

# ATTACHMENT C

Planning Hearing Officer Summary of March 20, 2019  
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## REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Sofia Mastikhina, Planner I, Assisting

March 20, 2019

### ITEM 5

### DISTRICT 5

#### SUBJECT:

Application #: Z-50-08-5 (PHO-5-19)  
Zoning: R-3A  
Location: Northeast corner of 23rd Avenue and Royal Palm Road  
Acreage: 19.35  
Request: 1) Modification of Stipulation No. 1 regarding elevations for the residential portions of the site.  
2) Modification of Stipulation No. 1a regarding orientation of building entries.  
3) Modification of Stipulation No. 2b regarding residential building design and a Tree Preservation Plan.  
4) Technical corrections to Stipulation Nos. 2, 3, 5, 6, 7 and 8.  
Applicant: Earl, Curley and Lagarde P.C. - Taylor C. Earl  
Owner: West Royal Development III LLC  
Representative: Earl, Curley and Lagarde P.C. - Taylor C. Earl

### **ACTIONS**

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

Village Planning Committee (VPC) Recommendation: At its February 20, 2019 meeting, the North Mountain Village Planning Committee recommended approval by a 11-0 vote.

### **DISCUSSION**

Taylor Earl, with Earl, Curley & Lagarde, presented the history of the property, stating that it used to be part of the El Caro golf course. He explained that this site had previously been zoned for a townhome development, which is what is being proposed in the new project, and that the developer had received a letter from the Planning and Development Department Director stating that the new plan is in general conformance with the previously stipulated plan. He noted the irregular shape of the parcel as a site design challenge. He stated that homes will be market rate and will be sold for ownership. He presented the original approved plans for the site and noted that most of

the buildings were three stories, while the new proposal includes only two-story townhomes, which will reduce the impact to adjacent property owners. He presented the new proposed plan and noted that the site design has remained largely the same in regard to street layout, landscape buffering, and building setbacks. He explained that Stipulation No. 1 was put in place at the time of the original rezoning case because the applicant at the time did not have elevations and, as such, he proposes to replace the requirement to go back to the Planning Hearing Officer for review and approval of elevations with a stipulation for general conformance to the proposed elevations. He presented the architectural features of the elevations, noting that they are an urban farmhouse style, with varying roof heights, diversity of building materials, and rear entrances that are adjacent to open spaces. He then addressed Stipulation No. 1a which requires that building entries be oriented toward common areas/pathways, pointing out that the stipulation does not specify whether the building entry must be on the front or rear of the structure. He explained that he believes the new plan conforms to this stipulation, but that he would like to amend the language to provide flexibility in case City staff decides that the plan is not in compliance with the original language. He reiterated that the rear entries of the proposed buildings all oriented towards open spaces, which would bring them into compliance with the original stipulation. He stated that the same stipulation modification was granted on another portion of the original zoning case, on a property to the southeast of the subject site.

He then addressed Stipulation No. 2b regarding building design in relation to the Tree Preservation Plan, noting that the new language will add flexibility of approval or modification by the Planning and Development Department through a tree inventory and salvage plan. He presented the proposed tree preservation plan, pointing out which trees would be relocated or replaced in the cases where the tree has already died. He noted that only nine trees on the entire site will be relocated, including ones that have died, which will be replaced at a different location, and that only of those trees fall within a building footprint.

He stated that this project has received general support from the surrounding community, and that there will be no access from the new development onto the existing El Caro Villas community to the east. He also pointed out that the only point of access between the two sites will be gated and restricted to access by the Fire Department.

Richard Lerner, representing the El Caro Villas Homeowners' Association, stated that his community has had extensive meetings with the developer. He noted that the only point of contention at the Village Planning Committee Meeting was resident concern with traffic density on 23rd Avenue, and that they had reached an agreement to make an exit only access point on Butler Avenue. He stated that his community will continue to work with the developer to ensure that adequate landscape buffering is provided between the new project and the existing El Caro Villas community.

