

ATTACHMENT C



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

To: City of Phoenix Planning Commission **Date:** October 7, 2024

From: Racelle Escolar, AICP
Principal Planner

Subject: ITEM NO. 4 (PHO-2-24--Z-181-99-3) - APPROXIMATELY 350 FEET SOUTH OF THE SOUTHEAST CORNER OF 26TH STREET AND VOGEL AVENUE

The purpose of this memo is to provide revised stipulations in response to the applicant's request.

Planning Hearing Officer (PHO) Case No. PHO-2-24--Z-181-99-3 includes the following requests:

- Modify Stipulation No. 1 regarding general conformance to the site plan and elevations date stamped March 2, 2017.
- Modify Stipulation No. 2 regarding maximum dwelling units and maximum density.
- Modify Stipulation No. 3 regarding maximum building height.
- Delete Stipulation No. 6 regarding sewer odor mitigation.
- Modify Stipulation No. 8 regarding property owner addresses.

On April 17, 2024, the Planning Hearing Officer recommended denial as filed with additional stipulations. The Paradise Valley Village Planning Committee did not review the request.

The applicant appealed the Planning Hearing Officer's recommendation on April 18, 2024. The case was scheduled to be heard by the Planning Commission on June 6 and September 5; however, at the applicant's request, continuances were granted to work with the community.

On September 24, 2024, the applicant submitted a request for revised stipulations to accommodate a revised site plan for the proposed developed. The stipulated site plan was for a five-lot single-family residential subdivision. The site plan originally submitted for this PHO request included seven-lots, with homes that exceeded one story heights. The applicant has limited the development to one story heights to address community concerns and included an enhanced landscape buffer along 26th Street.

The applicant's requested modifications are as follows:

- Modify Stipulation No. 1 to reference the updated site plan date stamped, September 24, 2024.

- Modify Stipulation No. 2 to reflect the seven residential lots and the related density. Staff recommends removing the reference to the related density since it is redundant.
- Modify Stipulation No. 8 (proposed 15) to update and add to the list of interested parties that must be notified in the event future stipulation modifications are requested.
- New Stipulation No. 11 to require the developer to initiate and participate in a program to restrict parking on 26th Street adjacent to the property.
- New Stipulation No. 12 to require only low profile, low impact lighting within the proposed development.
- New Stipulation No. 13 to restrict the southern driveway to “exit only” if the proposed subdivision is gated.
- New Stipulation No. 14 to require construction fencing be installed before grading begins.

The revised stipulations are listed below with updates in **BOLD**.

1. The development shall be in general conformance to the site plan and elevations date stamped ~~March 2, 2017~~ **SEPTEMBER 24, 2024**, as approved by the Planning and Development Department.
2. ~~That~~ There SHALL be no more than **9 7** dwelling units ~~with a maximum density of 4.7 3.68~~.
3. ~~That~~ The building height shall not exceed one story and a maximum of 20 feet in height.
4. ~~That~~ Right-of-way dedications and street alignments for local streets within the subdivision will be determined by the Planning and Development Department at the time of Preliminary Subdivision Plan Review.
5. ~~That~~ 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 City. All improvements shall comply with all ADA accessibility standards.
6. ~~That~~ The applicant SHALL install some means of mitigation treatment to eliminate potential sewer odor.
7. ~~That~~ The development SHALL be subject to Design Review guideline standards, as per THE Planning and Development Department.
8. 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.

9. 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.
10. 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.
11. **THE DEVELOPER SHALL INITIATE AND PARTICIPATE IN EFFORTS TO RESTRICT PARKING ON 26TH STREET ADJACENT TO THE DEVELOPMENT SITE.**
12. **ONLY LOW PROFILE, SHIELDED NEIGHBORHOOD LIGHTING THAT DOES NOT EXCEED 2,700 K AND EMITS NO MORE THAN ONE-FOOT CANDLE DETECTABLE AT THE PROPERTY LINE SHALL BE UTILIZED WITHIN THE DEVELOPMENT, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.**
13. **IF ACCESS TO THE DEVELOPMENT IS GATED, THE SOUTHERN ACCESS POINT SHALL BE EXIT ONLY AND THE NORTHERN ACCESS SHALL BE FULL ACCESS, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.**
14. **CONSTRUCTION FENCING SHALL BE INSTALLED ALONG THE NORTH PROPERTY LINE PRIOR TO ISSUANCE OF A GRADING AND DRAINAGE PERMIT.**
8. ~~That~~ ~~The City~~ **APPLICANT** SHALL mail written notice of any request to modify the above-referenced stipulations to the following:
- 11.
- 15.

