



## Village Planning Committee Meeting Summary

### Z-13-20-8

<b>Date of VPC Meeting</b>	January 5, 2021
<b>Request From</b>	A-2 TOD-1
<b>Request To</b>	A-2
<b>Proposed Use</b>	Removal of TOD overlay
<b>Location</b>	Northwest corner of State Route 143 and Washington Street
<b>VPC Recommendation</b>	Approval subject to staff's recommended mitigating stipulations
<b>VPC Vote</b>	17-0

#### **VPC DISCUSSION & RECOMMENDED STIPULATIONS:**

**Ms. Sofia Mastikhina**, staff, provided an overview of the requests, including the location, current zoning and General Plan Land Use Map designation, and surrounding land uses and zoning districts. She explained that the site is designated as Mixed Use on the General Plan Land Use Map and is also located within the boundaries of the Village Core. The proposal to remove the TOD overlay from the site to allow all uses of the underlying A-2 district is not consistent with either, as it would allow outdoor uses such as junk yards, car washes, outdoor storage, and billboards. She explained that the purpose of the TOD overlay district is to encourage an appropriate mixture and density of activity around transit stations to increase ridership along the Central Phoenix/East Valley Light Rail Corridor and promote alternative modes of transportation to the automobile, and to decrease auto-dependency and mitigate the effects of congestion and pollution. The overlay achieves these goals by outlining development standards that promote a pedestrian-friendly environment and encourage a mix of uses on sites adjacent to the light rail. The site is also located in the Gateway TOD Policy Plan, which provides guidance for development along and in close proximity to the light rail line. In order to realize the Vision and Master Plan for the Gateway TOD District, one key recommendation is the implementation of a form-based zoning code. The standards within the TOD-1 overlay district are similar to many streetscape standards found within the Walkable Urban Code. The site is also located within the boundaries of the 44th Street Corridor Specific Plan. Although this parcel is not specifically designated on the plan, it is adjacent to sites that are designated for a variety of mixed-use uses. **Ms. Mastikhina** then presented the site plan submitted with the application, which does not show any development plans. She explained that vehicular access to the site is not a

possibility as the Arizona Department of Transportation has deemed it to be too close to the freeway off-ramp. Staff recognizes that the site's location, dimensions and limited access are challenges for its development as a standalone parcel and that the removal of the overlay could provide some flexibility for the property owner to pursue redevelopment options. She then outlined staff's findings and recommendation for denial. She then listed the stipulations created by staff in the event that an approval action is taken.

**Mr. William Lally**, representative with Tiffany and Bosco, P.C., provided a summary of the request. He explained that the site is a small sliver located on Washington Street along SR 143, and is a leftover of the condemnation and construction of the freeway. The site has a width of 120 feet along Washington Street, so some of the uses permitted in the underlying A-2 district simply would not be able to sit on the site, in addition to the lack of vehicular access due to its proximity to the freeway off-ramp. These same restrictions would preclude any type of transit-oriented development from being realistically built on the site. Additionally, the property owner has previously sought access to the site from the northern portion of the property, from the neighboring property to the west, but it was not feasible. He explained that the property has been vacant since the 1980's and purchased in the 1990's with the intent to develop. However, the size and location of the property render it unusable. The property owner had approached them to discuss what would be possible here, such as freeway signage. He explained that the proposal is to simply remove the overlay to revert the zoning back to what it's always been. The TOD overlay stops at the freeway, and all transit-oriented developments should and have been developed to the west of this end line. This property does not have the potential to have any type of transit-oriented development on it. He then addressed staff's recommended stipulations, pointing out that a lot of the pedestrian-related improvements that would be required by the overlay will now be required with this removal. As this site is not conducive to transit-oriented development, these improvements would likely never have been built. With this proposal, these improvements such as the sidewalks and landscaping will be built out.

**Mr. Daniel Sharaby** asked if the applicant has any exhibits showing what the site will look like with the streetscape improvements. **Mr. Lally** replied that they do not, as they only received the stipulations when the staff report was published about a week ago.

**Ms. Ashley Nye** explained that she understands why staff is recommending denial of this case, but that the mitigating stipulations will result in a much better streetscape, ultimately. Given this, she expressed her support for approving the project.

**Mr. Tom O'Malley** asked for confirmation that no vehicular access is possible on the site, and that there really only is one use that would be viable on the site. **Mr. Lally** confirmed that ADOT would not permit a new driveway so close to the freeway off-ramp, and that the use envisioned for the site is a freeway sign. **Mr. O'Malley** asked Mr. Lally to explain the history of the attempted sign permit on the site. **Mr. Lally** explained that they had submitted an application for a variance and a use permit to allow an off-premise sign with additional height on the site in 2017. The application underwent staff review and was approved by the Zoning Adjustment Hearing Officer but, due to an appeal and a subsequent Board of Adjustment hearing, further research was done and the restriction on off-premise signage by the TOD overlay was uncovered.