Adam Stranieri asked what aspects of the landscape buffer are under discussion. Mr. Lerner stated that they would like to know what exactly will be provided for landscaping and what materials will be used for any trails, as the existing trail is made of concrete. He noted that he would not support a gravel trail as it is not stable, and many residents

in his community are elderly. He stated that these are minor concerns and that the community is in favor of the overall development.

Mr. Stranieri noted that, although the plans submitted do not specify the materials that will be used for the trails, the Planning and Development Department would require that any pedestrian pathways be provided on a stabilized surface.

Mr. Earl explained that his team has not selected a material for the trails yet, as the layout will depend on the grading and drainage of the site. He stated that drainage on the site will be a very important aspect of the development process.

Mr. Stranieri addressed the stipulations proposed to be modified, stating that Stipulation No. 1 cannot be fulfilled by simply attending a public hearing. He noted that the language in the stipulation addresses specific design elements, and that the intent of the public hearing requirement is to ensure that the new proposed elevations incorporate these specific features. He stated that a general conformance stipulation would give the developer enough flexibility to make minor modifications to the elevations as needed, but that if any major changes are made, a public hearing process will be required to ensure that neighbors are appropriately notified and given the opportunity to voice their opinions. He then addressed the stipulation regarding orientation of building entries, noting that "common area" is defined in the Zoning Ordinance as "land in a residential development held in common or single ownership not reserved for the single benefit of an individual tenant or owner," and, as such, the private drives and sidewalks in the proposed plan are considered common areas, which brings the plan into compliance with that portion of the stipulation. He further explained that the second portion of the stipulation references pathways, which can be interpreted in different ways for this development. He noted that this site has an extensive pathway system within its landscape buffers, so ideally the building entries should be oriented towards something that can provide access to these active open spaces. He stated that the sidewalks in the development provide access to the open space areas and pathways, so the new stipulation language will add the option to orient buildings towards sidewalks to provide connectivity to the open space areas and pathways.

He then addressed Stipulation No. 2b regarding building design in relation to the Tree Preservation Plan, stating that he agrees with Mr. Earl's assertion that the stipulation language is about building design and that on the proposed plan there is only one tree that is affected by the location of a building. He stated that it would be close to impossible to maintain every original tree in the same location, as golf course landscaping was not designed to accommodate a single-family subdivision. He stated that he would like to add language that references the Tree Preservation Exhibit submitted with this request to ensure that the original Tree Preservation Plan stays in place except where it is modified by the new exhibit. He further explained that the developer will be required to replace any trees that will be removed or relocated with a tree or trees of an equal caliper size.

## **FINDINGS**

- 1) Stipulation 1 regarding building elevations for the residential portions of the site required administrative approval for evaluation of whether proposed building entries are oriented towards common areas and pathways and the driveway grid configuration throughout the site. The applicant consulted with staff prior to this hearing and determined that the driveway grid configuration conformed to the stipulation and no modification of that sub-stipulation was necessary.

In regards to the building orientation towards common areas and pathways, the proposed conceptual site plan and building elevations do show buildings orientated towards common areas, as defined in the Zoning Ordinance. However, there are no buildings oriented so that primary entries are facing pedestrian pathways. In the original case it is unclear how this stipulation would be implemented because the stipulated site plan showed only lot layout and there were no conceptual elevations. The primary benefit of orienting buildings toward pathways is to provide access to and increase use of open spaces.

The proposed conceptual elevations show sidewalks along private streets internal to the development. These sidewalks will connect to both active and common open space areas. Therefore, a stipulation modification is recommended that permits building orientation toward sidewalks that connect to open spaces. Further, general conformance to the conceptual elevations is recommended to provide certainty to the public of the housing product and establish a mechanism for review if alternative designs are proposed.

- 2) Stipulation 2.b states that residential buildings should be designed to maintain mature trees identified in a Tree Preservation Plan (dated August 29, 2008). In their application materials, the applicant submitted a Tree Preservation Exhibit (date stamped January 4, 2019) that displayed the current condition and plans for all of the mature trees identified in the original case's Tree Preservation Plan.