ESTATES AT Dreamy Draw Estates Homeowner's Association, ~~2510 East Carol Avenue~~ **PO BOX 62073**, Phoenix, AZ ~~85028~~ **85082**.

Phoenix Hillside Estates Property Owners Association, **C/O THOMAS CONNELLY, 9247 North 24th Way 2321 EAST HATCHER ROAD**, Phoenix, AZ 85028.

Francesca ~~& Joseph~~ CERVELLI Browner, 2616 East Vogel Avenue, Phoenix, AZ 85028.

~~Judith F. Gunn, 9609 North 26th Place, Phoenix, AZ 85028.~~

Dr. Kevin Grisham, 9845 North 22nd Place, Phoenix, AZ 85028.

Sharon Oscar, 2527 East Carol Avenue, Phoenix, AZ 85028.

Gini Linam, 2536 East Vogel Avenue, Phoenix, AZ 85028.

~~Mark Shiya, 9247 North 24th Way, Phoenix, AZ 85028.~~

~~Sandy Price~~ JASON ISAAK, 2626 East Vogel Avenue, Phoenix, AZ 85028.

JOSH AND ERIN ALQUIST, 9609 NORTH 26TH PLACE, PHOENIX, AZ 85028.

SHAUNA CONNELLY, 2321 EAST HATCHER ROAD, PHOENIX, AZ 85028.

MOUNTAIN VIEW VILLAS, C/O APOSTOLIC CHRISTIAN CHURCH, INC., 9230 NORTH 26TH STREET, PHOENIX, AZ 85028.

W. BLAIR GRAFE, 9616 NORTH 26TH PLACE, PHOENIX, AZ 85028.

GREGROY AND MELISSA WILLE, 9601 NORTH 26TH STREET, PHOENIX, AZ 85028.

NEHEMIAH HOLDING, LLC/HOPE BIBLE CHURCH, 2355 EAST CAMELBACK ROAD, STE. 425, PHOENIX, AZ 85016.

NICHOLAS AND MIRIAM AQUAFREDDA, 9636 NORTH 26TH STREET, PHOENIX, AZ 85028.

HOWARD ROTHENBERG, 2505 EAST CAROL AVENUE, PHOENIX, AZ 85028.

PAUL AND EMILY HAMRA, 9617 NORTH 26TH STREET, PHOENIX, AZ 85028.

JOHN LARGAY, WESPAC CONSTRUCTION, 9440 NORTH 26TH ST, PHOENIX, AZ 85028.

PETER AND ALISON TYMKIW, 9628 NORTH 26TH STREET, PHOENIX, AZ 85028.

STEVE AND EMILY JACKSON, 9615 NORTH 26TH PLACE, PHOENIX, AZ

85028.

MARY ANN MAHER, 9609 NORTH 27TH STREET, PHOENIX, AZ 85028.

9. That The City SHALL notify the above-noted residents of meetings with THE
12. Planning and Development Department.
16.

Enclosure:

Applicant letter dated September 24, 2024, with attachments



**WITHEY
MORRIS
BAUGH**

CITY OF PHOENIX

SEP 24 2024

**Planning & Development
Department**

September 24, 2024

VIA ELECTRONIC MAIL

Phoenix Planning Commission
200 West Washington Street, 3rd Floor
Phoenix, Arizona 85003
pdd.planningcomm@phoenix.gov

Re: Application PHO-2-24--Z-181-99 - 9455 North 26th Street, Phoenix

Dear Chairman Gaynor and Planning Commissioners

This firm represents H&H Developers, Inc/Tim Hammer (the "Owner") regarding the 1.78 +/- gross acre property at 9455 North 26th Street, Phoenix, which is also known as Maricopa County APN 165-12-020F (the "Property"). The enclosed aerial parcel map identifies the Property for ease of reference (**Exhibit A**).

