

## Attachment B

REPORT OF PLANNING HEARING OFFICER ACTION  
Byron Easton, Planner III, Hearing Officer  
Chase Hales, Planner I, Assisting

April 19, 2023

ITEM NO: 2	
	DISTRICT 7
SUBJECT:	
Application #:	PHO-2-23--Z-98-05-7
Location:	Southeast corner of 51st Avenue and Roosevelt Street
Zoning:	A-1
Acreage:	18.93
Request:	<ol style="list-style-type: none"><li>1) Modification of Stipulation 1 regarding general conformance with the site plan date stamped October 23, 2007.</li><li>2) Deletion of Stipulation 2.B regarding shaded seating areas.</li><li>3) Deletion of Stipulation 2.C regarding landscaping at 51st Avenue and Van Buren Street.</li><li>4) Modification of Stipulation 2.D regarding landscaping at entrance drives.</li><li>5) Deletion of Stipulation 3 regarding right-of-way dedication for 51st Avenue.</li><li>6) Deletion of Stipulation 4 regarding right-of-way dedication for Van Buren Street.</li><li>7) Deletion of Stipulation 5 regarding right-of-way dedication for 51st Avenue and Van Buren Street.</li><li>8) Deletion of Stipulation 7 regarding transit infrastructure on 51st Avenue.</li><li>9) Technical corrections to Stipulations 2 and 6.</li></ol>
Applicant:	Michael Buschbacher, Earl & Curley PC
Owner:	Phoenix Van Buren Properties LLC
Representative:	Taylor Earl, Earl & Curley PC

### **ACTIONS:**

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended denial as filed and approval with modifications and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Estrella Village Planning Committee was scheduled to hear this case on April 18, 2023 but did not have a quorum.

**DISCUSSION:**

Taylor Earl, representative with Earl and Curley PC, gave an overview of the proposal, the site, and the surrounding context. He discussed the existing landscaping south of the site along 51st Avenue and stated that the proposal's landscaping would help extend the landscaping north. He presented the project's conceptual landscape plan and elevations and stated that these were not part of the requests but were shown to provide context. He gave an overview of the requests submitted in the application and the corresponding rationale.

Byron Easton, Planning Hearing Officer, asked what the existing uses for the building on the property adjacent to the site were and if they were part of the same use that would be located on the site. Mr. Earl stated that the buildings were for industrial uses and would not be connected to the future use of the site. Mr. Easton noted that staff did not receive correspondence regarding the item prior to the hearing. He stated that the Estrella VPC was scheduled to hear the case at their April 18th meeting, however they did not have a quorum. He stated that he would recommend approval of the modification of Stipulation 1 regarding general conformance to the site plan date stamped October 23, 2007.

Mr. Easton recommended denial of Stipulation 2.B regarding shaded seating areas, stating that staff disagreed with the applicant's rationale noting that the provided Ordinance references included a design guideline and a development standard that was not relevant to this site as it solely addressed large-scale commercial retail. He stated that the stipulation should remain as it is more restrictive than the cited Ordinance references. He recommended denial of the deletion of Stipulation 2.c regarding landscaping at 51st Avenue and Van Buren Street to ensure that the intent for enhanced landscaping would remain clear in the future in the event of possible redevelopment or reconfiguration of these parcels. He noted this would not impact the applicant as this location was off-site to the current request. He recommended approval with a modification of the request to modify Stipulation 2.d regarding landscaping at entrance drives, stating the intent for modifying the request was to reword the language for clarity. He recommended approval for the deletion of Stipulations 3, 4, 5, and 7 noting the Street Transportation and Public Transit Departments had no concerns. He stated that three new stipulations would be recommended due to the site being archaeologically sensitive. He stated that a recorded Proposition 207 Waiver is still required prior to preliminary site plan approval and would be recommended to be added as a stipulation.

Vince Dalke, architect for the project, asked if Stipulation 2 regarding the landscape plan would require the applicant to redevelop the existing landscape area on the south side of the existing driveway at 51st Avenue and McKinley Street. Mr. Easton stated that he would modify the stipulation so the landscape island can remain as is. Adam Stranieri, Principal Planner with the Planning and Development Department, recommended Mr. Easton consider additional language allowing approval and modification by staff given the complexity of the stipulation. Mr. Easton stated that he agreed and recommended the additional language.

**FINDINGS:**

- 1) The request for modification of Stipulation 1 is recommended for approval with modification. The recommended modification is only to provide more standard general conformance language. The stipulated site plan dated October 12, 2007 depicted an industrial complex on approximately 99 gross acres with two buildings located at the south end of the site. The proposed project will be constructed on the northern 17.93 acres of the site. This area was previously used as outdoor storage and had one existing building. The proposed conceptual site plan shows three buildings that combined would equal approximately 322,400 square feet and would have a proposed height of 42 ft. The buildings are compatible with existing buildings south of the site and are planned for Light Industrial uses.
- 2) The request for deletion of Stipulation 2.B is recommended to be denied. Stipulation 2.B, regarding shaded seating areas for employees and visitors to the site, is important to the health and wellbeing of all that visit the site. The applicant proposed the deletion of Stipulation 2.B, stating that seating areas are required by code. However, the stipulation is more restrictive than the provided code references and should remain.
- 3) The request for deletion of Stipulation 2.C is recommended to be denied. This location is offsite to this request. The stipulation should remain intact to maintain consistency with the stipulations on the remainder of the site, particularly if the properties are reconfigured or redeveloped.
- 4) The request for modification of Stipulation 2.D is recommended to be approved with a modification. The modification is to more clearly identify the specific locations for the enhanced landscaping at entry drives. The recommended modification is consistent with the intent of the original stipulation.