There is one existing mature palm tree identified in the original Plan that the applicant proposes to relocate because it is impacted by the proposed location of a residential dwelling unit. The palm tree is located near the center of this area; the 'leg' at the southwest corner of the site. The location is not providing any mitigating benefit to adjacent property owners and would not markedly contribute to shade or walkability for residents internal to the development. Further, in the original rezoning case, the Tree Preservation Plan includes a proposed lot layout that was stipulated for general conformance and this tree was shown within the footprint of a dwelling unit. The relocation of this tree is recommended for approval as shown on the applicant's Tree Preservation Exhibit.

In regards to the remaining trees shown on the applicant's Tree Preservation Exhibit, it is recommended that all relocations and replacements provide at a minimum a tree or trees of an equal caliper size. The exhibit indicates nine trees that will be required to be relocated or replaced, of which five may be unsalvageable. The relocations are in part justified by the limitations created by

the unique shape, size, and configuration of the subject parcel. Maintaining the original locations of all prior trees, planted to landscape the golf course, may make development of the site untenable given all of the features and infrastructure demanded by a residential subdivision. The recommended stipulation language will ensure that at a minimum, the relocated or replaced trees will be of an equal quantity to the plants as at the time the original stipulation was created. This is also consistent with the City's standard requirements during the inventory and salvage and landscape plan review process.

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

### **STIPULATIONS**

1.	<p><del>That the elevations for the residential portions of the site shall be approved by the Planning Hearing Officer through the public hearing process prior to Development Services Department preliminary site plan approval with specific regard to the inclusion of the below elements. This review is for conceptual purposes only. Specific development standards and requirements will be determined by the Development Services Department.</del></p> <p>THE DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE ELEVATIONS DATE STAMPED JANUARY 4, 2019, WITH SPECIFIC REGARD TO THE FOLLOWING AND AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT:</p>
a.	Building entries shall be oriented towards common areas, pathways, OR SIDEWALKS THAT PROVIDE ACCESS TO COMMON OR ACTIVE OPEN SPACE AREAS.
b.	Where possible, garage servicing driveways shall be configured in an east/west grid to minimize east/west surface exposure, unless tree preservation requires an alternative.
2.	<p><del>That t</del>The residential portion of the site shall develop in general conformance to the site plan date stamped August 29, 2008, as approved by the PLANNING AND Development Services Department, with specific regard to:</p>
a.	Provision of a major shaded pedestrian route (8'- 10' wide) that conveniently and directly connects open space areas to Butler Drive, 23rd Avenue and the southeast portion of the site, as shown on Exhibit A, Conceptual Pedestrian Connection Plan. The pedestrian plan shall adhere to the identified cross sections A-A, B-B and C-C.
b.	The residential buildings shall be designed so that the mature trees identified on <del>Exhibit B</del> , THE Tree Preservation Plan DATED AUGUST 29,

