-2-24-Z-1-93-7(4)

Council District: 4

Request For: Stipulation Modification

Reason for Request: Request to modify Stipulation 1 regarding general conformance to the site plan date stamped February 11, 2022.; Request to delete Stipulation 3 regarding vehicular access to Melvin Street.; Request to modify Stipulation 6 regarding a 10-foot sidewalk easement.

Contact Information

Name	Relationship Type	Address	Phone	Fax	Email
Ricki Horowitz	Other	1850 N. Central Ave, Ste 1700, Phx 85004	602-234-8728		rhorowitz@bcattorneys.com
Brian Greathouse	Applicant	1850 N. Central Ave, Ste 1700	602-234-9903		bgreathouse@bcattorneys.com
Brian Greathouse	Representative	1850 N. Central Ave, Ste 1700	602-234-9903		bgreathouse@bcattorneys.com
Ruben Rodela SK&M Investments, Inc.; c/o GWA Architects, Inc.	Owner	100 Corporate Center Drive Suite 550, Monterey Park, California 91754			

Property Location: Northwest Corner of 35th Avenue and Van Buren Street

Acreage: 1.17

Geographic Information

Zoning Map	APN	Quarter Section
F6	106-15-165	Q11-20
F6	106-15-166	Q11-20
F6	106-15-167	Q11-20
F6	106-15-168	Q11-20
F6	106-15-169	Q11-20
F6	106-15-170	Q11-20
F6	106-15-171	Q11-20

Village:
Estrella

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7131 (option 6), email zoning@phoenix.gov or visit our website at <https://www.phoenix.gov/pdd/licensing-time-frames>

A Filing Fee had been paid to the City Treasurer to cover the cost of processing this application. The fee will be retained to cover the cost whether or not the request is granted

I declare that all information submitted is true and correct to the best of my knowledge and belief. I acknowledge that any error in my application may be cause for changing its normal scheduling.

Signature: _____ DATE: _____

Fee Information

Fee	Fee Waived	Fee Date	Purpose
\$1,725.00	\$0.00	04/10/24	PHO (3+ stipulations)



BURCH & CRACCHIOL

BCATTORNEYS.COM

BRIAN GREATHOUSE
DIRECT LINE: 602.234.9903
E-MAIL: bgreathouse@bcattorneys.com

MADISON LEAKE
DIRECT LINE: 602.234.8791
E-MAIL: mleake@bcattorneys.com

March 18, 2024

Mr. Byron Easton
Planning Hearing Officer
City of Phoenix
Planning and Development Department
200 W. Washington St., 2nd Floor
Phoenix, Arizona 85003

RE: PHO Stipulation Modification from PHO-1-21—Z-23-95-7
and PHO-1-21—Z-1- 93-7
NWC of Van Buren Street & 35th Avenue

Dear Mr. Easton:

We request the PHO's approval to modify stipulations to facilitate the development of a Panda Express Restaurant on an approximately 1.08 acre vacant and underutilized infill Site located at the northwest corner of Van Buren Street and 35th Avenue. An Aerial Map showing the Site is provided at **Exhibit 1**. On January 25, 2024, approval was received for five Variances to reduce landscape setbacks and for a Use Permit to permit a drive-thru within 300 feet of a residential district to allow this Panda Express. (ZA-698-23). See the ZA approval letter at **Exhibit 2**. Now, we request to modify stipulations to facilitate the development of this Panda Express Restaurant on this underutilized, challenging infill Site. See the proposed site plan attached as **Exhibit 3**.

The Site is zoned C-3, C-2, and P-1. In 2021 this Site received use permit approval in case ZA-541-21 to allow packaged liquor sales as an accessory use to a convenience store within 300 feet of a residential district. The associated PHO cases modified existing stipulations to allow a new site plan for a gas station and convenience store. Those approvals did not result in redevelopment of the Site because the developer chose not to move forward.

Prior to these approvals, a Taco Bell existed on this Site for many years. In 1993, case Z-1-93 was approved to facilitate the construction of a new Taco Bell after the previous Taco Bell building had suffered fire damage.

In recent history, this challenging Site has struggled to find a sustainable use. The building that previously existed on the Site was demolished sometime in 2021/2022 and the convenience store that was approved was never constructed. This Site is currently underutilized with the remnants of an outdoor drive-thru/food truck and is now unkept and inviting vagrancy. See recent Site photos attached as **Exhibit 4**. This proposed Panda Express Restaurant will make good use of this challenging, underutilized, infill redevelopment Site.

We request modifications to the stipulations as follows:

PHO-1-21—Z-1-93-7(4) – C-2 Zoned Property

1. The development shall be in general conformance with the site plan date stamped MARCH 2024 ~~February 11, 2022~~, as modified by the following stipulations and approved by the Planning and Development Department.
2. The developer shall dedicate right-of-way and construct one bus stop pad along westbound Van Buren Street west of 35th Avenue. The bus stop pad shall be compliant with City of Phoenix Standard Detail P1260 with a minimum depth of 12 feet. The bus pad shall be spaced from the intersection of 35th Avenue and Van Buren street according to City of Phoenix Standard Detail P1258, as approved or modified by the Public Transit Department.
3. ~~Vehicular access to Melvin Street shall be prohibited.~~
4. If any driveway is proposed along Van Buren Street, the driveway shall be restricted to right-in/right-out only, as approved by the Street Transportation Department.
5. The developer shall construct a minimum 5-foot-wide detached sidewalk along the west side of 35th Avenue to be detached with a minimum 10-foot-wide landscape strip located between the back of curb and sidewalk. Trees planted in the landscape area to be placed near the sidewalk to provide thermal comfort for pedestrians, as approved by the Planning and Development Department.
6. The developer shall dedicate a 7-FOOT ~~10~~ foot sidewalk easement for the north side of Van Buren Street and the west side of 35th Avenue, as approved by the Planning and Development Department.

PHO-1-21—Z-23-95-7(4) – P-1 Zoned Property

1. The development shall be in general conformance with the site plan date stamped MARCH 2024 ~~February 11, 2022~~, as modified by the following stipulations and approved by the Planning and Development Department.
2. ~~Vehicular access to Melvin Street shall be prohibited.~~

Regarding stipulation #1 in both cases, we request modification to allow Panda Express' proposed site plan. The most recently stipulated site plan depicted a convenience store and gas station that was never built, and the Site remains underutilized. The scale and intensity of this proposed restaurant is appropriate and compatible with the location at the intersection of two

arterial streets, is consistent with surrounding commercial development, and is less intense than the previously approved gas station use and site plan.

Stipulation #3 in Z-1-93-7(4) and #2 in Z-23-95-7(4) prohibits access to Melvin Street. The goal of this stipulation was to prohibit commercial traffic from negatively affecting existing residences. However, this stipulation can be deleted without thwarting this goal. Customers who choose to enter the Site from Melvin Street will do so from 35th Avenue turning onto Melvin Street. In making the turn from 35th Avenue onto Melvin Street, customers will make an almost immediate left to enter the Site. In doing so, customers will **not** pass by any residential properties. Rather, customers will pass by an auto repair business located on the north side of Melvin Street. The impact of customers driving less than 100 feet on Melvin Street while only passing an auto repair shop will have no negative effects on the residential uses farther west on Melvin Street. Providing this additional access point on Melvin Street will allow for better and safer circulation both on-site and on 35th Avenue, is safer than proposing an additional access point on Van Buren due to proximity to the signalized intersection, and will not negatively impact the area.

Stipulation #6 in Z-1-93-7(4) requires the dedication of a 10-foot sidewalk easement for the north side of Van Buren Street and the west side of 35th Avenue. We request a modification to require the dedication of a 7-foot sidewalk easement. The proposed 7-foot sidewalk easement will allow a 5-foot sidewalk and 10 feet of landscaped area between the sidewalk and the back of curb (in accordance with Stipulation #5). The proposed sidewalk is consistent with existing sidewalks in the area. Further, on January 25, 2024, as part of case ZA-698-23 Variances were approved to reduce the landscape setbacks to a minimum of 8 feet on 35th Avenue and a minimum of 7 feet on Van Buren Street. The Hearing Officer found that these requests met the four-part test for approval and were necessary to develop this challenging, infill, redevelopment Site. For Panda Express to develop this irregularly shaped Site that has struggled to find a sustainable use, it was necessary to reduce the landscape setbacks, which in turn necessitates the modification of this stipulation. The necessity of this reduction is also demonstrated by Taco Bell's site plan (**Exhibit 5**) which shows similar landscape setbacks including 5'7" along Van Buren and 35th Avenue.