- 5) The requests for deletion of Stipulations 3, 4 and 5 are recommended for approval. The Street Transportation Department did not note any objection to the requests. Rights of way in this location are currently dedicated.
- 6) The request for deletion of Stipulation 7 is recommended for approval. The Public Transit Department did not note any objection to the request.
- 7) The site is identified as archaeologically sensitive and three additional stipulations are recommended to be included to address requirements for archaeological survey and testing.
- 8) 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:**

GENERAL CONFORMANCE	
1.	<del>That</del> The development shall be in general conformance with the site plan date stamped <del>October 23, 2007</del> JANUARY 27, 2023, as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.
LANDSCAPE	
2.	<del>That</del> The applicant shall provide a landscape plan to be administratively approved by the Planning Hearing Officer (PHO) prior to preliminary site plan approval with specific regard to the following as approved by the PLANNING AND Development Services Department:
a.	<del>That</del> The perimeter landscape setbacks along 51st Avenue and Van Buren Street shall comply with the Commerce Park standards, except the area along 51st Avenue generally between Polk Street and McKinley Street as shown on the site plan date stamped October 23, 2007 where A-1 landscape setbacks shall be applicable.
b.	<del>That</del> Shaded seating areas shall be provided for employees and customers in accessible and convenient locations.
c.	<del>That</del> The 51st Avenue AND Van Buren Street corner shall be

		developed with a 75-foot by 75-foot enhanced landscape area using the landscape palette from the Estrella Village Arterial Street Landscaping Plan PROGRAM.
	d.	<p><del>That the customer entrance drive on Van Buren Street and all entry drives on 51st Avenue shall be developed with 50-foot by 50-foot enhanced landscape areas located on both sides of the driveway entrance using the landscape palette from the Estrella Village Arterial Street Landscaping Program, except for the area along 51st Avenue generally between Polk Street and McKinley Street which shall provide entry landscape areas as shown on the site plan date stamped October 23, 2007, and that the Conceptual Landscape Plan for the enhanced landscape areas shall be approved administratively by the Planning Hearing Officer.</del></p> <p>THE ENTRY AT THE CORNER OF 51ST AVENUE AND MCKINLEY STREET AND THE ENTRY IMMEDIATELY EAST OF 51ST AVENUE ON ROOSEVELT STREET SHALL BE DEVELOPED WITH MINIMUM 50-FOOT BY 50-FOOT ENHANCED LANDSCAPE AREAS LOCATED ON BOTH SIDES OF THE DRIVEWAY ENTRANCES, WITH THE EXCEPTION OF THE EXISTING LANDSCAPE AREA ON THE SOUTH SIDE OF THE MCKINLEY STREET ENTRANCE, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. ENHANCED LANDSCAPE AREAS SHALL UTILIZE THE LANDSCAPE PALETTE FROM THE ESTRELLA VILLAGE ARTERIAL STREET LANDSCAPING PROGRAM.</p>
	e.	<p><del>That The existing landscape setback along Roosevelt Street shall be enhanced with new plant materials using the Estrella Village Arterial Street Landscaping Program. The landscaping quantity shall be based on the landscaping program guidelines on page one.</del></p>
STREETS		
	3.	<p><del>That right-of-way totaling 50 feet shall be dedicated for the east half of 51st Avenue.</del></p>
	4.	<p><del>That right-of-way totaling 50 feet shall be dedicated for the north half of Van Buren Street.</del></p>
	5.	<p><del>That a 21-foot by 21-foot right-of-way triangle shall be dedicated at the</del></p>

	northeast corner of 51st Avenue and Van Buren Street.	
3. <del>6.</del>	That The developer shall construct all streets 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 Services Department. All improvements shall comply with all ADA accessibility standards.	
TRANSIT		
7.	That the following transit infrastructure improvements shall be provided:	
	A.	Two transit stop locations, north of Van Buren Street east side of 51st Avenue and north of Fillmore Street east side of 51st Avenue.
	B.	Transit Accessory pads P1261 located north of Van Buren Street east side of 51st Avenue and P1260 located north of Fillmore Street and east of 51st Avenue.
	C.	Transit Bus Bay P1256 located on the east side of 51st Avenue north of Van Buren Street.
ARCHAEOLOGY		
4.	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.	
5.	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.	
6.	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.
AVIATION	
7. 8.	<del>That</del> The property owner shall record documents that disclose to purchasers of the property within the development the existence and operational characteristics of Phoenix Sky Harbor International Airport. The form and content of such documents shall be reviewed and approved by the City Attorney.
8.	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.

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