

Attachment B

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

March 20, 2024

ITEM NO: 1	
	DISTRICT NO. 6
SUBJECT:	
Application #:	PHO-1-24--Z-29-20-6
Location:	Southeast corner of 44th Street and Calle Allegre
Zoning:	R-O
Acreage:	0.48
Request:	<ol style="list-style-type: none">1) Request to modify Stipulation 1 regarding general conformance with the elevations date stamped June 11, 2020.2) Request to modify Stipulation 3 regarding the landscape setback.3) Request to modify Stipulation 6 regarding the sidewalk easement.4) Request to delete Stipulation 9 regarding the Special Flood Hazard Area.
Applicant:	Jordan Greenman, Greenman Law
Owner:	Chris Morrison
Representative:	Jordan Greenman, Greenman Law

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended denial as filed and approval with a modification.

Village Planning Committee (VPC) Recommendation: The Camelback East Village Planning Committee chose not to review the application.

DISCUSSION:

Jordan Greenman, representative of Greenman Law, gave an overview of the proposed modification requests. He indicated the property would be converted from a yoga studio and juice bar to a real estate office. He indicated a two-story office building with a subterranean design was proposed for the property to accommodate the odd-shaped parcel. He provided an overview of the parcel and the variance stipulations that were granted to the site in 2023.

He described the request to reduce the sidewalk easement from 10 feet to 8 feet to accommodate the underground courtyard. He stated that the 44th Street Corridor between Camelback Road and Indian School Road contains

approximately 70 parcels; out of the 70 parcels, only one contains a detached sidewalk. He stated that providing a 10-foot setback is not consistent with the true character area of 44th Street, but an 8-foot setback would still allow for a 6-foot sidewalk.

He described the request to delete Stipulation 9 regarding the Special Flood Hazard Area. He stated only 100 square feet of the property is in the Zone A FEMA Rated Flood Zone and no improvements are in the area.

Byron Easton, Planning Hearing Officer, recommended approval to Request 1 and recommended approval with a modification for Request 2. Mr. Easton stated the Streets Department does not support the proposed modification to reduce the sidewalk easement along 44th Street and recommended denial as filed for Request 3. Mr. Easton stated the parcel is in Special Flood Hazard Area Zone A and grading and drainage plans are required to show the floodplain boundary limits and ensure the impacts of facilities have been considered. He stated the Floodplain Department does not support the modification request and recommended denial as filed for Request 4. Mr. Easton's overall decision is denial as filed and approval with a modification.

Mr. Greenman asked Mr. Easton to reconsider his decision for Request 3. He stated that out of the 70 parcels along 44th Street, only one has a detached sidewalk and the encroachment request is minimal.

Mr. Easton stated he cannot go against the Streets Department recommendation and the applicant can work with the Streets Department on a compromise.

Mr. Greenman stated that the denying the minimal encroachment means they are unsure if the underground courtyard will meet building code standards. He stated redesigning the whole site means they would have to redo the variance process as the variance was approved to a stipulated site plan.

Mr. Easton stated he understands Mr. Greenman's reasoning, but it is based on a standard engineering detail, they will need to work with the Streets Department regarding this request.

FINDINGS:

- 1) The request to modify Stipulation 1 regarding general conformance to the new, proposed elevations is recommended to be approved.

The proposed elevations retain the intent of the original stipulation and meet the character of the surrounding neighborhood.

- 2) The request to modify Stipulation 3 regarding the landscape setback is recommended to be approved with a modification. The language has been modified to specify where the reduced landscape setback is to be allowed, retaining the 10 foot setback for the remainder of the property line not affected by the window wells.
- 3) The request to modify Stipulation 6 regarding the sidewalk easement is recommended to be denied as filed. The Street Transportation Department does not support the proposed modification to reduce the required sidewalk easement from 10-feet to 8-feet. 44th Street is classified as an X-B Arterial cross-section, a modified cross-section typically utilized to accommodate the elements of the Arterial B cross-section on a roadway with a limited existing or potential right-of-way width.

While the cross-section typically requires a total right-of-way width of 130-feet, 44th Street currently has 80-feet of right-of-way and 10-feet of sidewalk easement in which the Street Transportation Department must fit as many of the vehicular travel lanes, bicycle lanes, and sidewalks required by the Arterial B cross-section as possible.