This request to modify stipulations is appropriate and necessary to ensure this infill redevelopment Site is redeveloped with the already approved Variances and Use Permits. This quality redevelopment is a viable and sustainable use for this now underutilized, infill Site and will be an improvement compared to what exists today. Please contact Brian Greathouse (602-234-9903, bgreathouse@bcattorneys.com), Madison Leake (602-234-8791, mleake@bcattorneys.com), or Ricki Horowitz (602-234-8728, rhorowitz@bcattorneys.com) if you have questions or need information. Thank you for your help and consideration.

Very truly yours,

BURCH & CRACCHILO, P.A.

Brian Greathouse m.l.

Brian Greathouse
Madison Leake
For the Firm

Exhibit 1

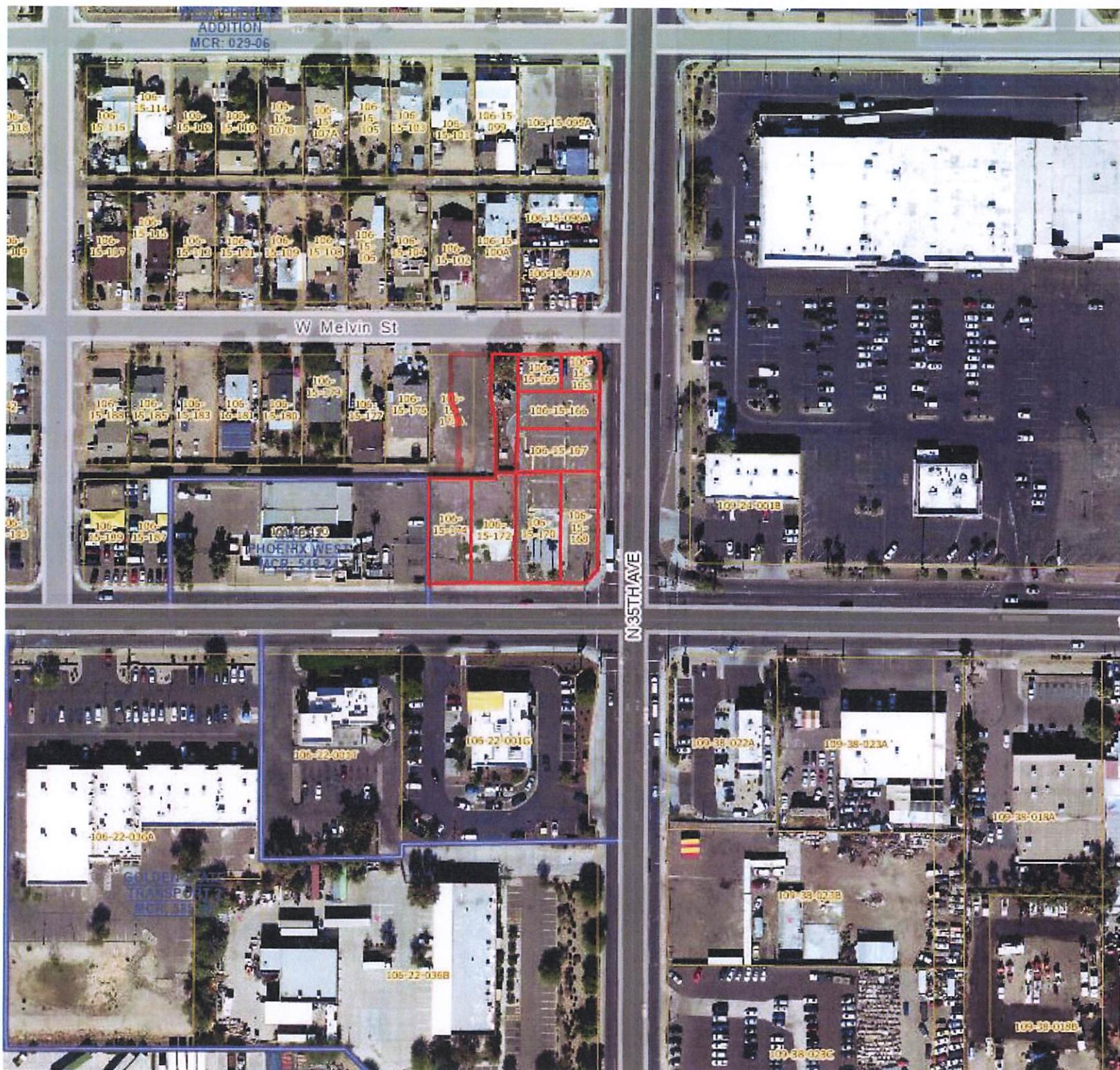


Exhibit 2

ZA CASE NO: 698-23-4

Date: 1/25/24 1:30pm

Zoning Administrator Action

Appeal Date:

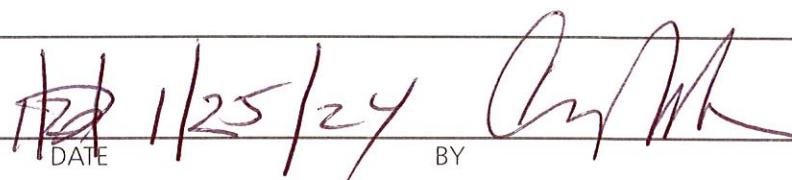
Approved Denied Denied, as filed Stipulations

Under Advisement Withdrawn Other
 Cont: _____

STIPULATIONS:

1. 2 years to apply and pay for building permits.
2. In accordance with the landscape setback reductions and drive through location as shown on the site plan date stamped 1/4/24.

MUST appeal by February 9, 2024.


DATE 1/25/24 BY Amy M. White

ZONING ADMINISTRATOR

Support Present

Opposition Present

STIPULATIONS MET:

YES/NO



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

APPLICATION NO: ZA-698-23

CASE TYPE:

Non Sign

DATE FILED:

12/20/2023

COUNCIL DISTRICT:

4

EXISTING ZONING:

C-2, C-3, P-1

PROPERTY LOCATION Northwest Corner 35th Avenue and Van Buren Street
PROPERTY ADDRESS

HEARING INFORMATION

Hearing Time

1/25/24 1:30 PM

Hearing Location

Meeting will be held virtually.

GEOGRAPHIC INFORMATION

<i>APN</i>	<i>Quarter Section</i>
106-15-165	11-20(F6)
106-15-166	11-20(F6)
106-15-167	11-20(F6)
106-15-168	11-20(F6)
106-15-169	11-20(F6)
106-15-170	11-20(F6)
106-15-171	11-20(F6)
106-15-172	11-20(F6)
106-15-173A	11-20(F6)
106-15-174	11-20(F6)

CONTACT INFORMATION

<i>Name</i>	<i>Relationship</i>	<i>Address</i>	<i>Phone</i>	<i>Fax</i>	<i>Email</i>
Ricki Horowitz	Other	1850 N. Central Ave, Ste 1700, Phx 85004			rhorowitz@bcattorneys.com
Brian Greathouse, Burch & Cracchiolo, P.A.	Applicant	1850 N. Central Avenue, Suite 1700, Phoenix, AZ 85004	602-234-9903		bgreathouse@bcattorneys.com
S K & M Investments Inc. c/o GWA Architects, Inc.	Owner	1000 Corporate Center Drive, Monterey Park, CA 91754			
Brian Greathouse, Burch & Cracchiolo, P.A.	Representative	1850 N. Central Ave, Ste 1700, Phx 85004 Phoenix AZ 85004 United States	602-234-9903		bgreathouse@bcattorneys.com

REQUEST

ZONING ORD. SECTIONS

1) Variance to reduce the landscape setback (north) adjacent to a public street (Melvin Street) to 1 foot. Minimum average 25 feet required.

623.E.4.e

200 W. Washington St., 2nd floor, Phoenix, AZ 85003 • 602-262-7131

For more information or for a copy of this publication in an alternate format, contact Planning & Development at 602-262-7811 voice or TTY use 7-1-1.