The Planning Hearing Officer held a hearing regarding proposed modifications of 2017 zoning stipulations applicable to the Property on April 17, 2024. We appealed the Hearing Officer's decision to the Planning Commission; you granted two requests for continuance of the case – one at your June 2024 meeting and most recently at your September 2024 meeting; you are scheduled to hear the case on October 10, 2024.

The two continuances allowed the Owner to revise the plans for development of the parcel and to revise the proposed modifications of zoning stipulations to reflect the new plans. We met twice with members of the community and a representative of Vice Mayor Stark's office to review the new plans and to revise the stipulation request. The people with whom we met are Josh Alquist, Blair Grafe, and Shauna Connelly.

Included with this letter are 1) the new site plan and elevations proposed for the Property (**Exhibit B**) and 2) a legislative edit/redline of the 2017 zoning stipulations addressing development of the site (**Exhibit C**). Below is a summary of both sets of documents.

Site Plan/Elevations

In the meetings we held with interested neighbors in 2023 and at the PHO hearing earlier this year, two major issues with the Owner's plans for the site were the number of access points to 26th Street and the height of the homes proposed for the Property. The Owner revised the site plan last year to have only two access points to 26th Street, one at either end of a private roadway. This change from his earlier plans conforms to the design approved for the Property in 2017. Following the PHO hearing and further consideration of the project, the Owner redesigned the homes with all single story product.

The key components of the new site plan and elevations are:

1. The development is served by an internal, private street that has two access points to 26th Street, one at the north and one at the south end of the Property.
2. Seven homes are proposed.

3. The homes are single story with a maximum peak height of 17 feet 3.5 inches. This is the proposed height on two lots; the other five lots have peak heights below 17 feet. The elevations include peak height so it is clear what the maximum height at the top of each house will be.
4. A significant landscape buffer will be provided along 26th Street on the outside/street side of perimeter walls that screen the individual lots in the small neighborhood.

Stipulations

The modified stipulations included with this letter a) make technical changes to two 2017 stipulations, b) update a list of parties/addresses to be notified of any future proposal to change the stipulations; and c) add four stipulations, discussed below. Critical to area residents, the proposed modifications **do not** a) change the building height permitted with the 2017 stipulations or b) remove the stipulation addressing sewer odor mitigation.

In summary, the proposal:

1. Modifies stipulation 1 from 2017 to reference the enclosed 2024 site plan and elevations.
2. Modifies stipulation 2 from 2017 to reflect the proposed seven homes and the related density of homes per gross acre.
3. Adds a new stipulation that requires the developer to initiate and participate in a program to restrict parking on 26th Street next to the Property.
4. Adds a new stipulation that requires the developer to use only low profile, low impact lighting within the new neighborhood.
5. Adds a new stipulation that restricts the southern driveway to exit only if the neighborhood is gated.
6. Adds a new stipulation that requires the developer to install construction fencing along the north boundary of the Property before grading occurs to preclude impacts to landscape/trees on the lots to the north of the Property.
7. Modifies the public notice stipulation to update and add to the list of parties that must be notified of any proposals to amend further the zoning stipulations.

Conclusion

We appreciate the additional time you granted us to refine the Owner's project to be more responsive to concerns from area residents. We look forward to discussing the case with you on October 10.

Thank you.

Very truly yours,

WITHEY MORRIS BAUGH, P.L.C.