**Mr. Vic Grace** asked if the sidewalk improvements will be equal to what exists on the property to the west of the site, or if they will go above and beyond it. **Mr. Lally** replied that, per staff's recommended stipulations, the streetscape improvements will include a wider sidewalk that will be detached, 75 percent tree shade, bollard lights, and a bicycle repair facility – all of which exceed what exists along the property to the west.

### **PUBLIC COMMENT**

**Mr. Wally Graham** stated that the applicant has owned this land since March 4, 1998, when he purchased it from the State Department of Transportation. The deed from this transaction outlines the access restriction due to the proximity to SR 143, so the property owner was aware of this when purchasing the property, as well as the odd shape of the property, which has not changed since then. In 2009, the property owner tried to erect a building on the lot, which was denied. He stated that the proposal at hand is to erect an 85-foot tall billboard and agreed with staff's recommendation for denial. **Mr. Graham** then addressed the TOD removal, stating the overlay was part of the Reinvent Phx initiative, which aims to make areas of Phoenix more walkable and was approved by this committee. He stated that this removal is unprecedented and that, if approved, other property owners will want to do the same. He asked that the committee deny this application.

**Mr. Lally** addressed Mr. Graham's statement regarding no changes having occurred to the property since the property owner purchased it. He stated that one major change has occurred since then, which was the approval of the TOD overlay in 2009, which immediately restricted what could be developed on the site. Further, the overlay removal would only allow a maximum 70-foot-tall billboard, not 85 feet as Mr. Graham stated, and any request to go above that would be required to go through the Zoning Adjustment Hearing process. Additionally, at least three other overlay removal cases have been processed recently, so this is not unprecedented.

### **Motion:**

**Mr. Tom O'Malley** made a motion to approve the request subject to the staff recommended mitigating stipulations. **Mr. Daniel Sharaby** seconded the motion.

### **Vote: 17-0**

Motion passes with committee members Swart, Abbott, Augusta, Bair, Thraen, Crawford, Eichelkraut, Grace, McKee, Miller, Nye, O'Malley, Pacey, Rush, Scher, Sharaby, and Tribken in favor.

### **STIPULATIONS:**

1. Conceptual site plan and elevations shall be reviewed and approved by the Planning Hearing Officer through the public hearing process for stipulation modification prior to preliminary site plan approval. This is a legislative review for conceptual purposes only. Specific development standards and requirements may be determined by the Planning Hearing Officer and the Planning and Development Department.
2. The below stipulated streetscape landscaping standards must be planted prior to the issuance of any permits.

3. The sidewalk along Washington Street shall be a minimum of eight feet wide and shall be detached with a minimum 10-foot-wide landscaped strip between the sidewalk and the back of curb, as approved by the Planning and Development Department. A sidewalk easement shall be dedicated as necessary.
4. A minimum of 75 percent of the sidewalk shall be shaded.
5. The 10-foot-wide continuous landscape area located between the sidewalk and back of curb shall include minimum 3-inch caliper, large canopy single-trunk shade trees (limbed-up a minimum of 10-feet clear from finish grade), planted 20 feet on center or in equivalent groupings, and minimum 5-gallon shrubs with a maximum mature height of 2-feet providing 75 percent live cover, as approved by the Planning and Development Department.
6. The required landscape setback adjacent to the southern property line shall be planted to the following minimum standards, as approved by the Planning and Development Department:
  - a. Twenty-five percent 3-inch caliper large-canopy trees and 75 percent 4-inch caliper large-canopy trees, planted 20 feet on-center or in equivalent groupings;
  - b. Five 5-gallon shrubs per tree, and additional shrubs or live groundcover, shall be provided to a minimum seventy-five percent live cover at mature size.
7. Bollard path lights shall be provided every ten feet along the public sidewalk on Washington Street, as approved by the Planning and Development Department.
8. A bicycle repair station ("fix it station") shall be provided on the site, in close proximity to the public sidewalk. The station shall include but not limited to: standard repair tools affixed to the station; a tire gauge and pump; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike, as approved by the Planning and Development Department.
9. All outdoor storage shall be completely screened with a decorative wall, as approved by the Planning and Development Department.
10. The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
11. The developer shall provide a No Hazard Determination for the proposed development from the FAA pursuant to the FAA's Form-7460 obstruction analysis review process, prior to construction permit approval, as per plans approved by the Planning and Development Department.
12. The property owner shall record documents that disclose the existence, and operational characteristics of Phoenix Sky Harbor Airport to future owners or tenants of the property. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney.

13. If determined necessary by the Phoenix Archaeology Office, the applicant shall conduct Phase I data testing and submit an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, and/or grading approval.
14. If Phase I data testing is required, and if, upon review of the results from the Phase I data testing, the City Archaeologist, in consultation with a qualified archaeologist, determines such data recovery excavations are necessary, the applicant shall conduct Phase II archaeological data recovery excavations.
15. In the event archaeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.