2) Variance to reduce the landscape setback (east) adjacent to a public street (35th Avenue) to 8 feet. Minimum average 25 feet required.	623.E.4.e
3) Variance to reduce the landscape setback (south) adjacent to a public street (Van Buren Street) to 7 feet. Minimum average 25 feet required.	623.E.4.e
4) Variance to reduce the landscape setback (south) adjacent to a public street (Van Buren Street) to 7 feet. Minimum average 25 feet required.	624.E.4.e
5) Variance to reduce the landscape setback (northwest) adjacent to R-3 zoning to 5 feet. Minimum 10 feet required.	624.E.4.e
6) Use permit to allow a drive-through facility as an accessory use to a restaurant (Panda Express) located within 300 feet of a residential zoning district. Use permit required.	624.D.112.d.(2)

If, during the course of review of a pending application, the applicant submits one or more additional applications that are related to the pending application, then and in such event, the substantive review time frame shall be reset on all related applications. In this event there shall be one applicable substantive review time for all of the related applications and the time frame shall be revised to be the longest substantive review time frame that was applicable to any one of the related applications. As a result, the entire substantive review time frame for the related applications shall start over, and a fee may be charged.

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7131 (option 6), email zoning@phoenix.gov or visit our website at <https://www.phoenix.gov/pddsite/Pages/pddlicensetimes.aspx>

In making this application, I understand that the filing of this application and payment of fees does not entitle me to the relief requested. (See Sec. 307 of City of Phoenix Zoning Ordinance for standards by which the hearing officer will review the application.) I understand the approval of this request does not replace the need for acquiring the appropriate building permits, site plan approval, liquor license or any other licenses required by governmental agencies. I also understand that in the case of liquor request approval of a use permit does not guarantee the CITY OF PHOENIX will recommend approval of the liquor license.

SIGNATURE: _____ DATE: _____

FEE INFORMATION

Fee	Fee Waived	Fee Date
\$4,140.00	\$0.00	12/21/2023

NOTE TO APPLICANT: SUCH USE PERMITS AND VARIANCES AS ARE GRANTED BY THE ZONING ADMINISTRATOR SHALL BE VOID IF THE USE IS NOT COMMENCED OR IF A BUILDING PERMIT IS NOT OBTAINED 60 DAYS OF SUCH GRANTING OR WITHIN THE TIME STIPULATED BY THE ADMINISTRATOR.

APPEALS OF DECISIONS OF THE ZONING ADMINISTRATOR MAY BE MADE BY ANY PERSON TO THE BOARD OF ADJUSTMENT WITHIN 15 DAYS AFTER THE DATE OF ACTIONS.

Exhibit 3

BUILDING CODE ANALYSIS	
OCCUPANCY CLASSIFICATION	GROUP A-2 (ASSEMBLY)
TYPE OF CONSTRUCTION	V-B
FIRE SPRINKLER	SPRINKLERED

PANDA EXPRESS			
RESTAURANT AREA		2,621 S.F.	
EMPLOYEES		3 EMPLOYEES / SHIFT	(2 SHIFTS PER DAY)
PROVIDED	REQUIRED / ALLOWED		
HEIGHT	23'-3"	-	
STORY	1	-	
AREA	2,621 SQ.FT.	-	
OCCUPANT LOAD	72	-	

SITE INFORMATION			
LOT AREA	47,109 SQ. FT. (1.08 ACRE)		
LOT COVERAGE (FLOOR AREA RATIO)	0.055		
LANDSCAPE PROVIDED	4,996 SQ. FT.		
PROPERTY ZONE / CLASSIFICATION	C-2 (INTERMEDIATE COMMERCIAL) C-3 (GENERAL COMMERCIAL) P-1 (PASSENGER AUTOMOBILE PARKING)		
ADJACENT ZONING DISTRICTS	R-3 (MULTIFAMILY RESIDENTIAL) C-3 (GENERAL COMMERCIAL)		
PROPERTY TYPE / UNIQUE CHARACTERISTICS	FREESTANDING RESTAURANT WITH A DRIVE-THRU		
APN #	106-15-165, 106-15-168, 106-15-171, 106-15-174 106-15-166, 106-15-169, 106-15-172, 106-15-173A, 106-15-167, 106-15-170, 106-15-173A		

PROJECT INFO G
Scale= NTS A-100

1 PROPERTY LINE
2 DRIVE-THRU QUEUE LENGTH: 199'-7"
3 PROPOSED PYLON SIGN
4 LANDSCAPE AREA
5 TRASH ENCLOSURE
6 DESIGNATED ACCESSIBLE PARKING SPACE
7 ACCESSIBLE STRIPED PATH OF TRAVEL
8 CURB RAMP & SIDEWALK
9 WALKWAY
10 NEW PUBLIC SIDEWALK
11 NUMBER OF STALLS
12 DRIVE-THRU LANE
13 CLEARANCE BAR
14 DRIVE-THRU MENU BOARD
15 DRIVE-THRU SPEAKER BOX
16 THANK YOU / DO NOT ENTER SIGN
17 PROPOSED DRIVEWAY ENTRANCE PER CITY OF PHOENIX DETAIL P1225-2
18 EXISTING STREET LIGHT TO REMAIN AND PROTECT IN PLACE
19 STREET LIGHT TO BE RELOCATED
20 EXISTING ELECTRICAL POLE TO REMAIN AND PROTECT IN PLACE
21 EXISTING FIRE HYDRANT TO REMAIN AND PROTECT IN PLACE
22 STRIPING, TYP.

23 BUS STOP PAD PER CITY OF PHOENIX DETAIL P1258 AND P1260
24 6' TALL WROUGHT IRON FENCE, LENGTH: 118'-2 3/4"

25 8' TALL CMU SCREEN WALL, LENGTH: 170'-5 1/2"