By 

William F. Allison

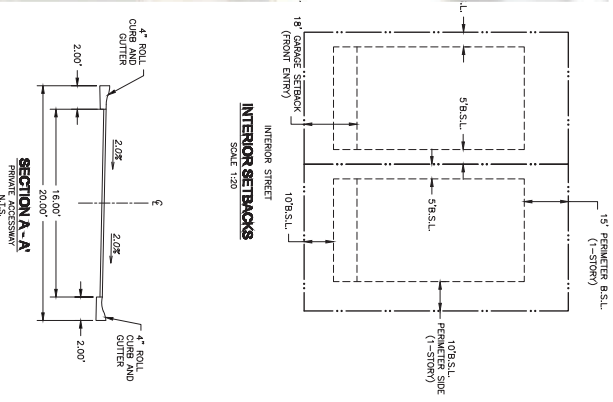
Enclosures

EXHIBIT A



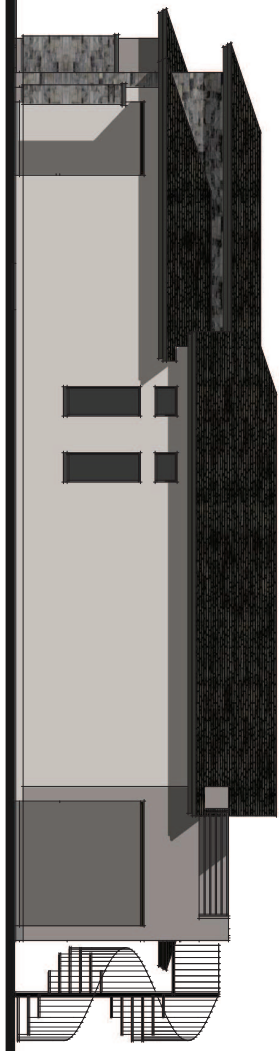
9455 N 26th Street
APN 165-12-020F

EXHIBIT B



KIVA #
SDEV# 27-33
Q.5.#
CURRENT ZONING: R1-6
ZONING CASES : Z-181-99/
PHO-1-16-Z-181-99
PRE APP #

LEGEND	
INDICATES PROPERTY LINE	R/W
INDICATES ADJACENT PROPERTY LINE	SW
INDICATES ROAD CENTERLINE	BOC
INDICATES EXISTING CHU BLOCK WALL	EX
INDICATES NEW CHU BLOCK WALL	
INDICATES NEW 6' WOODPOST ROW FENCE	
INDICATES EX. WATER LINE	
INDICATES EX. GROUND CONTOURS	
RIGHT OF WAY	
SEWERMAK	
BACK OF CURB	
EXISTING	
INDICATES DRAINAGE FLOW PATTERN DIRECTION	



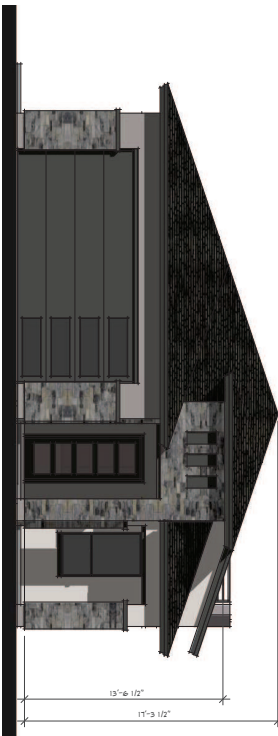
RIGHT ELEVATION
SCALE 1/4"=1'-0"



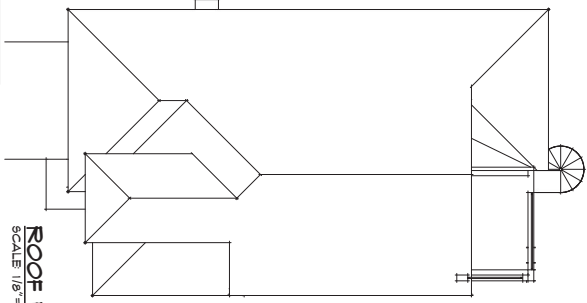
REAR ELEVATION
SCALE 1/4"=1'-0"



