

# ATTACHMENT E

## REPORT OF PLANNING COMMISSION ACTION June 5, 2025

ITEM NO: 9	
	DISTRICT NO.: 1
SUBJECT:	
Application #:	Z-20-24-1 (Continued from April 3, 2025)
From:	R-O
To:	C-1
Acreage:	1.19
Location:	Approximately 40 feet south of the southwest corner of 39th Avenue and Cactus Road
Proposal:	Commercial use (office and restaurant)
Applicant:	Michael Scarbrough, 3k1 Consulting Services, LLC
Owner:	Odden Properties, LLC c/o Paul Johnson
Representative:	David Cisiewski, Law Office of David Cisiewski, PLLC

### **ACTIONS:**

Staff Recommendation: Approval, per the staff memo dated June 5, 2025.

Village Planning Committee (VPC) Recommendation:  
**North Mountain** 2/19/2025 Denial. Vote: 12-1-1.

Planning Commission Recommendation: Approval, per the staff memo dated June 5, 2025, with additional stipulations.

### **Motion Discussion:**

The applicant proposed three additional stipulations.

Commissioner Matthews asked staff if the proposed additional stipulations were acceptable to staff. His concern was with the enforceability of the last proposed stipulation regarding the fence.

Ms. Racelle Escolar stated that staff is not supportive of the stipulations related to the drive through because that use is subject to a Use Permit approval through the zoning adjustment hearing process. However, the language in the proposed stipulations has been reviewed and is generally acceptable. Additionally, staff does not support the stipulation regarding the fence since it is offsite and not within the rezoning application boundary. The applicant can set up a private agreement and work that out with the neighbors directly.

Motion details: Commissioner Hu made a MOTION to approve Z-20-24-1, per the staff memo dated June 5, 2025, with the inclusion of the two additional stipulations proposed by the applicant regarding the drive through, and as depicted on the site plan date stamped August 29, 2024.

Maker: Hu  
Second: Matthews  
Vote: 9-0  
Absent: None  
Opposition Present: No

### Findings:

1. The proposal is consistent with the character of the surrounding area.
2. The proposal will provide neighborhood retail and services to the surrounding area at an appropriate location.
3. The proposal, as stipulated, provides landscaping and shade to enhance the thermal comfort of users of the site and nearby areas.

### Stipulations:

1. THE BUILDING ELEVATIONS SHALL BE IN GENERAL CONFORMANCE WITH THE BUILDING ELEVATION DATE STAMPED JUNE 4, 2025, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
- ~~4.~~ 2. A minimum of 4 bicycle parking spaces shall be provided for each building through Inverted U and/or artistic racks located near the building entrance and installed per the requirements of Section 1307.H of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan.
- ~~2.~~ 3. A bicycle repair station ("fix it station") shall be provided on the site. The station shall include but not be limited to: standard repair tools affixed to the station; a tire gauge and pump; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike, as approved by the Planning and Development Department.
- ~~3.~~ 4. A minimum of 1 of the provided bicycle parking spaces for each building shall include standard electrical receptacles for electric bicycle charging capabilities, as approved by the Planning and Development Department.
- ~~4.~~ 5. A minimum of 5% of the required parking spaces shall be EV Ready.
- ~~5.~~ 6. Where pedestrian walkways cross a vehicular path, the pathway shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrast parking and drive aisle surfaces, as approved by the Planning and Development Department.
- ~~6.~~ 7. All pedestrian pathways, including internal walkways and public sidewalks adjacent to the site, shall be shaded by a structure or landscaping, or a combination of the two to achieve a minimum of 75% shade, as approved by the Planning and Development Department.
- ~~7.~~ 8. A minimum of 50 feet of right-of-way shall be dedicated and constructed for the south side of Cactus Road.
- ~~8.~~ 9. A minimum 6-foot-wide detached sidewalk separated by a minimum 10-foot-wide landscape strip located between the back of curb and sidewalk shall be provided along the south side of Cactus Road, planted to the following standards, as approved by the Planning and Development Department.

- a. Minimum 2-inch caliper single-trunk, large canopy, drought-tolerant shade trees planted 20 feet on center, or in equivalent groupings.
- b. Shrubs, accents, and vegetative groundcovers maintained to a maximum height of 24 inches to achieve a minimum of 75% live coverage.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on an alternative design solution consistent with a pedestrian environment.