26 3' TALL CMU SCREEN WALL

27 EXISTING BUS STOP TO REMAIN IN PLACE

28 PROPOSED DRIVEWAY ENTRANCE PER CITY OF PHOENIX DETAIL P1243

29 15' TALL LIGHT POLE

30 PROPERTY LINE LENGTH

31 EXISTING SIDEWALK

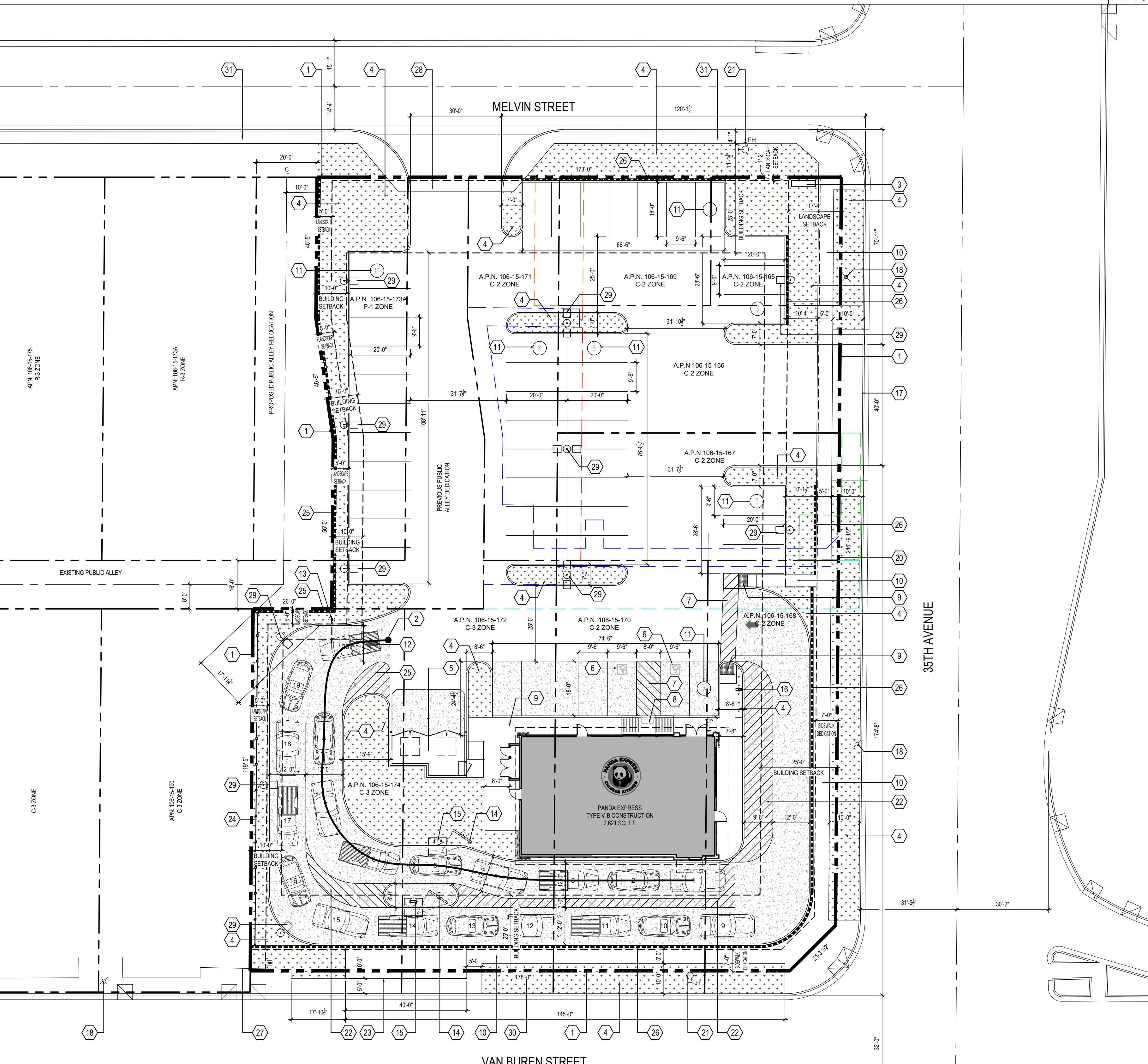


Exhibit 4

Looking Northwest Near Corner of 35th Ave & Van Buren



Looking South from Melvin



Looking South from 35th Ave



Exhibit 5



April 1, 2022

Bill Allison
Withey Morris PLC
2525 East Arizona Biltmore Circle, Suite A-212
Phoenix, AZ 85016

RE: PHO-1-21—Z-1-93-7(4) – Northwest corner of Van Buren Street and 35th Avenue

Dear Applicant:

Please be advised that the Phoenix City Council, in accordance with the provisions of Section 506 of the Zoning Ordinance, has on March 23, 2022, considered a request for 1) Modification of Stipulation 1 regarding general conformance with the site plan dated November 23, 1992. 2) Modification of Stipulation 2 regarding a bus stop on the north side of Van Buren Street. 3) Modification of Stipulation 3 prohibiting access to Melvin Street.

The City Council ratified application PHO-1-21--Z-1-93-7(4) as recommended by the Planning Hearing Officer for approval.

STIPULATIONS

Mod

1. The development shall be in general conformance with the site plan date stamped February 11, 2022, as modified by the following stipulations and approved by the Planning and Development Department.
2. The developer shall dedicate right-of-way and construct one bus stop pad along westbound Van Buren Street west of 35th Avenue. The bus stop pad shall be compliant with City of Phoenix Standard Detail P1260 with a minimum depth of 12 feet. The bus pad shall be spaced from the intersection of 35th Avenue and Van Buren street according to City of Phoenix Standard Detail P1258, as approved or modified by the Public Transit Department.

Del

3. Vehicular access to Melvin Street shall be prohibited.
4. If any driveway is proposed along Van Buren Street, the driveway shall be restricted to right-in/right-out only, as approved by the Street Transportation Department.

5. The developer shall construct a minimum 5-foot-wide detached sidewalk along the west side of 35th Avenue to be detached with a minimum 10-foot-wide landscape strip located between the back of curb and sidewalk. Trees planted in the landscape area to be placed near the sidewalk to provide thermal comfort for pedestrians, as approved by the Planning and Development Department.

Mod

6. The developer shall dedicate a 10-foot sidewalk easement for the north side of Van Buren Street and the west side of 35th Avenue, as approved by the Planning and Development Department.
7. 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.

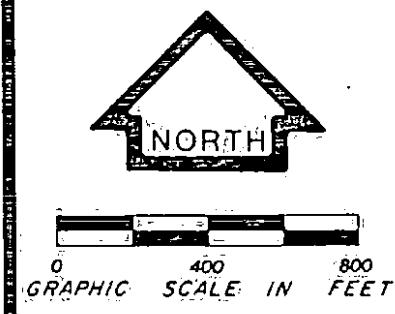
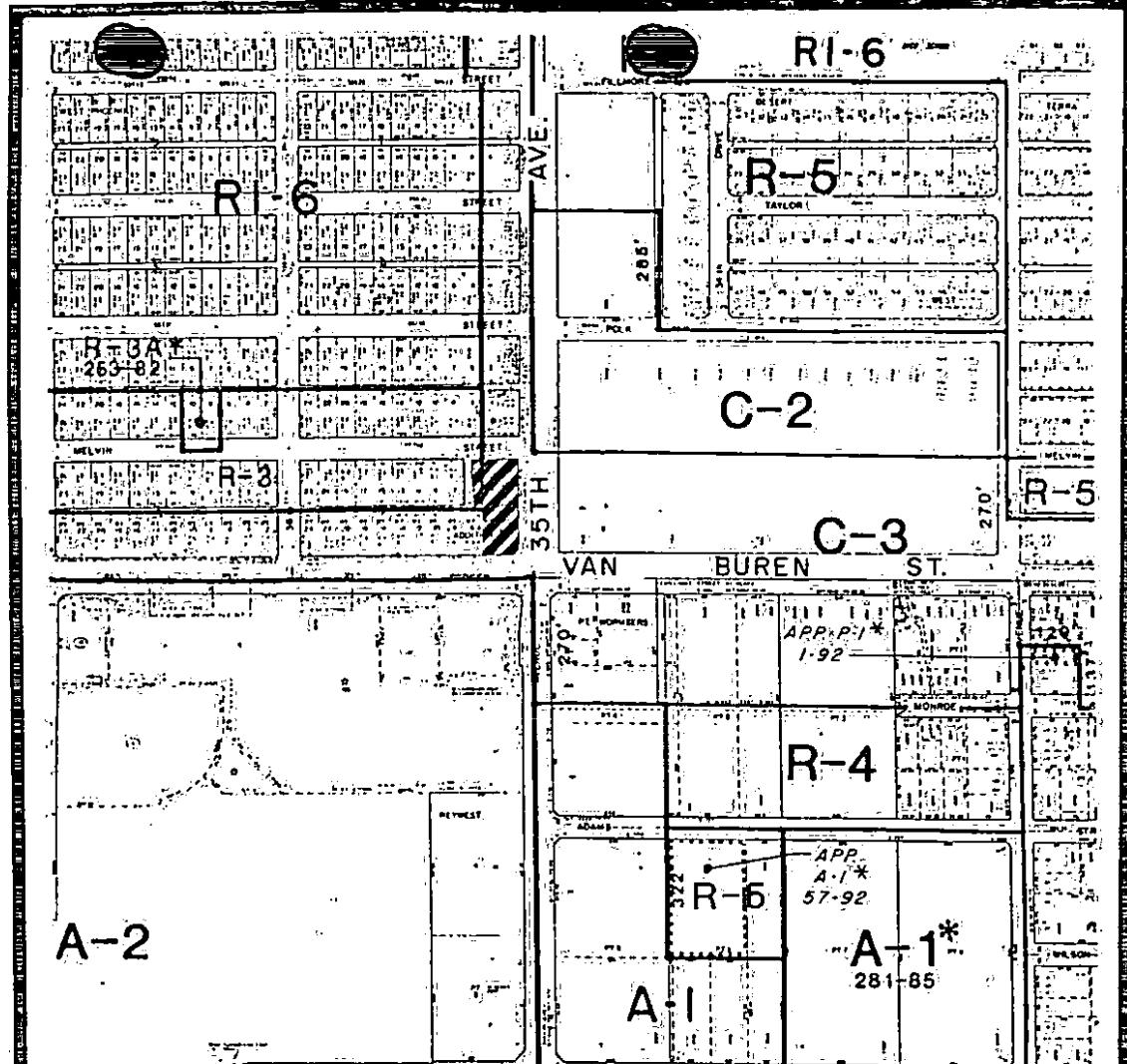
Sincerely,