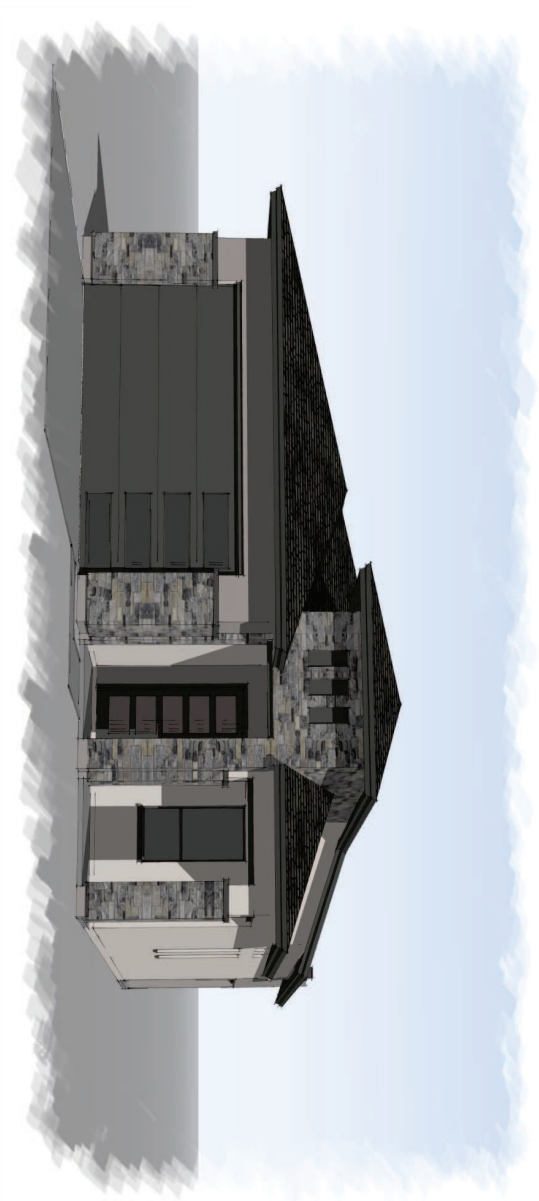
LEFT ELEVATION
SCALE 1/4"=1'-0"



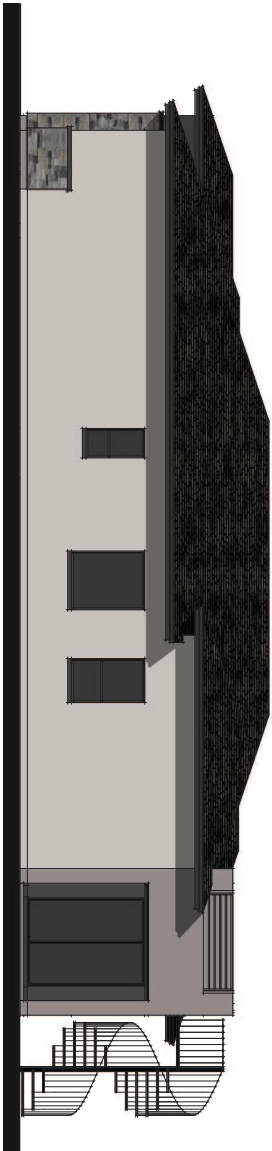
FRONT ELEVATION
SCALE 1/4"=1'-0"



ROOF PLAN
SCALE 1/8"=1'-0"



ELEVATIONS LOT 1 & 3



RIGHT ELEVATION
SCALE 1/4"=1'-0"



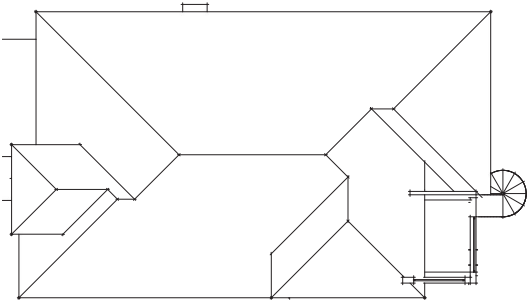
REAR ELEVATION
SCALE 1/4"=1'-0"