With the lack of right-of-way width already well below the minimum required for the established cross-section, the Street Transportation Department must retain as much of the sidewalk easement as possible in order to ensure that a detached sidewalk (minimum 5-foot wide sidewalk separated by a minimum 10-foot-wide landscape area) can be implemented on this section of 44th Street.

- 4) The request to delete Stipulation 9 regarding the removal of the Special Flood Hazard Area designation has been recommended denied as filed. It has been determined that this parcel is in a Special Flood Hazard Area (SFHA) called Zone A, on panel 1765 L of the Flood Insurance Rate Maps (FIRM) revised July 31, 2015. The Architect/Engineer is required to show the floodplain boundary limits on the Grading and Drainage plan and ensure that impacts to the proposed facilities have been considered.

STIPULATIONS:

1.	The development shall be in general conformance with the elevations date stamped JANUARY 9, 2024 June 11, 2020 , with specific regard to use of brick veneer and VERTICAL horizontal siding, the locations and size of windows, and roof design, as approved by the Planning and Development Department.
2.	The required landscape setback along 44th Street shall be planted to the

	following standards, as approved by the Planning and Development Department.
a.	Minimum 3-inch caliper large canopy, single-trunk, shade trees placed a minimum of 20 feet on center or in equivalent groupings to provide a minimum of 50 percent shade on adjacent sidewalks.
b.	Drought tolerant shrubs and vegetative groundcovers to provide a minimum of 75 percent live coverage at maturity.
3.	A minimum 10-foot landscape setback shall be provided along the northeastern property line, EXCEPT FOR THE PORTION DIRECTLY ADJACENT TO THE BUILDING FAÇADE WHICH MAY BE REDUCED TO 5-FEET TO ALLOW SUB-GRADE WINDOW WELLS, AS DEPICTED ON THE SITE PLAN DATE STAMPED JANUARY 9, 2024, AND AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT where the property abuts a single-family home . The landscape setback shall be planted with minimum 2-inch caliper trees, planted 20 feet on center or in equivalent groupings, as approved by the Planning and Development Department.
4.	A minimum of two inverted U-bicycle racks, artistic style racks (in adherence to the City of Phoenix Preferred Designs in Appendix K or the Comprehensive Bicycle Master Plan) or "Outdoor/Covered Facilities" for guests and employees shall be provided. These facilities shall be located near building entrances, installed per the requirements of Section 1307.H. of the Zoning Ordinance, and approved by the Planning and Development Department.
5.	There shall be no internally lit signs on the site. Signage shall be approved by the Planning and Development Department.
6.	The developer shall provide a 10-foot sidewalk easement along the east side of 44th Street, as approved by the Planning and Development Department.
7.	The developer shall construct a driveway along 44th Street that is located centrally along the frontage and constructed at a 90-degree angle with a skew no greater than 15 degrees, as approved by the Street Transportation Department.
8.	The developer shall construct all streets within and adjacent to the development 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.
9.	This parcel is located in a Special Flood Hazard Area (SFHA) called Zone A, on panel 1765 L of the Flood Insurance Rate Maps (FIRM) revised July 31, 2015.
a.	No encroachment is allowed in the floodway without hydrologic and hydraulic analysis showing no rise in water surface elevation and increase in the special flood hazard area boundaries.
b.	The Architect/Engineer is required to show the special flood hazard area boundary limits on plans and ensure that impacts to the proposed facilities and surrounding properties have been considered, following the National Flood Insurance Program (NFIP) Regulations (44 CFR Paragraph 60.3). This includes, but not limited to provisions in the latest versions of the Floodplain Ordinance of the Phoenix City Code.
c.	A copy of the Grading and Drainage Plan shall be submitted to the Floodplain Management section of Public Works Department for review and approval of Floodplain requirements prior to issuance of a Grading Permit.
d.	The developer shall provide a FEMA approved CLOMR-F or CLOMR prior to issuance of a Grading and Drainage permit.
10.	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.
11.	The property owner shall record documents that disclose the existence, and operational characteristics of Sky Harbor International Airport to future owners or tenants of the property. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney.
12.	The developer shall submit 7460 Forms to FAA and receive FAA no hazard determination or mitigations approved by FAA for both temporary and permanent development prior to final site plan approval.
13.	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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