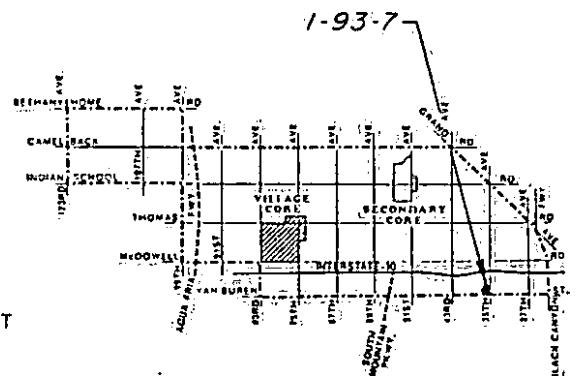
Adam Stranieri
Planner III

c: SK&M Investments
3845 Stockton Hill Road
Kingman, AZ 86409

Bradley Wylam, PDD-Planning (Electronically)
Joshua Bednarek, PDD-Development (Electronically)
Greg Gonzales, NSD (Electronically)
Sina Matthes, City Council (Electronically)
Tony Motola, Mayor's Office (Electronically)
Book
Case File

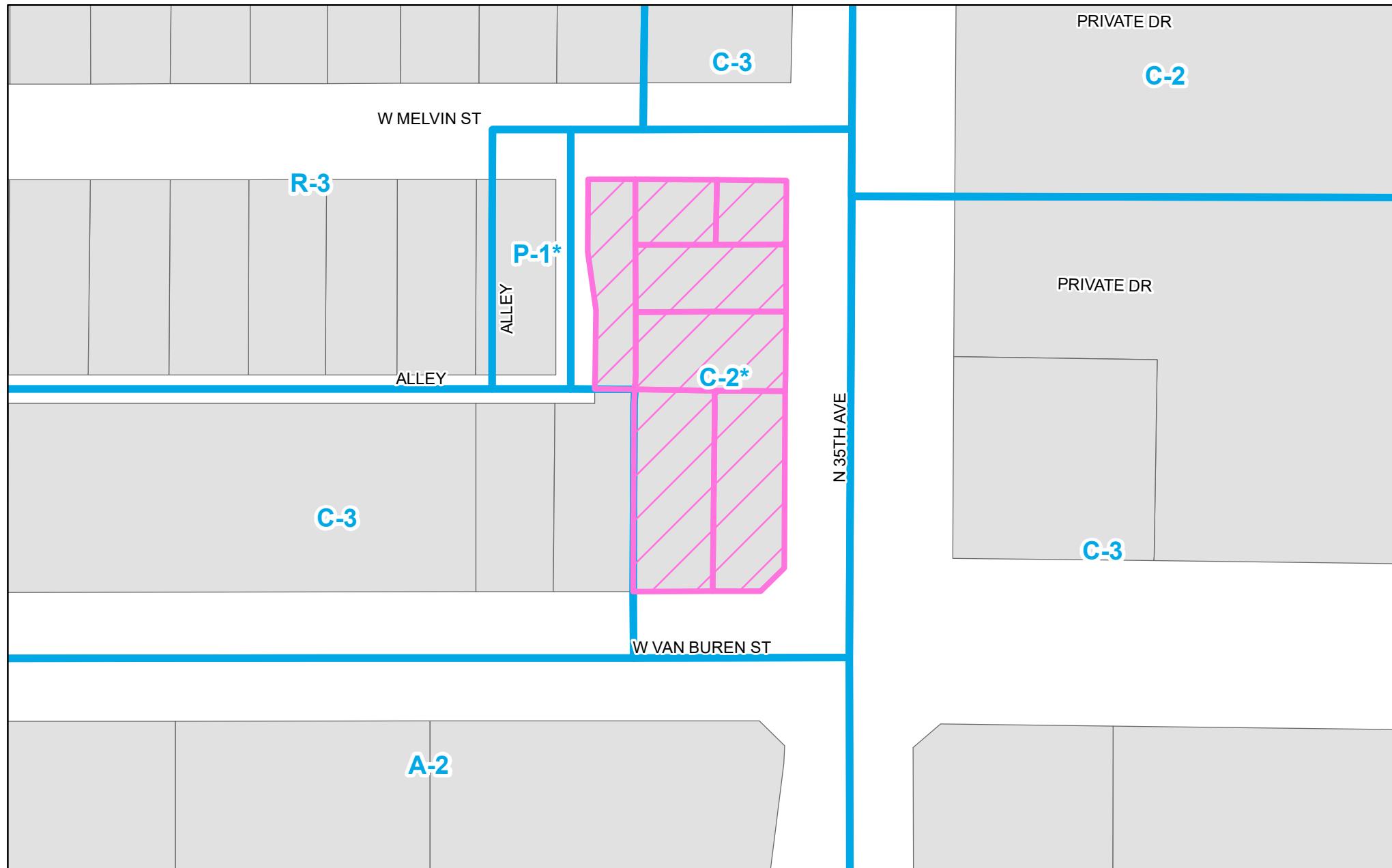


CITY OF PHOENIX PLANNING DEPARTMENT
MARYVALE VILLAGE
CITY COUNCIL DISTRICT 7



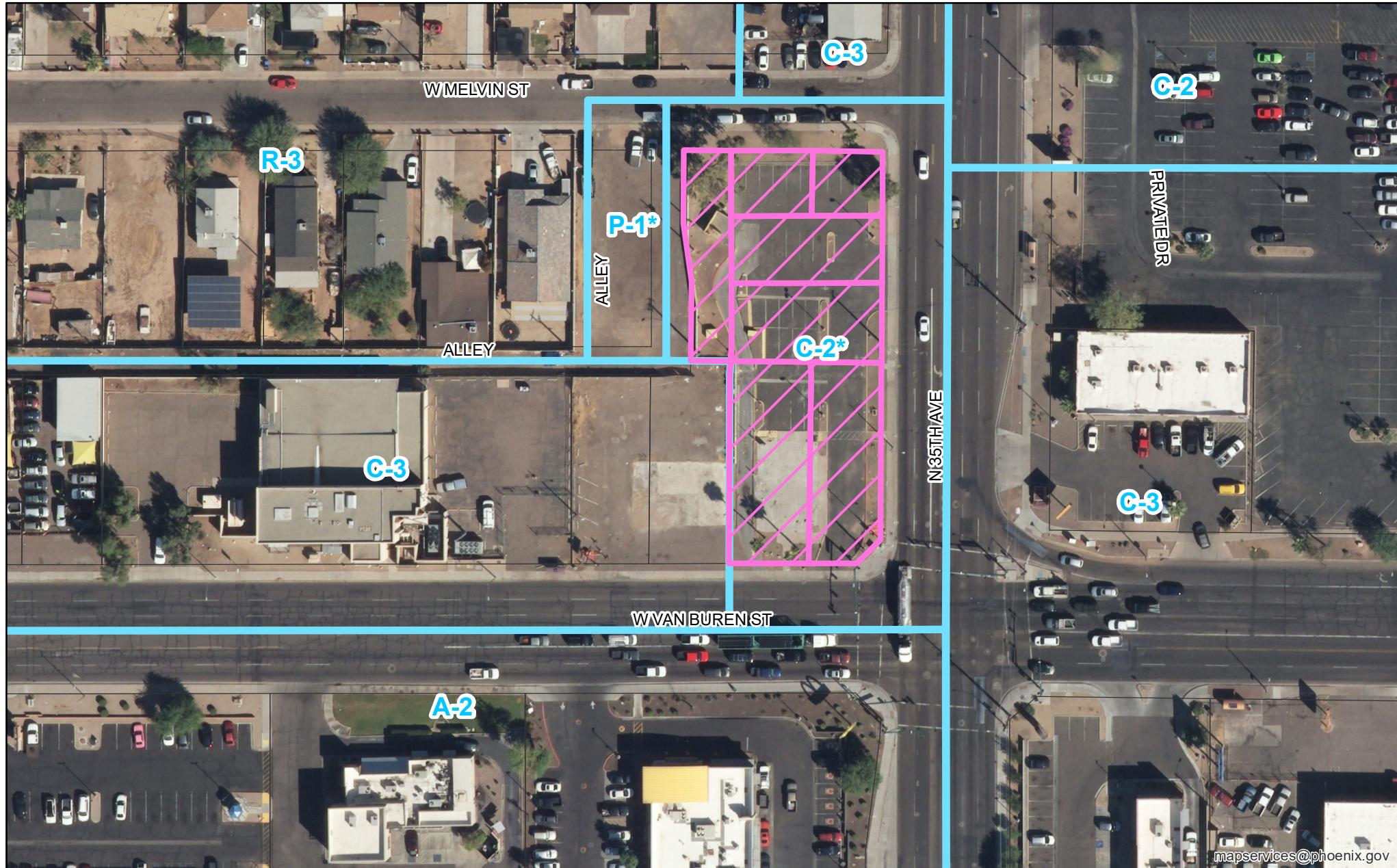
APPLICANT'S NAME TACO BELL CORP. C/O KRISTEN CUMBY			REQUESTED CHANGE		
APPLICATION NO. 1-93-7			HEARING DATES		
			Z.H.O.	P.C.	C.C.
			11-30-92	1-13-93	
GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX. 1.17 ACRES			AERIAL PHOTO & QUARTER SEC. NO.	ZONING MAP F-6 (E-4)	
MULTIPLES PERMITTED			UNITS STANDARD OPTION		
			* UNITS P.R.D. OPTION		

