

Attachment C

REPORT OF PLANNING HEARING OFFICER ACTION Byron Easton, Planner III, Hearing Officer Teresa Garcia, Planner I, Assisting

September 17, 2025

ITEM NO: 3	
	DISTRICT NO. 8
SUBJECT:	
Application #:	PHO 4-25--Z-116-87-8 (Continued from August 20, 2025)
Location:	Approximately 140 feet north of the northeast corner of 44th Street and Washington Street.
Zoning:	C-2 M-R TOD-1
Acreage:	2.19
Request:	1) Request to modify Stipulation 1 regarding general conformance to the site plan date stamped April 14, 2006.
Applicant:	Ed Bull, Burch & Cracchiolo, P.A.
Owner:	4415 EM, LLC
Representative:	Ed Bull, Burch & Cracchiolo, P.A.

ACTIONS:

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

Village Planning Committee (VPC) Recommendation: The Camelback East Village Planning Committee heard the request on September 9, 2025 and recommended approval by a vote of 16-0.

DISCUSSION:

Madison Leake, representative with Burch & Cracchiolo P.A., began with an overview of the subject site and surrounding areas. She included that the existing building to the north of the subject site was originally proposed to be a Ruby Tuesday's and has been converted to a dispensary. The new proposed building is situated to the south of the existing building and is depicted to be a quick service restaurant. She stated they are not proposing any additional curb cuts to the site and will be using the existing ingress and egress to the site. She included they have submitted an Administrative PHO review of the elevations, indicating the elevations submitted are generic due to a user not being identified. She noted the original site plan was approved in 2006 and since then, demand for quick service restaurants has increased. She added that they have recently received comments from the Fire Prevention Department and have since made minor

changes to the site plan and Fire agrees that the proposed changes have rectified their comments.

Byron Easton, Planning Hearing Officer, asked if they had gone through a Development Pre-Application meeting for this proposed site plan.

Ms. Leake confirmed they went through the Pre-Application process and have done a significant number of reviews with the Site Planning Team.

Mr. Easton stated there was no correspondence regarding this case. He added the Camelback East Village Planning Committee (VPC) heard the case on September 9, 2025 and unanimously recommended approval 16-0. Mr. Easton asked which development parcel the subject site is identified as on the master plan.

Ms. Leake said she didn't know. Staff later confirmed the subject site is situated in development Parcel 2 of the master plan.

Mr. Easton recommended approval to Stipulation 1 regarding general conformance to the site plan with a modification and additional stipulations. He stated that the site has been identified as archaeologically sensitive and that three additional stipulations are recommended to address related requirements. He also added that a Recorded Proposition 207 Waiver is still required prior to final site plan approval and is recommended to be added as a stipulation.

FINDINGS:

- 1) The request to modify Stipulation 1 is recommended to be approved with a modification. The subject site of the application, identified as development parcel 2 of the master plan for the area, includes an existing building that was formerly a restaurant and now operates as a marijuana dispensary. This northerly building is currently subject to general conformance with plans dated April 14, 2006. The applicant has no intent to modify this existing site and is proposing an additional quick-service restaurant at the south end of the development parcel. The modification includes more standard general conformance language and splitting the conformance requirements between the different master plan development parcels for clarity. This new, conceptual site plan depicts parcel 2 only, therefore the stipulation only references parcel 2. Now the PHO boundary and parcel 2 boundary are consistent.

The conceptual site plan depicts an approximately 2,172 square foot quick service, drive-through restaurant on the south portion of the subject site only. The site design incorporates pedestrian access from 44th street, providing convenient connectivity for those using the nearby Light Rail

stop, as well as a pedestrian connection to the rest of the commercial center. The proposal is compatible in scale and intensity with existing land uses in the surrounding area.

- 1) 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.
- 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.

STIPULATIONS:

1.	That THE development of PARCEL 2 of the master plan and parcels 1, 2, 3 and 4 SHALL be in general conformance WITH to the site plan dated STAMPED JUNE 16, 2025 April 14, 2006 AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. and that development of parcels 5 and 6 submit site plans to be administratively approved by the planning hearing officer.	
2.	That Office and commercial development on the total site SHALL not to exceed an F.A.R of 1.0 (exclusive of the two hotel structures). The F.P.A.R may be increased to a maximum of 1.15 (exclusive of the two hotel structures) with the provision of the following improvements/amenities:	
	a.	Additional F.A.R. of 0.05 with the provision of a minimum 30,000 square foot “centralized” retail facility incorporated into a pedestrian plaza.
	b.	Additional F.A.R. of 0.05 with the inclusion of Parcel “N” (the Exxon Parcel) and 0.05 with the inclusion of Parcel “O” (the Circle K Parcel) into the final design. The final design shall incorporate the uses, if retained, to provide internal access from within the site and provide landscaping and amenities general in compliance with the Gateway Guidelines.
3.	That Structures SHALL be limited to 12-stories, not to exceed 150 feet exclusive of unoccupied roof areas, subject to approval of a variance from the Sky Harbor Airport Zoning Ordinance for structures that exceed a mean elevation of 1,278 feet above sea level.	

4.	A minimum 10,000 square feet of gross retail space SHALL be provided. Such retail space shall be exclusive of retail banking but inclusive of the existing convenience retail located at the immediate northeast corner of 44th Street and Washington Street and / or the immediate southeast corner of 44th Street and Van Buren Street if and to the extent that such convenience retail is integrated into the master plan with landscaping and pedestrian connections.
5.	That Surface parking shall be screened from streets and private drives in accordance with section 507 tab a.ii.a.6 (6.1.3) and 662.k, interim transit-oriented zoning overlay one (TOD-1).
6.	That A master landscaping, streetscape and pedestrian circulation plan shall be submitted for review to the 44th Street corridor subcommittee of the Camelback East Village Planning Committee and administrative approval by the Planning Hearing Officer and the PLANNING AND Development Services Department. Such plan shall establish circulation within the development and to/from the 44th Street and Washington Street light rail station. Pedestrian amenities such as seating and adequate shading shall be emphasized.
7.	That The developers shall provide art features that are visible and accessible to outdoor pedestrians within the project. The art shall be administratively approved by the Planning Hearing Officer prior to preliminary site plan approval.
8.	That All structures within the master planned site parcels 1-6, are to include elements of compatible materials and colors as approved by the PLANNING AND Development Services Department. Any reflective glass used within the development shall be limited to a maximum 20 percent reflectivity.
9.	That Carpooling and public transit programs shall be encouraged through placement of appropriate signs in the lobbies of the office, hotel, and residential developments.
10.	That Bicycle storage facilities will be provided on-site.
11.	That Additional right-of-way dedications will be determined by the PLANNING AND Development Services Department at the time of preliminary site plan review and that the developer shall construct all streets adjacent to and the private access way within the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals as per plans approved by the city, all improvements shall comply with ADA accessibility standards.

12.	That the City of Phoenix Archeologist (4619 E Washington Street Phoenix 8034) be notified of site plan review meetings conducted by the PLANNING AND Development Services Department, in order to ensure/ consider architectural compatibility with the Pueblo Grande Museum and Archeology Park.
13.	That building elevations, on a building by building basis, shall be submitted to the Planning Hearing Officer for administrative review prior to such building's preliminary site plan approval by the PLANNING AND Development Services Department.
14.	PRIOR TO FINAL 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.
15.	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.
16.	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.
17.	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.

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