

Attachment B

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Bradley Wylam, Planner I, Assisting

August 17, 2022

ITEM NO: 2	
	DISTRICT 4
SUBJECT:	
Application #:	PHO-5-22--Z-137-86-7(4)
Location:	Approximately 500 feet south of the southeast corner of 51st Avenue and McDowell Road
Zoning:	C-2
Acreage:	1.75
Request:	1) Modification of Stipulation 1 regarding general conformance with the site plans and elevations date stamped May 17, 2021 and dated October 9, 1996, May 7, 1997, and June 4, 1997.
Applicant:	Justin Gregonis, Upward Architects
Owner:	Holland Real Estate LLC
Representative:	Thomas Dake

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with a modification and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Maryvale Village Planning Committee was scheduled to hear this request on August 10, 2022 but did not have a quorum.

DISCUSSION:

Justin Gregonis, representative with Upward Architects, provided an overview of the proposed request language and project. He stated that a Wendy's drive-through restaurant is proposed for the northwest corner of the I-10 and 51st Avenue. He provided an overview of the subject site and surrounding uses, and he noted that the development would use the same entrance and be located south of the Raising Cane's development that was approved during PHO-4-22—Z-137-86-7(4). He introduced the request language and noted that the plans stipulated for the subject site were never developed. He provided an overview of the proposed site plan and elevations and noted that the site plan depicts an approximately 2,884 square foot Wendy's drive-through restaurant.

Adam Stranieri, Planning Hearing Officer, noted that no correspondence was received, and the Maryvale Village Planning Committee was scheduled to hear the request on August 10, 2022 but did not have a quorum. He provided a summary of PHO-4-21—Z-137-86-7(4) and noted that the Raising Cane's site plan did not depict development on the southern portion of the site, so the reference to the October 9, 1996, May 7, 1997, and June 4, 1997 site plans remained stipulated for the southern portion. He stated that the proposed modification of Stipulation 1 regarding general conformance with the site plan and elevations is recommended to be approved with a modification to provide standard more language. He stated that the proposal is compatible in scale and intensity with existing and planned commercial development in the surrounding area. He stated that the site has been identified as archaeologically sensitive and three additional stipulations are recommended to be added. He stated that a Recorded Proposition 207 Waiver is required prior to preliminary site plan approval and is recommended to be added as a stipulation.

FINDINGS:

- 1) The request to modify Stipulation 1 regarding general conformance is recommended to be approved with a modification to provide more standard language. The stipulated site plan on the northern portion of the site was recently approved in PHO-4-21--Z-137-86-7(4) for the development of a Raising Cane's drive-through restaurant. The stipulated site plan on the southern portion of the site depicts a four-story hotel. This project did not develop, and the property remains vacant. The proposed conceptual site plan and elevations depict an approximately 2,884 square foot Wendy's drive-through restaurant. The proposal is compatible in scale and intensity with existing and planned commercial development in the surrounding area. General conformance to the site plan and elevations is recommended.
- 2) The site is identified as archaeologically sensitive and three additional stipulations are recommended to be included to address requirements for archaeological survey and testing.
- 3) During the hearing, it was noted that the applicant did not submit a completed, notarized, and recorded Proposition 207 Waiver of Claims. However, this requirement already exists as Stipulation 6 (New Stipulation 9). Therefore, an additional stipulation is unnecessary, and the existing stipulation will remain. However, the applicant must still submit a completed, notarized, and recorded Proposition 207 Waiver of Claims form per this stipulation for this request.

STIPULATIONS:

1.	<p>The northern portion of the development shall be in general conformance with the site plan and elevations date stamped JUNE 27, 2022 May 17, 2024, as modified by the following stipulations and approved by the Planning and Development Department.</p> <p>The southern portion of the development shall be in general conformance with the site plan dated October 9, 1996, and the site plan dated May 7, 1997, and elevation dated June 4, 1997, for the four story hotel, as modified by the following stipulations and approved by the Planning and Development Department.</p>	
2.	All landscape areas and building setbacks shall be measured from any new property lines resulting from additional right-of-way dedication.	
3.	Mature landscaping, to include 24-inch box size shade trees placed 20 feet on center or equivalent groupings, shall be provided along 51st Avenue and McDowell Road.	
4.	All parking areas fronting on 51st Avenue and McDowell Road shall be appropriately screened by walls and/or berms approved by the Planning and Development Department.	
5.	Sufficient right-of-way shall be dedicated by the property owner within one year of final City Council action to provide:	
	a.	All right-of-way easements to be dedicated in fee title.
	b.	A 21' x 21' triangle at the intersection of 51st Avenue and McDowell Road.
	c.	A 10' x 175' bus bay along McDowell Road.
	d.	Additional right-of-way, including right turn lanes as may be required by the Planning and Development Department.
6.	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.	

7.	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.
8.	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.
9. 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.

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