* MAXIMUM UNITS ALLOWED WITH P.R.D. BONUS



PHO-2-24--Z-1-93-7(4)

Property Location: Northwest corner of 35th Avenue and Van Buren Street



PHO-2-24-Z-1-93-7(4)

Property Location: Northwest Corner of 35th Avenue and Van Buren Street



PANDA EXPRESS, INC.
1683 Walnut Grove Ave.
Rosemead, California
91770
Telephone: 626.799.8998
Facsimile: 626.372.5288

All ideas, designs, arrangement and plans indicated or represented by this drawing are the property of Panda Express Inc. and were created for use on this specific project. None of these ideas, designs, arrangements or plans may be used by or disclosed to any person, firm, or corporation without the written permission of Panda Express Inc.

REVISIONS:

ISSUE DATE:	
1ST	1ST PRE APP. SUBMITTAL 06-08-23
2ND	1ST VARIANCE SUBMITTAL 10-24-23
3RD	1ST USE PERMIT SUB. 10-24-23
4TH	2ND USE PERMIT SUB. 12-29-23
5TH	1ST PHO SUBMITTAL 02-14-24

DRAWN BY: RR/BP/CJ

PANDA PROJECT #: S8-25-D28063
PANDA STORE #: -
ARCH PROJECT #: 23-069



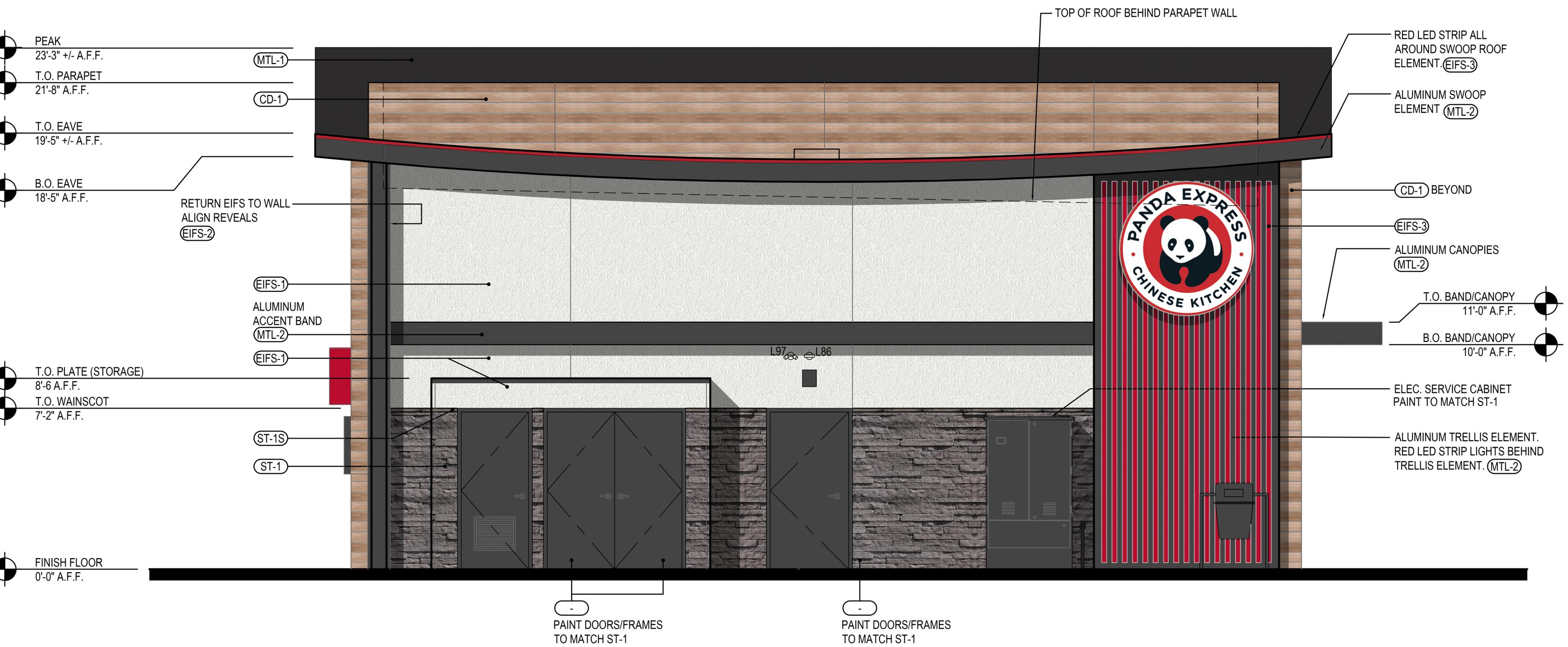
PANDA EXPRESS
3502 W VAN BUREN ST.
PHOENIX, AZ 85009