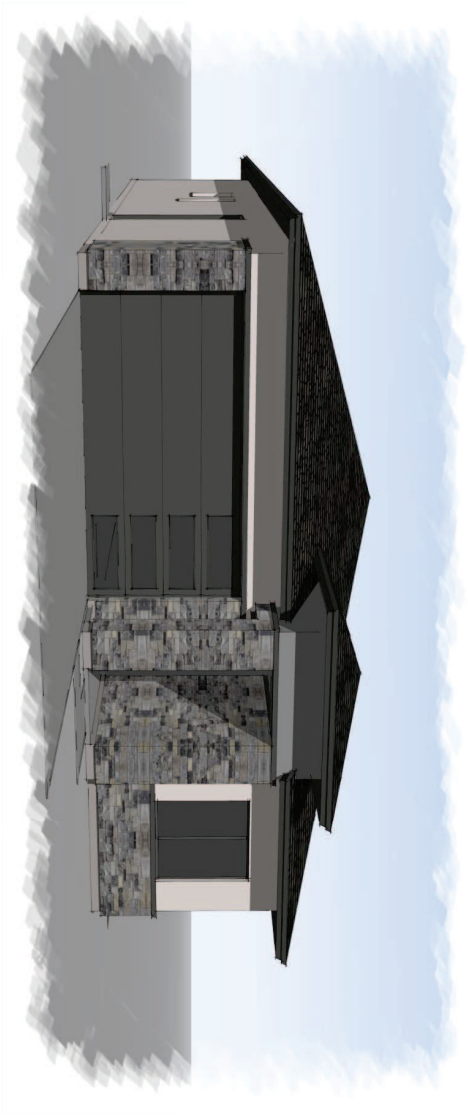
LEFT ELEVATION
SCALE 1/4"=1'-0"



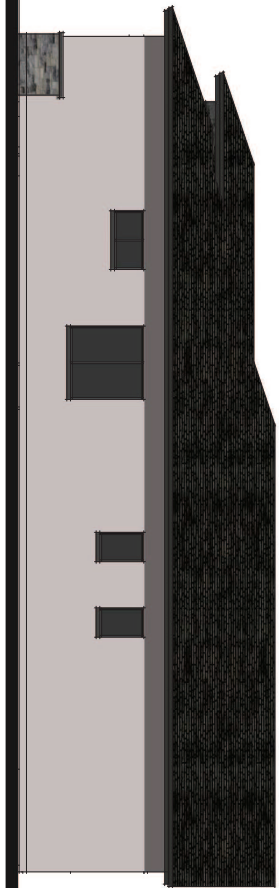
FRONT ELEVATION
SCALE 1/4"=1'-0"



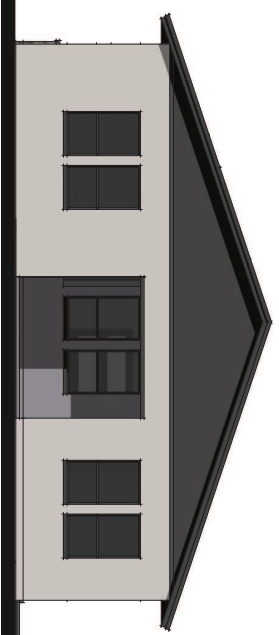
ROOF PLAN
SCALE 1/8"=1'-0"



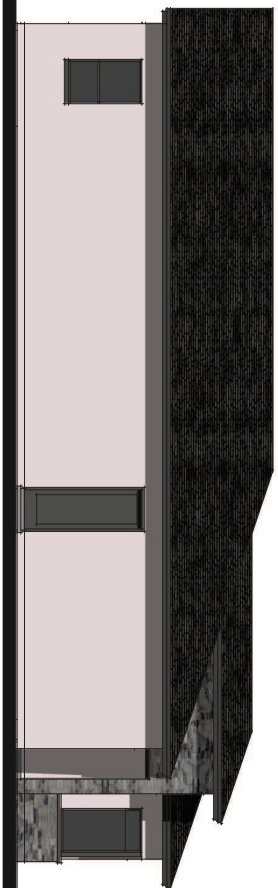
ELEVATIONS LOTS 2, 4 & 5



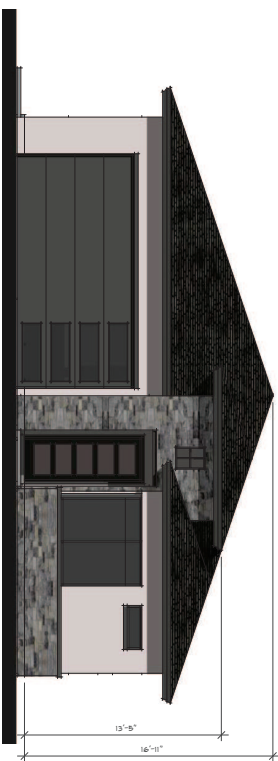
RIGHT ELEVATION
SCALE 1/4"=1'-0"