- ~~9.~~ A minimum 5-foot-wide detached sidewalk separated by a minimum 5-foot-wide landscape strip located between the back of curb and sidewalk shall be provided along the west side of 39th Avenue, planted to the following standards, as approved by the Planning and Development Department.

- ~~10.~~
  - a. Minimum 2-inch caliper single-trunk, large canopy, drought-tolerant shade trees planted 20 feet on center, or in equivalent groupings.
  - b. Shrubs, accents, and vegetative groundcovers maintained to a maximum height of 24 inches to achieve a minimum of 75% live coverage.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on an alternative design solution consistent with a pedestrian environment.

- ~~10.~~ All existing electrical utilities within the public right-of-way shall be undergrounded, adjacent to the development. The developer shall coordinate with the affected utility companies for their review and permitting.

- ~~11.~~ Unused driveways shall be replaced with sidewalk, curb, and gutter. Any broken or out-of-grade curb, gutter, sidewalk, and curb ramps on all streets shall be replaced. All off-site improvements shall be upgraded to be in compliance with current ADA guidelines.

- ~~12.~~ All streets within and adjacent to the development shall be constructed with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.

- ~~13.~~ Only landscape materials listed in the Phoenix Active Management Area Low-Water-Use/Drought-Tolerant Plant List shall be utilized, as approved or modified by the Planning and Development Department.

- ~~14.~~ Natural turf shall only be utilized for required retention areas (bottom of basin, and only allowed on slopes if required for slope stabilization) and functional turf areas located on properties for uses such as parks, schools, and residential common areas, as approved by the Planning and Development Department.

- ~~15.~~ Landscaping shall be maintained by permanent and automatic/water efficient WaterSense labeled irrigation controllers (or similar smart controller) to minimize maintenance and irrigation water consumption for all on and offsite landscape irrigation.

16. A minimum of 25% of the surface parking areas shall be shaded, as approved by the  
17. Planning and Development Department. Shade may be achieved by structures or by  
minimum 2-inch caliper, drought tolerant, shade trees, or a combination thereof.
17. A minimum of two green infrastructure (GI) techniques for stormwater management  
18. shall be implemented per the Greater Phoenix Metro Green Infrastructure and Low-  
Impact Development Details for Alternative Stormwater Management, as approved or  
modified by the Planning and Development Department.
18. Prior to final site plan approval, documentation shall be provided that demonstrates a  
19. commitment to participate in the City of Phoenix Businesses Water Efficiency Program  
for a minimum of 10 years, or as approved by the Planning and Development  
Department.
19. In the event archaeological materials are encountered during construction, the  
20. 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.
20. Prior to final site plan approval, the landowner shall execute a Proposition 207 waiver  
21. 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.
22. SITE LIGHTING SHALL BE PROVIDED AT BUILDING ENTRANCES/EXITS AND IN  
THE PARKING AND REFUSE AREAS, AS APPROVED BY THE PLANNING AND  
DEVELOPMENT DEPARTMENT. ALL ON-SITE LIGHTING SHALL BE SHIELDED  
TO PREVENT DIRECT VISIBILITY OF THE LIGHT SOURCE FROM RESIDENTIAL  
PROPERTIES TO THE SOUTH.
23. VIDEO SURVEILLANCE SHALL BE MAINTAINED TO MONITOR ACTIVITIES IN  
AND AROUND THE STORE TO DISCOURAGE VAGRANCY AND UNLAWFUL  
ACTIVITIES.
24. AN "AUTHORITY TO ARREST" AGREEMENT SHALL BE COMPLETED AND  
MAINTAINED BY THE PROPERTY OWNER. THE AGREEMENT SHALL BE SIGNED  
AND DELIVERED TO THE PHOENIX POLICE DEPARTMENT.
25. "NO TRESPASSING" SIGNS SHALL BE POSTED PER PHOENIX CITY CODE ON  
THE EXTERIOR OF THE BUILDING IN BOTH ENGLISH AND SPANISH.
26. **THE DRIVE THROUGH, SUBJECT TO USE PERMIT APPROVAL, SHALL BE  
LIMITED TO ONE LANE, WITH THE ENTRANCE, EXIT, AND CIRCULATION AS  
DEPICTED ON THE SITE PLAN DATE STAMPED AUGUST 29, 2024.**
27. **THE HOURS OF OPERATION FOR THE DRIVE THROUGH, SUBJECT TO USE  
PERMIT APPROVAL, SHALL BE LIMITED TO NO LATER THAN 10:00 P.M.**

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Saneeya Mir at 602-686-6461, saneeya.mir@phoenix.gov, TTY: Use 7-1-1.