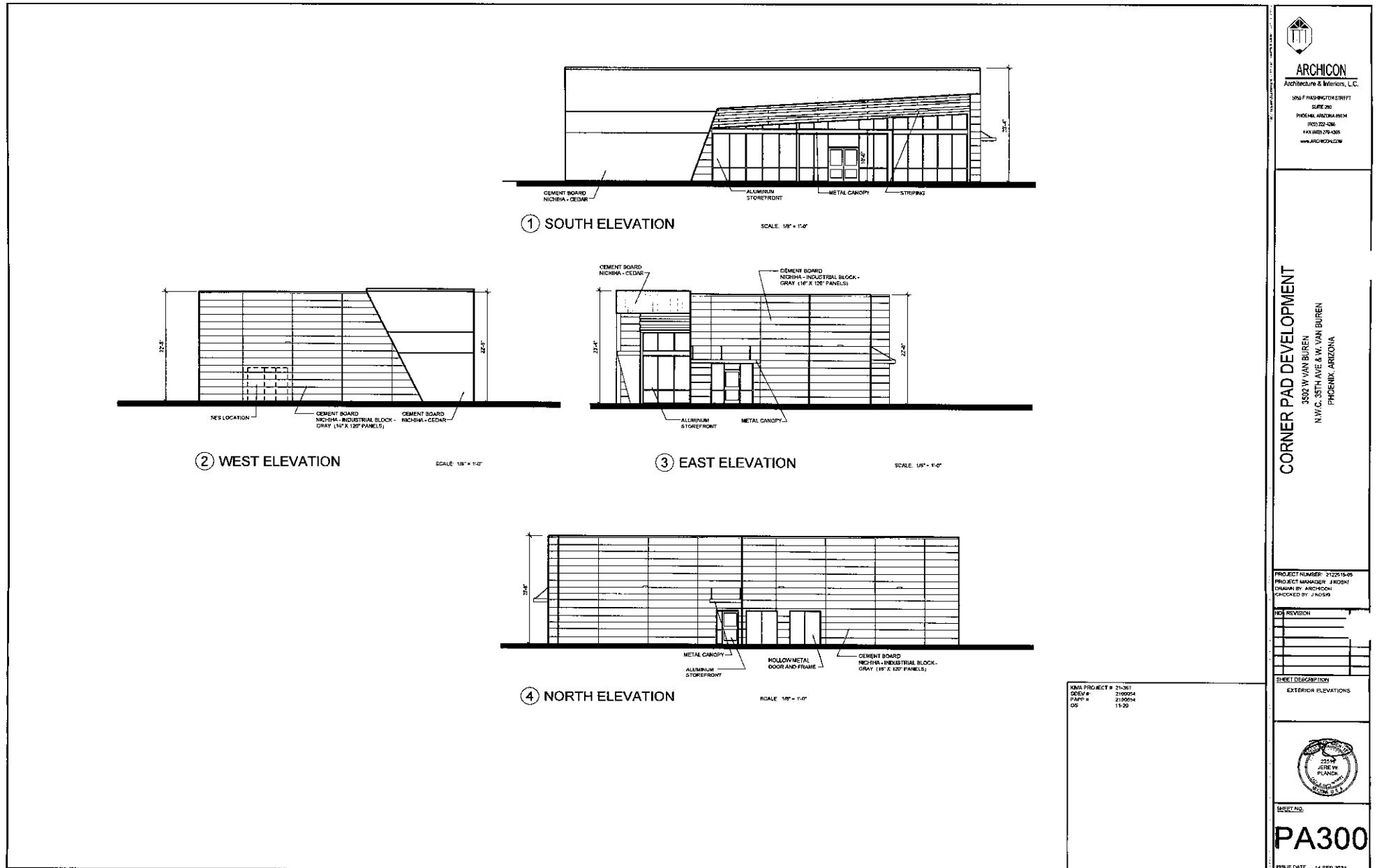
A-200

EXTERIOR
ELEVATIONS

NORTH ELEVATION 1
Scale: 1/4" = 1'-0" A-200

Hearing Date: June 12, 2024





REPORT OF PLANNING HEARING OFFICER ACTION
Adam Stranieri, Planner III, Hearing Officer
Bradley Wylam, Planner I, Assisting

February 16, 2022

ITEM NO: 2	
	DISTRICT 4
SUBJECT:	
Application #:	PHO-1-21-Z-1-93-7(4) (Continued from January 19, 2022)
Location:	Northwest corner of Van Buren Street and 35th Avenue
Zoning	C-2
Acreage:	1.15
Request:	<ol style="list-style-type: none">1) Modification of Stipulation 1 regarding general conformance with the site plan dated November 23, 1992.2) Modification of Stipulation 2 regarding a bus stop on the north side of Van Buren Street.3) Modification of Stipulation 3 prohibiting access to Melvin Street
Applicant:	Bill Allison, Withey Morris PLC
Owner:	SK&M Investments
Representative:	Bill Allison, Withey Morris PLC

ACTIONS:

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

Village Planning Committee (VPC) Recommendation: The Estrella Village Planning Committee heard this request on December 21, 2021 and recommended approval by a vote of 6-0.

DISCUSSION:

This item was heard concurrently with Item #3 (PHO-1-21-Z-23-95-7(4)).

William Allison, representative with Withey Morris PLC, provided an overview of the subject site, original rezoning cases, and previous uses that have existed on the subject site. He reviewed the unanimous approval from the Estrella Village Planning Committee and noted that the case was continued from the January 19, 2022 PHO hearing. He noted that the proposed conceptual site plan has been modified to address department comments from the Public Transit and Street Transportation Departments. He stated that the proposed conceptual site plan depicts a convenience store and gas station. He reviewed the proposed requests

and noted the changes made to the original request in response to the comments from the Public Transit Department.

Adam Stranieri, Planning Hearing Officer, provided an overview of the Estrella Village Planning Committee and the continuance from the January 19, 2022 PHO hearing. He noted that the applicant has been working with the Public Transit and Street Transportation Departments regarding a bus bay and sidewalk improvements to the proposed conceptual site plan. He stated that the proposed conceptual site plan is compatible with other commercial development in the area. He recommended that the proposed modification of Stipulation 2 be approved with a modification to match the recommendation from the Public Transit Department comment. He recommended that the proposed modification to Stipulation 3 be approved with a modification to prohibit vehicular access to Melvin Street while allowing pedestrians to access the site on the north side of the property. He stated that the Street Transportation Department recommended three additional stipulations which are recommended to be included.

FINDINGS:

- 1) The request to modify Stipulation 1 is recommended to be approved with a modification to provide standard general conformance language. The stipulated site plan depicted a drive-through restaurant with the drive-through along the west property line exiting directly onto Van Buren Street. This has been demolished and the site is currently vacant. The proposed conceptual site plan depicts a convenience store and gas station with pump island canopies situated along Van Buren Street. The scale and intensity of the proposal are compatible with its location at the intersection of two arterial streets and consistent with other commercial development in the immediate vicinity.

The Public Transit Department indicated support for the revised site plan date stamped February 11, 2022. The revised site plan proposed placement of a bus pad on westbound Van Buren Street closer to the intersection with 35th Avenue. They noted the site is at a critical transfer point for two heavily used bus routes. The pad's proper location closer to the intersection is essential for the safety and efficiency of the City's transit system.

- 2) The request to modify Stipulation 2 is recommended to be approved with a modification to replace the existing stipulation with updated language regarding a bus stop pad along westbound Van Buren Street, west of 35th Avenue. In their narrative, the applicant argued that the bus stop referenced in Stipulation 2 exists and that the language requiring this infrastructure can be removed. They proposed replacing the stipulation

with new language addressing pedestrian pathways and shading requirements.

However, the Public Transit Department does not support this request and clarified that the original stipulation has not been met. They noted that the existing bus stop referenced in the applicant's narrative is located on the adjacent parcel to the west and that this stop does not meet City standards for spacing from a major intersection as stated in City of Phoenix Standard Detail P1258.

The Public Transit Department comments are consistent with the Planning Department Staff Report dated January 13, 1993 for the original rezoning case which provided the rationale for Stipulation 2 when it was established. This staff report stated that the existing bus stop on the north side of Van Buren Street, far side of 35th Avenue, is located too far to the west. Staff recommended Stipulation 2 to eliminate this inconsistency and provide guidance for the appropriate City standards and details for the proposed new bus stop. As the bus stop has not been constructed per Stipulation 2, following City Council approval of the original rezoning case, this same issue remains.

The Public Transit Department further noted that the proposed modification would eliminate the requirement for a bus stop on this site which is an important transfer point for the City of Phoenix transit system. According to the 2019 Valley Metro Origin/Destination survey, 336 riders transfer daily between Route 3 on Van Buren Street and Route 35 on 35th Avenue, making this location one of the busiest areas for bus transfers in the region's transit system.

Finally, Public Transit Department staff noted that on October 6, 2021, the Phoenix City Council approved the first Bus Rapid Transit (BRT) line in the City's history. This high-capacity transit service will operate along Van Buren Street from Central Avenue to 35th Avenue and along 35th Avenue north to the Metrocenter site. Future BRT riders who wish to continue west along Van Buren Street must transfer to regular bus service at the bus stop that should be located on the subject site of this case.

The demand for a properly designed bus stop has only increased since the City Council approved the original Stipulation 2 in 1993 and will continue to increase due to the recent Council approved BRT service. The recommendation to provide updated language regarding the required bus stop pad is consistent with the recommendation of the Public Transit Department. The applicant submitted a revised site plan that addresses this recommendation which is further described in Finding #1.

- 3) The request to modify Stipulation 3 is recommended to be approved with a modification to clarify that vehicular access to Melvin Street is prohibited. The proposed modification will allow pedestrian access to the site from the neighborhood to the north, while clarifying that vehicular access is prohibited, which will prohibit commercial traffic on a local street with existing residences.
- 4) The Street Transportation Department recommends an additional stipulation requiring that any driveway proposed along Van Buren Street be restricted to right-in/right-out movements only. This stipulation is recommended for inclusion.

Street Transportation Department staff noted that the recommendation is not intended to require a driveway along Van Buren Street; however, any proposed driveways must be restricted to right-in/right-out because of the subject site's proximity to the existing signalized intersection and not meeting the City standard for access control, resulting in conflicting turning movements.

- 5) The Street Transportation Department recommends two additional stipulations regarding a detached sidewalk along the west side of 35th Avenue and a sidewalk easement along both 35th Avenue and Van Buren Street. These stipulations are recommended for inclusion.