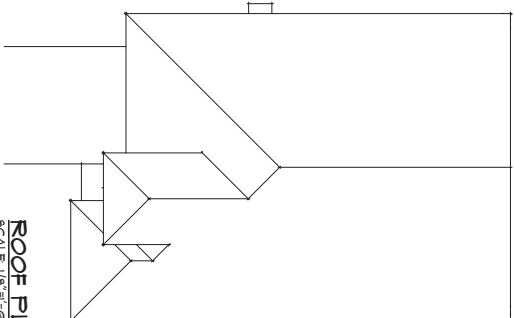
REAR ELEVATION
SCALE 1/4"=1'-0"



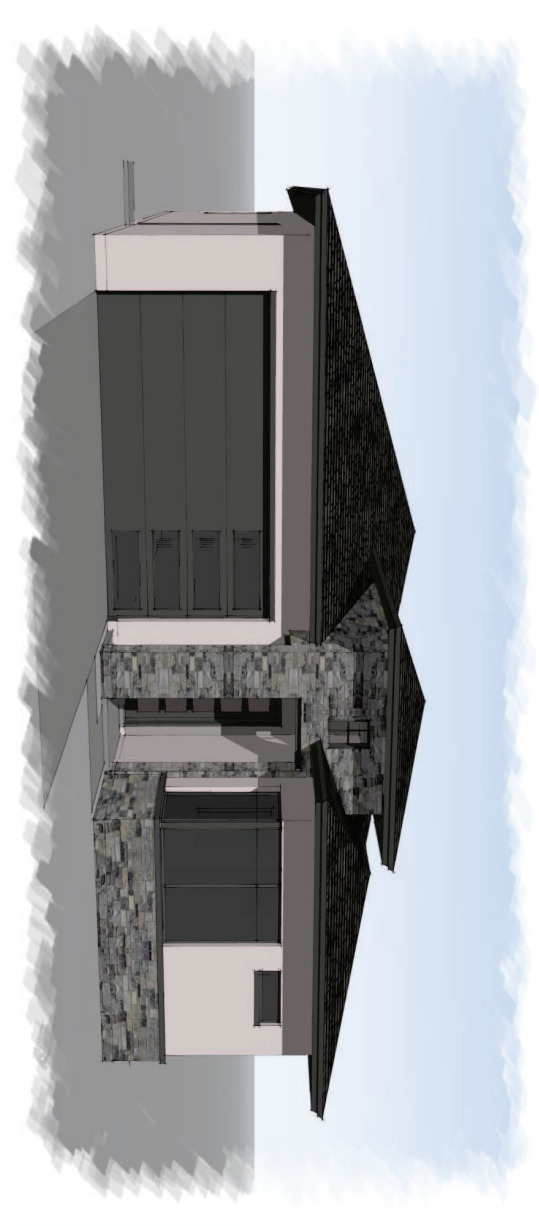
LEFT ELEVATION
SCALE 1/4"=1'-0"



FRONT ELEVATION
SCALE 1/4"=1'-0"



ROOF PLAN
SCALE 1/8"=1'-0"



ELEVATIONS LOT 6 & 7

EXHIBIT C

PHO-2-24—Z-181-99-3 - STIPULATION MODIFICATION

To allow the proposed redevelopment of the Property, the Owner requests the following modification of stipulations approved for PHO-1-16-2--Z-181-99-3:

1. The development shall be in general conformance to the site plan and elevations date stamped
2024March 2, 2017, as approved by the Planning and Development Department.

Rationale: The Owner proposes a new site plan for development of the property. The site plan, which is included with this application, is dated March 1, 2024. This change necessitates an update of the 2017 stipulation.

2. That there be no more than 7-9 dwelling units with a maximum density of 3.934.7.

Rationale: The Owner proposes two fewer lots/dwelling units than the 2017 approval. This change necessarily also reduces the residential density on the Property.

