

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Bradley Wylam, Planner I, Assisting

July 21, 2021

ITEM NO: 3

DISTRICT 4

SUBJECT:

Application #: PHO-4-21--Z-137-86-7(4)  
Location: Approximately 315 feet south of the southeast corner of 51st Avenue and McDowell Road  
Existing Zoning: C-2  
Acreage: 3.46  
Request: 1) Modification to Stipulation 1 regarding general conformance to the site plans dated October 9, 1996 and May 7, 1997 and elevations dated June 4, 1997.  
2) Technical corrections to Stipulations 4 and 5.d  
Applicant: Nordean Moussalem  
Owner: Raising Cane's Restaurants LLC  
Representative: Luaron Foster

**ACTIONS**

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

Village Planning Committee (VPC) Recommendation: The Maryvale Village Planning Committee heard this request on July 14, 2021 and recommended approval by a vote of 9-0.

**DISCUSSION**

Nordean Moussalem, applicant, gave an overview of the request and stated that the Maryvale Village Planning Committee voted unanimously to recommend approval of the request. He stated that the access to the site will remain consistent with the stipulated plan with two entrances on the private road north of the site. He stated that the Raising Cane's restaurant will provide 2 drive-through lanes and an outdoor patio space. He stated that the proposed architecture will be consistent with the surrounding area but still provide a unique style that Raising Cane's restaurants are known for.

Adam Stranieri, Planning Hearing Officer, noted that the proposed site plan only depicts development on the northern 1.77 gross acres of the approximately 3.46 gross acre parcel. Luaron Foster, representative with Raising Cane's, stated that they are working on an agreement with other entities to purchase or develop the remaining property

within the existing parcel. Mr. Stranieri stated that he recommends that the northern portion of the site be in general conformance with the proposed site plan and elevations while retaining the stipulated plans for the remainder of the site. He stated that another PHO hearing would likely be required if the southern portion of the site was developed with a new land use varying from the stipulated plan. He noted that the Public Transit Department recommended a stipulation to remove a pedestrian opening at 51st Street and realign to the private drive to the north. He expressed concerns with the proposal to remove an access point to a public sidewalk to be replaced with either a second pathway adjacent to a sidewalk or to have pedestrians cross the drive-through exit lanes. He stated that he did not recommend adding this stipulation but supported the applicant continuing to discuss appropriate pedestrian pathways with staff during plan review.

## **FINDINGS**

- 1) The applicant requested a modification to Stipulation 1 to replace the stipulated site plans and elevations. However, the proposed conceptual site plan and building elevation depict development only on the northern 1.77 gross acres of the approximately 3.46 gross acre parcel. It is not recommended to delete the existing general conformance requirements for the remaining 1.69 gross acres if no development is contemplated on this portion of the site. Therefore, it is recommended that Stipulation 1 be revised to refer to the northern and southern portions of the site separately. The northern portion is recommended to be in general conformance with the proposed plans in this request for the Raising Cane's drive-through restaurant and the remainder of the site to remain stipulated to the original plans. The proposed conceptual site plan and building elevation depict an approximately 3,267 square foot Raising Cane's drive-through restaurant. The proposal is compatible in scale and intensity with other commercial development in the surrounding area. General conformance to the plans is recommended.

**DECISION:** The Planning Hearing Officer recommended approval with a modification and an additional stipulation.

## **STIPULATIONS**

<del>Modified November 13, 1996</del>	
1.	THE NORTHERN PORTION OF THE DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN AND ELEVATIONS DATE STAMPED MAY 17, 2021, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.

	That THE SOUTHERN PORTION OF THE development SHALL be in general conformance to 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.	
2.	That All landscape areas and building setbacks SHALL be measured from any new property lines resulting from additional right-of-way dedication.	
3.	That 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.	That 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 Services Department.	
5.	That 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 Services Department.
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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