REPORT OF PLANNING COMMISSION ACTION  
April 3, 2025

ITEM NO: 2	
	DISTRICT NO.: 1
SUBJECT:	
Application #:	<b>Z-20-24-1 (Continued from March 6, 2025)</b>
Location:	Approximately 40 feet south of the southwest corner of 39th Avenue and Cactus Road
From:	R-O
To:	C-1
Acreage:	1.19
Proposal:	Commercial use (office and restaurant)
Applicant:	Michael Scarbrough
Owner:	Odden Properties, LLC c/o Paul Johnson
Representative:	David Cisiewski, Law Offices of David Cisiewski, PLLC

**ACTIONS:**

Staff Recommendation: Approval, subject to stipulations.

Village Planning Committee (VPC) Recommendation:  
**North Mountain** 2/19/2025 Denial. Vote: 12-1-1.

Planning Commission Recommendation: Continued to the June 5, 2025 Planning Commission Hearing, without fee.

Motion Discussion: N/A

Motion details: Commissioner Jaramillo made a MOTION to continue Z-20-24-1 to the June 5, 2025 Planning Commission Hearing, without fee.

Maker: Jaramillo  
Second: Matthews  
Vote: 8-0  
Absent: Read  
Opposition Present: No

Findings: The applicant requested a continuance for 60 days to allow for more time to work with the community.

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REPORT OF PLANNING COMMISSION ACTION  
March 6, 2025

ITEM NO: 12	
	DISTRICT NO.: 1
SUBJECT:	
Application #:	Z-20-24-1
Location:	Approximately 40 feet south of the southwest corner of 39th Avenue and Cactus Road
From:	R-O
To:	C-1
Acreage:	1.19
Proposal:	Commercial use (office and restaurant)
Applicant:	Michael Scarbrough
Owner:	Odden Properties, LLC c/o Paul Johnson
Representative:	David Cisiewski, Law Offices of David Cisiewski, PLLC

**ACTIONS:**

Staff Recommendation: Approval, subject to stipulations.

Village Planning Committee (VPC) Recommendation:  
North Mountain 2/19/2025 Denial. Vote: 12-1-1.

Planning Commission Recommendation: Continued to the April 3, 2025 Planning Commission Hearing, without fee.

**Motion Discussion:**

Chairperson Busching asked if staff had a chance to review the four newly proposed stipulations addressing site security and safety.

Ms. Racelle Escolar confirmed that the stipulations had been reviewed, and that the language proposed for the stipulations was consistent with stipulations recommended for another similar rezoning case in the past. Staff felt comfortable with the language proposed.

Vice-Chairperson Boyd asked a question of staff regarding the drive-through queueing lane shown on the proposed site plan, whether that drive-through would require a use permit due to its proximity to residentially zoned property.

Ms. Escolar confirmed that the use permit would be required.

Chairperson Busching stated that the drive-through has been a source of contention for the neighbors to this project. She asked if it was possible to stipulate the case to prohibit the use of a drive-through as part of the site proposal.

Ms. Escolar stated that this was not possible because staff cannot stipulate to prohibit a particular land use. She confirmed that the applicant does have the ability to request to continue the case to update the site plan and remove the drive-through from the plan. Staff could then stipulate to general conformance to that plan.

The applicant agreed to a continuance to consider updates to the plan and work with the community.

Motion details: Commissioner Matthews made a MOTION to continue Z-20-24-1 to the April 3, 2025 Planning Commission Hearing, without fee.

Maker: Matthews  
Second: James  
Vote: 7-0  
Absent: Gorraiz, Read  
Opposition Present: Yes

Findings: The applicant agreed to a 30-day continuance to allow for more time to meet with the community and possibly make updates to their plan.

This publication can be made available in alternate format upon request. Please contact Saneeya Mir at 602-686-6461, [saneeya.mir@phoenix.gov](mailto:saneeya.mir@phoenix.gov), TTY: Use 7-1-1.