		2008, will remain in place as an integral part of the site design, AS MODIFIED BY THE PROPOSED TREE RELOCATIONS DEPICTED ON THE TREE PRESERVATION EXHIBIT DATE STAMPED JANUARY 4, 2019, AND AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. ALL TREE RELOCATIONS AND REPLACEMENTS SHALL PROVIDE AT A MINIMUM A TREE OR TREES OF AN EQUAL CALIPER SIZE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	c.	The number of units shall be a maximum of 11.12 dwellings per acre.
	d.	<del>That</del> The developer shall provide a par exercise course as an amenity within the designated major pedestrian route.
3.		<del>That</del> The commercial portion of the site shall develop in general conformance to the elevations date stamped August 1, 2008 and site plan date stamped August 29, 2008 as may be approved by the PLANNING AND Development Services Department, with specific regard to the following for the portion of the site east of 21st Avenue (Definitions in the following stipulations are as noted in Section 662 of the Phoenix Zoning Ordinance.):
	a.	Placement of buildings close to Northern Avenue, providing parking on the interior and between buildings.
	b.	<del>That</del> Buildings along Northern Avenue shall be no greater than 180 feet of frontage without provision of a walkway/passageway to the interior of the commercial site.
	c.	Provision of walkways/passageways between buildings from Northern Avenue to the interior of the commercial site.
	d.	A minimum of 50% of the lot frontage on Northern Avenue shall contain building frontage.
	e.	All structures except where residential uses are on the ground floor, shall utilize clear windows. A clear window is a window that will allow a minimum of 75% of the visible light (as specified by the manufacturer) to be visible on either side of the window. Clear windows shall encompass, at a minimum, 60% of the building façade length fronting onto a street within the area from 3 feet to 6 feet-8 inches above adjacent interior finished floor and adjacent sidewalk grade. Blank walls without doors and windows shall not occupy over 30% of the principal frontage for non-residential buildings and 50% for residential buildings, and a section of blank wall shall not exceed 20 linear feet without being interrupted by a window or entry.
	f.	The frontage shall include shading along its entire right-of-way frontage, excluding driveways, loading and service berths.

	g.	The frontage shall include a minimum of one (1) or a combination of the following shading methods. A minimum of 75% of the sidewalk or pedestrian way shall be shaded.
	(1)	Arcades, awnings, trellises or covered walkways attached to the primary building shall be a minimum of 12 feet in depth, measured from any point of ground floor façade to the exterior column or vertical plane of the overhang. The maximum head clearance shall not exceed 20 feet, measured from finish grade. Landscaping shall include a row of trees (a minimum of 50% 2-inch caliper and 50% 3-inch caliper) placed 20 feet on center and run parallel with the arcade or awning.
	(2)	Detached shade structures shall be a minimum of 12 feet in depth and 15 feet in height and should incorporate architectural elements and design of the primary structure. Landscaping shall include a row of trees (a minimum of 50% 2-inch caliper and 50% 3-inch caliper) located or spaced 20 feet on center and run parallel with the arcade or awning.
	(3)	A double row of trees a minimum of 50% 2-inch caliper and 50% 3-inch caliper spaced 20 feet on center shall be provided. The rows shall be placed parallel on either side of the sidewalk as required in section 662.i.1 of the Zoning Ordinance. The rows shall be staggered to provide maximum shading.
	h.	Open space shall be a minimum of five percent (5%) of the gross commercial site area. A combination of types of areas is allowed. Areas may include the following:
	(1)	Courtyards (limited access/semi-private and common)
	(2)	Outdoor seating areas (plazas, ramadas, landscaped areas with turf, etc.)
	i.	Bicycle parking shall be provided at 1 space per 2,000 square feet of tenant leasable floor area, with a maximum of 50 spaces.
4.	That the mature trees identified on Exhibit B, Tree Preservation Plan, shall be continuously maintained (e.g. watering, trimming) by the owner prior to development of the property and that maintenance shall be a requirement of the future residential development.	
5.	That a 10 foot sidewalk easement shall be dedicated along the north side of Northern Avenue, as approved by the PLANNING AND Development Services Department.	

6.	<del>That</del> The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals as per plans approved by the PLANNING AND Development <del>Services</del> Department. All improvements shall comply with all ADA accessibility standards.
7.	The applicant shall submit a Traffic Impact Study to the City for this development. No preliminary approval of site plans shall be granted until the study is reviewed and approved by the City. Contact Ms. Sara Elco, (602) 495-0575, to set up a meeting to discuss the requirements of the study. The applicant shall be responsible for any dedications and required improvements as recommended by the approved traffic study, as approved by THE PLANNING AND Development <del>Services</del> Department and the Street Transportation Department.
8.	<del>That</del> The applicant shall construct a view fence along the shared eastern border of the Greens Apartment complex no closer than 15 feet to the Greens Apartment complex buildings as approved by the PLANNING AND Development <del>Services</del> Department.
9.	PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS IN A FORM APPROVED BY THE CITY ATTORNEY'S OFFICE. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.

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