Street Transportation Department staff noted that 35th Avenue is identified as a D-Cross Section on the City Council approved Street Classification Map. The D-Section requires detached sidewalks. The Street Classification Map also requires a total of 50-foot right-of-way dedication allowing the last 10 feet to be sidewalk easement. The current ROW along both frontages is 40-feet and therefore Street Transportation is requesting the 10-foot sidewalk easement dedication to comply with the Street Classification Map.

STIPULATIONS:

1.	That THE development shall be in general conformance with the site plan DATE STAMPED FEBRUARY 11, 2022 dated November 23, 1992, as may be modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department through the Development Review process to meet Zoning Ordinance requirements.
2.	That a far side bus stop on the north side of Van Buren Street shall be provided as approved by the Development Services Department. Access shall be provided from the bus stop to the restaurant in accordance with

	<p>the Americans with Disabilities Act requirements as approved by the Development Services Department.</p> <p>THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY AND CONSTRUCT ONE BUS STOP PAD ALONG WESTBOUND VAN BUREN STREET WEST OF 35TH AVENUE. THE BUS STOP PAD SHALL BE COMPLIANT WITH CITY OF PHOENIX STANDARD DETAIL P1260 WITH A MINIMUM DEPTH OF 12 FEET. THE BUS PAD SHALL BE SPACED FROM THE INTERSECTION OF 35TH AVENUE AND VAN BUREN STREET ACCORDING TO CITY OF PHOENIX STANDARD DETAIL P1258, AS APPROVED OR MODIFIED BY THE PUBLIC TRANSIT DEPARTMENT.</p>
3.	That no VEHICULAR access shall be provided to Melvin Street SHALL BE PROHIBITED unless a variance to reduce the required drive thru queuing space is denied.
4.	IF ANY DRIVEWAY IS PROPOSED ALONG VAN BUREN STREET, THE DRIVEWAY SHALL BE RESTRICTED TO RIGHT-IN/RIGHT-OUT ONLY, AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT.
5.	THE DEVELOPER SHALL CONSTRUCT A MINIMUM 5-FOOT-WIDE DETACHED SIDEWALK ALONG THE WEST SIDE OF 35TH AVENUE TO BE DETACHED WITH A MINIMUM 10-FOOT-WIDE LANDSCAPE STRIP LOCATED BETWEEN THE BACK OF CURB AND SIDEWALK. TREES PLANTED IN THE LANDSCAPE AREA TO BE PLACED NEAR THE SIDEWALK TO PROVIDE THERMAL COMFORT FOR PEDESTRIANS, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
6.	THE DEVELOPER SHALL DEDICATE A 10-FOOT SIDEWALK EASEMENT FOR THE NORTH SIDE OF VAN BUREN STREET AND THE WEST SIDE OF 35TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
7.	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.

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 Les Scott at 602-376-3981 or TTY: 7-1-1.

ESTRELLA VILLAGE PLANNING COMMITTEE

MINUTES

Tuesday, December 21, 2021

Meeting was held electronically via a video conferencing platform

MEMBERS PRESENT

Mark Cardenas, Chair
Parris Wallace, Vice Chair
Serika Ademolu
Kevin Danzeisen
Lisa Perez
Dan Rush

MEMBERS ABSENT

Bill Barquin
Beth Cartwright
Dafra Joel Sanou

STAFF PRESENT

Enrique Bojórquez

1. Call to order, introduction of committee members, and announcements by the chair.

The meeting was called to order at 6:02pm by **Chair Mark Cardenas** with a quorum of 6 members present, 5 being required for a quorum.

2. Review and approval of the November 16, 2021, meeting minutes.

Chair Cardenas asked for a motion to approve the minutes as presented.

MOTION

Mr. Mark Cardenas made a motion to approve the minutes as presented.
Mr. Dan Rush seconded the motion.

VOTE

6-0, motion passed; None in dissent.

3. Public comments concerning items not on the agenda.

None.

4. **PHO-1-21--Z-1-93-7(4):** Presentation, discussion, and possible recommendation regarding a request to modify stipulations of entitlement for the property located at the northwest corner of 35th Avenue and Van Buren Street. Request to modify stipulation number 1 regarding general conformance to the site plan dated November 23, 1992. Request to modify stipulation number 2 regarding a bus stop on the north side of Van Buren Street, and request to modify stipulation number 3 prohibiting access to Melvin Street.

5. **PHO-1-21--Z-23-95-7(4):** Presentation, discussion, and possible recommendation regarding a request to modify stipulations of entitlement for the property located approximately 175 feet west of the southwest corner of 35th Avenue and Melvin Street. Request to modify stipulation number 1 regarding pedestrian and vehicular access to Melvin Street. Request to modify stipulation number 2 regarding a 20-foot landscape setback along Melvin Street, and request to modify stipulation number 3 regarding a 6-foot masonry screen wall. Request to delete stipulation number 4 regarding use of parking.

Cases PHO-1-21--Z-1-93-7(4) and PHO-1-21--Z-23-95-7(4) were heard concurrently.

No members of the public registered to speak on these items.

Enrique Bojórquez, staff, introduced himself and provided a concurrent presentation on both cases noting the location of the site, existing zoning, and proposed use. The requested modifications to the case stipulations for PHO-1-21-Z-1-93-7(4) and PHO-1-21--Z-23-95-7(4) were presented and the new proposed site plan was shown. He then invited the applicant to provide a brief presentation to the committee.

Adam Baugh, Withey Morris PLC, introduced himself as the applicant and stated that he was covering for his colleague William Allison who worked on these cases. He discussed the location and background history of the site, noting the existing zoning districts. He discussed the proposed development, site plan, stipulation modifications requested and concluded by requesting an approval of both requests.

Chairman Cardenas asked for questions or discussion from the committee.

Lisa Perez asked if Mr. Rush was notified by this applicant on the proposed development.

Dan Rush stated that he did not receive a notice but has no issues at the moment.

Mr. Baugh stated that all letters were mailed to those listed in their notification documents.

Ms. Perez stated that she understands, but Mr. Rush did not receive this letter. This area has a lot of traffic issues and asked for input from Mr. Rush and Vice Chair Wallace who are familiar with the area.

Mr. Rush stated that this appears to be a good development of the site, as there are no gas stations south of Van Buren Street.

Vice Chair Wallace does not see a major issue with this development.

Ms. Perez asked for clarification on street access, north landscape setback and potential user of the site.

Mr. Baugh discussed the access points to the site, and the increased landscape setback along the north property line. He is unable to disclose the user of this site.

Chairman Cardenas asked for further discussion or a motion on each case.

MOTION – PHO-1-21--Z-1-93-7(4):

Mr. Danzeisen motioned to approve the modifications as requested by the applicant. **Chairman Cardenas** seconded the motion to approve.

VOTE – PHO-1-21-Z-1-93-7(4):

6-0, motion passed; Members Ademolu, Danzeisen, Perez, Rush, Wallace and Cardenas in favor; None in dissent.

MOTION – PHO-1-21-Z-23-95-7(4):

Chairman Cardenas motioned to approve the modifications as requested by the applicant. **Mr. Rush** seconded the motion to approve.

VOTE – PHO-1-21-Z-23-95-7(4):

6-0, motion passed; Members Ademolu, Danzeisen, Perez, Rush, Wallace and Cardenas in favor; None in dissent.

6. Discussion and possible recommendation regarding nominations and elections of Chair and Vice Chair for 2022.

Chairman Cardenas asked for nominations to be made for Chair. He then nominated Parris Wallace to serve as Chair in 2022.

Vice Chair Wallace declined the nomination.

Committee member discussion.

Vice Chair Wallace nominates Mark Cardenas as Chair for 2022.

Chairman Cardenas accepted the nomination and asked for other nominations to be made.

VOTE:

Mr. Cardenas: **5-0-1** Motion passed; Members Ademolu, Danzeisen, Rush, Wallace and Cardenas in favor; None in dissent; Member Perez abstained.

Chairman Cardenas opened the floor for nominations of Vice Chair for 2022. He then nominated Parris Wallace as Vice Chair for 2022.

Vice Chair Wallace accepted the nomination.

Chairman Cardenas asked for other nominations to be made.

VOTE:

Ms. Wallace: **6-0** Motion passed; Members Ademolu, Danzeisen, Perez, Rush, Wallace and Cardenas in favor; None in dissent.

Chairman Cardenas was elected Chair for 2022, while Vice Chair Wallace was elected as Vice Chair for 2022.