

Attachment C

Planning Hearing Officer Summary of December 18, 2019
Application Z-11-94-1
Page 1

REPORT OF PLANNING HEARING OFFICER ACTION
Adam Stranieri, Planner III, Hearing Officer
Julianna Pierre, Planner I, Assisting

December 18, 2019

ITEM 1

DISTRICT 1

SUBJECT:

Application #: Z-11-94-1 (PHO-2-19)
Zoning: A-1 DVAO
Location: Approximately 460 feet south of the southeast corner of 23rd Avenue and Whispering Wind Drive
Acreage: 2.44
Request: 1) Modification of Stipulation 1 regarding a 20-foot landscape setback along 23rd Avenue and parking plan.
2) Deletion of Stipulation 2 regarding dedication of a 40-foot east half street for 23rd Avenue.
Applicant: Victory Development
Owner: OOOO LLC/RMLM LLC/NTO LLC
Representative: Andy Jochums, Beus Gilbert PLLC

ACTIONS

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended denial as filed and approval with a modification and an additional stipulation.

Village Planning Committee (VPC) Recommendation: The Deer Valley Village Planning Committee heard this case on November 21, 2019 and recommended approval by a 9-0 vote.

DISCUSSION

Andy Jochums, applicant with Beus Gilbert McGroder PLLC, presented the background regarding the original rezoning case. He noted that during the original rezoning staff had concerns regarding the proposed use of unscreened outdoor storage of vehicles and construction equipment. Staff recommended denial of the case but stated that if the request was approved they would suggest additional stipulations that could mitigate impacts of the proposed use. He explained that this resulted in Stipulation 1, regarding a 20-foot landscape setback along 23rd Avenue. He stated that his client wants to redevelop the property as a Caliber Collision and that the 20-foot landscape setback will restrict that development since the Street Transportation Department is requesting dedication of a 55-foot east half street for 23rd Avenue. He clarified that the requested dedication is 15 feet more than what was requested in the original rezoning case. He concluded by stating that the Deer Valley Village Planning Committee recommended unanimous approval of their request by a vote of 9-0.

Adam Stranieri stated that the stipulation for the 20-foot landscape setback was a dimension based on the expectation of the original 40-foot east half street for 23rd Avenue. He stated that the requirement of a 20-foot landscape setback coupled with the expanded street today may make the southwest portion of the site undevelopable. He stated that accommodations regarding the reduction of the landscape setback needed to be made to allow for the 55-foot east half street dedication requested by the City, necessary turn radii, and required parking spaces. He added that the remaining 11-foot landscape setback depicted on the applicant's site plan is in excess of the existing code requirements for A-1 zoning; which retains the original intent of Stipulation 1. He stated that he was inclined to recommend approval for the applicant's request to modify Stipulation 1.

Mr. Stranieri stated that he would recommend denial as filed for the applicant's request to delete Stipulation 2, regarding dedication of a 40-foot half street for 23rd Avenue. He clarified that the stipulation would instead be modified to reflect the Street Transportation Department's request for a 55-foot right-of-way dedication.

FINDINGS

- 1) The original stipulations established in rezoning case no. Z-11-94 required both a 20-foot landscape setback and a dedication of 40-feet of right-of-way along the east side of 23rd Avenue. The existing right-of-way for the east side of 23rd Avenue is 40-feet in width. However, the current recommendation from the Street Transportation Department is to require an additional dedication to provide a 55-foot east half-street for 23rd Avenue. The dedication of an additional 15-feet of right-of-way in this location makes the requirement for a 20-foot landscape setback more difficult, in that it may render the southern portion of the subject property unusable for parking, maneuvering, or a drive aisle. The proposed conceptual site plan depicts an 11-foot landscape setback, which exceeds the standard required by the A-1 zoning district, maintaining the original intent of the stipulation. The requested modification is appropriate given the enhanced right-of-way requested by the Street Transportation Department.

DECISION: The Planning Hearing Officer recommended denial as filed and approval with a modification and an additional stipulation.

STIPULATIONS

1.	THE DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN DATE STAMPED OCTOBER 4, 2019, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. That prior to the vesting of zoning the following shall be accomplished by the applicant:

	a.	A 20-foot landscape setback shall be provided along 23rd Avenue as approved by the Development Services Department.
	b.	A parking plan which shall include paved areas for all required employee and customer parking and other areas used for vehicle maneuvering shall be approved by the Development Services Department.
2.		THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY TOTALING 55 FEET FOR THE EAST HALF OF 23RD AVENUE, AS APPROVED BY THE STREET TRANSPORTATION DEPARTMENT. That the applicant dedicate a 40-foot east half street for 23rd Avenue.
3.		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. Please contact the Planning and Development Department, Tamra Ingersoll at voice number 602-534-6648 or TTY use 7-1-1.