3. That the building height shall not exceed one story and a maximum of 20 feet in height.

No change:

4. That right-of-way dedications and street alignments for local streets within the subdivision will be determined by the Planning and Development Department at the time of Preliminary Subdivision Plan Review.

No change.

5. That 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 City. All improvements shall comply with all ADA accessibility standards .

No change.

6. That the developer shall initiate and participate in efforts to restrict parking on 26th Street adjacent to the development site.

Rationale: Traffic impacts along 26th Street are of significant concern to area residents and the developer. Prohibiting parking on 26th Street will help address this concern.

- ~~6.7.~~ That the applicant install some means of mitigation treatment to eliminate potential sewer odor.

No change.

8. That the development shall use only low profile, shielded neighborhood lighting that does not exceed 2,700 K and emits no more than one-foot candle detectable at the property line, as approved by the Planning and Development Department.

Rationale: Low level, non-obtrusive lighting is appropriate and desired in the proposed neighborhood proximate to the Phoenix Mountain Preserve.

9. If access to the development is gated, the southern access point shall be exit only and the northern access shall be full access.

Rationale: Proximity of the southern access to the driveway to the neighboring property could impact safe queuing to enter the development; the exit only restriction on the southern access point will alleviate this

issue.

10. The developer shall install construction fencing along the north property line before grading begins.

Rationale: The property line is 15 +/- feet south of the retaining wall of the lots to the north; the vegetation in place requires protection from removal during grading.

7.11. That the development be subject to Design Review guideline standards, as per Planning and Development Department.

No change.

8.12. That the City mail written notice of any request to modify the above-referenced stipulations to the following:

Estates at Dreamy Draw Estates Homeowner's Association, PO Box 62073 2510 East Carol Avenue, Phoenix, AZ 850828

Phoenix Hillside Estates Property Owners Association, c/o Thomas Connelly, 2321 East Hatcher Rd 9247 North 24th Way, Phoenix, AZ 85028

Francesca & Cervelli Joseph Browner, 2616 East Vogel Avenue, Phoenix, AZ 85028

Judith F. Gunn, 9609 North 26th Place, Phoenix, AZ 85028

Dr. Kevin Grisham, 9845 North 22nd Place, Phoenix, AZ 85028

Sharon Oscar, 2527 East Carol Avenue, Phoenix, AZ 85028

Gini Linam, 2536 East Vogel Avenue, Phoenix, AZ 85028

Mark Shiya, 9247 North 24th Way, Phoenix, AZ 85028

Jason Isaak Sandy Price, 2626 East Vogel Avenue, Phoenix, AZ 85028

Josh & Erin Alquist, 9609 N 26th Pl, Phoenix, AZ 85028

Shauna Connelly, 2321 E Hatcher Rd, Phoenix, AZ 85028

Mountain View Villas, c/o Apostolic Christian Church, Inc., 9230 N 26th St, Phoenix, AZ 85028

W. Blair Grafe, 9616 N 26th Pl, Phoenix, AZ 85028

Gregroy & Melissa Wille, 9601 N 26th St, Phoenix, AZ 85028

Nehemiah Holding, LLC/Hope Bible Church, 2355 E Camelback Rd, Ste. 425,000 Phoenix, AZ 85016

Nicholas & Miriam Aquafredda, 9636 N 26th St, Phoenix, AZ 85028

Howard Rothenberg, 2505 E Carol Ave, Phoenix, AZ 85028

Paul & Emily Hamra, 9617 N 26th St, Phoenix, AZ 85028

John Largay, Wespac Construction, 9440 N 26th St, Phoenix, AZ 85028

Peter & Alison Tymkiw, 9628 N 26th St, Phoenix, AZ 85028

Steve & Emily Jackson, 9615 N 26th Pl, Phoenix, AZ 85028

Mary Ann Maher, 9609 N 27th St, Phoenix, AZ 85028

Rational: The Maricopa County Assessor's records indicate ownership has changed for four of the properties listed in this notice stipulation. For this reason, updating the list is appropriate.

9.13. That the City notify the above-noted residents of meetings with Planning and Development Department.

No change.