

ATTACHMENT D

REPORT OF PLANNING COMMISSION ACTION October 5, 2023

ITEM NO: 16	
	DISTRICT NO.: 4
SUBJECT:	
Application #:	PHO-1-23--Z-27-15-4 (Omninet East PUD)
Location:	Northeast corner of Central Avenue and Pierson Street
Request:	1) Modification of Stipulation 2 regarding a \$25,000 deposit into a Street Transportation Department escrow account. 2) Deletion of Stipulation 4 regarding a temporary path along 1st Street. 3) Modification of Stipulation 5 regarding conditional approval upon development commencing within seven years.
Acreage:	2.10
Applicant:	Central Avenue Owner, LLC
Owner:	Central Avenue Owner, LLC
Representative:	Ed Bull, Burch and Cracchiolo, PA

ACTIONS:

Village Planning Committee (VPC) Recommendation:

Alhambra 4/25/2023 Approval, with a modification and an additional stipulation. Vote: 11-0.

Planning Hearing Officer Recommendation: The Planning Hearing Officer heard the request on August 16, 2023 and recommended approval with modifications and an additional stipulation.

Staff Recommendation: Approval, per the Planning Hearing Officer recommendation.

Planning Commission Recommendation: Approval, per the Planning Hearing Officer recommendation.

Motion Discussion: N/A

Motion Details: Commissioner Boyd made a MOTION to approve PHO-1-23--Z-27-15-4, per the Planning Hearing Officer recommendation.

Maker: Boyd
Second: Perez
Vote: 6-0
Absent: Gaynor, Howard, and Mangum
Opposition Present: Yes

Findings:

1. The request to modify Stipulation 2 regarding the amount of money deposited into a Street Transportation Department escrow account is recommended to be approved.

The developer is offering to increase the amount of the deposit to \$31,000 to account for inflation and the time that has passed since the original stipulation was created. It should be noted that the Street Transportation Department received a \$25,000 deposit

for traffic calming required by Stipulation 2 on April 7, 2017. The City of Phoenix has not received the \$25,000 required by Stipulation 3.

2. The request to delete Stipulation 4 regarding the construction of a temporary 6-foot wide path along the frontage adjacent to 1st Street until the project is under construction is recommended to be approved. The Alhambra Village Planning Committee and City Departments that reviewed this proposal did not object to the removal of this Stipulation. The applicant has made it clear that the project will commence upon approval so a temporary path will be disturbed by excavation.
3. The request to extend the commencement date to 10 years instead of 7 years of the City Council approval is recommended to be approved. The site wasn't purchased until 2019, and there were several delaying factors, including the COVID pandemic, that contributed to the delay of this project. In addition, the developer has made it clear that the Omninet North project was the primary focus, and without the development of that portion, the current proposal could not move forward. This stipulation modification is simply intended to provide more time for the construction to commence.
4. In response to Mr. Waters and other comments and correspondence, an additional stipulation was proposed by the Applicant. The additional stipulation is recommended to be approved. The stipulation addresses the ground floor of the building, directly incorporating a minimum area to be developed with 4,700 square feet of non-residential uses. This will add more diversity to the project and more mixed-use feel that is appropriate for the area.
5. The applicant did not submit a Proposition 207 waiver of claims prior to the Planning Hearing Officer hearing. Submittal of this form is an application requirement. An additional stipulation is recommended to require the applicant to record this form and deliver it to the City to be included in the rezoning application file for record.

Stipulations:

1. An updated Development Narrative for the Omninet – East PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped October 14, 2015.
2. The property owner shall provide a deposit in the amount of \$3125,000 into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming measures along 1st Street in the St. Francis neighborhood within six (6) months of City Council approval. These funds shall be utilized to improve existing traffic mitigation infrastructure along 1st Street, as approved by the Street Transportation Department. Any remaining funds will be deposited in the separate account established to comply with stipulation number 3.

3. The property owner will deposit an additional \$25,000 (for a total of \$50,000) into a Street Transportation Department escrow account at the City of Phoenix to be utilized for traffic calming or management tools for the area bounded by Central Avenue, Camelback Road, 7th Street, and Pierson Street at the time of construction. These funds may be contributed toward the purchase and installation of such devices as roundabouts, speed humps/cushions, or raised crosswalks (speed tables), limiting turning, traffic diverters or other such traffic calming or management tools. Distribution of funds shall be at the mutual agreement of the five member Neighborhood Traffic Team, the residents on affected streets and the City of Phoenix Streets Department Safety and Neighborhood Traffic Section. Owner may apply for reimbursement of escrow funds from the Street Transportation Department if no formal petition has been submitted within 5 years from the issuance of a Certificate of Occupancy.
4. ~~The property owner shall construct a temporary 6 foot wide path constructed of 3/4 inch decomposed granite 2 inches thick along their frontage adjacent to 1st Street until the project is under construction, as approved by the Planning and Development Department.~~
- ~~5.~~ 4. The approval shall be conditioned upon development commencing within ~~10~~ seven (7) years of the City Council approval of this change of zoning in accordance with Section 506.b.1 of the Phoenix Zoning Ordinance (for purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site).
5. THE GROUND FLOOR AREA OF THE DEVELOPMENT SHALL INCLUDE A MINIMUM 4,700 SQUARE FEET OF NON-RESIDENTIAL USES. NON-RESIDENTIAL USES SHALL NOT INCLUDE LOBBY, EXERCISE, RECEPTION AREAS, OR OTHER SIMILAR USES INTENDED FOR EXCLUSIVE USE BY RESIDENTS. ALL NON-RESIDENTIAL USES SHALL FRONT PERIMETER RIGHTS-OF-WAY.
6. 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.