



City of Phoenix

Staff Report: PHO-1-22--Z-58-04-1

APPLICATION #: PHO-1-22--Z-58-04-1

LOCATION: Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road

EXISTING ZONING: C-O (Approved C-1)

ACREAGE: 1.08

REQUEST:

- 1) Modification of Stipulation 1 regarding general conformance with the site plan date stamped May 24, 2004 and elevations date stamped July 7, 2004.
- 2) Deletion of Stipulation 4 regarding parking lot landscaping.
- 3) Technical corrections for Stipulations 2 and 3.

APPLICANT: Daniel Istrate, Kontexture, LLC

OWNER: Benjamin and Corina Covaciu

REPRESENTATIVE: Daniel Istrate, Kontexture, LLC

STAFF RECOMMENDATION

Approval with a modification and an additional stipulation, as recommended by the Planning Hearing Officer.

PLANNING HEARING OFFICER RECOMMENDATION

The Planning Hearing Officer heard the request on June 15, 2022 and recommended a continuance to the July 20, 2022 hearing. The Planning Hearing Officer heard the request on July 20, 2022 and recommended approval with a modification and an additional stipulation.

VILLAGE PLANNING COMMITTEE RECOMMENDATION

The North Mountain Village Planning Committee heard this request on May 18, 2022 and recommended denial by a vote of 13-2.

BACKGROUND/ANALYSIS

The subject site consists of 1.08 gross acres located approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road and is zoned C-O (Approved C-1) (Commercial Office - Restricted Commercial, Approved Neighborhood Retail). The subject property is only a portion of the 3.96 gross acres included in original Rezoning Case No. Z-58-04-1.

The applicant requested modification of Stipulation 1 regarding general conformance with the site plan date stamped May 24, 2004 and elevations date stamped July 7, 2004, to accommodate a new conceptual site plan and building elevations. The stipulated site plan for this area (Exhibit H) depicted an approximately 9,000-square foot commercial building located along the north property line and parking along the south and west property lines. The proposed site plan (Exhibit G) depicts a multifamily residential project containing 14 dwelling units at approximately 12.96 dwelling units per gross acre. Units have private garages which are located in the center of the site. Parking is located along the west property line and the west portion of the south property line. Open space is located along the south property line. The site has a single driveway on 43rd Avenue and offers no vehicular access to neighborhoods to the west or south of the site.

The proposed conceptual site plan was redesigned and resubmitted after the June 15, 2022 Planning Hearing Officer (PHO) hearing to address concerns raised in correspondence received by staff and heard by the PHO and the North Mountain Village Planning Committee. The redesign moved the original proposed 10-plex building from the south to the north property line, approximately to the same location as the original proposed commercial building. The redesign also moved the original proposed 4-plex building from the north to the south property line and shifted closer to the 43rd Avenue frontage. The applicant noted that these changes were intended to mitigate the impact of building massing on adjacent homes to the west and south, consolidate common areas along the south property line, and to relocate open spaces further from the arterial street.

No building elevations were stipulated for the proposed commercial land uses in the original case. Stipulated elevations in Stipulation 1 included single-family residential buildings, intended to develop elsewhere in the original rezoning case area (Exhibit J). The proposed conceptual elevations (Exhibit I) depict multifamily residential buildings with a maximum height of two stories at approximately 22 feet 5 inches (24 feet 8 inches to the ridge). The proposed elevations were also redesigned and resubmitted after the June 15, 2022 Planning Hearing Officer (PHO) hearing to address concerns raised in correspondence received by staff and heard by the PHO and the North Mountain Village Planning Committee. The redesign included new architectural detailing and features intended to better comply with Stipulation 4 (not a part of this request) regarding four-sided architecture. Additionally, on the south elevation of the 4-plex building, bedroom windows on end units were moved from the south elevation to the east and west elevations. The applicant noted that this was intended to mitigate privacy concerns for adjacent neighbors. The applicant noted that the south elevation was revised to remove all but two windows, which are required by the Building Code for bedrooms.

The applicant requested deletion of Stipulation 4 regarding parking lot landscaping. This stipulation required enhanced landscaping in parking islands and specific areas depicted on the stipulated site plan for the proposed commercial development area.

PREVIOUS HISTORY

On October 6, 2004, the Phoenix City Council approved Rezoning Case No. Z-58-04-1, a request to rezone approximately 3.96 gross acres located approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road from C-O (Commercial Office - Restricted Commercial) to C-1 (Neighborhood Retail) and R1-6 (Single-family Residential), subject to stipulations (Exhibit E).

The stipulated conceptual site plan is broken into three parcels- Parcels A, B, and C. Parcel A is located on the northern portion of the rezoning case area along Cactus Road and depicts a 4,000 square foot commercial building. Parcel B is located on the eastern portion of the rezoning case area and depicts a 9,000 square foot commercial building. Parcel B is the subject site of this PHO case. Parcel C is located on the southwestern portion of the rezoning case area and depicts ten single-family residential lots. Since the original approval, only Parcel C has been developed as stipulated. Parcels A and B remain vacant.

NEIGHBORHOOD CONCERNS

Public Correspondence

Three letters of opposition were received regarding this request. Concerns expressed in the correspondence include the following:

- Decrease in privacy for adjacent property owners (3 letters)
- Negative impacts on viewshed to the north (3 letters)
- Building height (3 letters)
- Decrease in property values (2 letters)
- Increased noise (2 letters)
- Increased traffic (2 letters)
- Loss of existing trees on the site (1 letter)
- Desire to see the site developed as a greenbelt or park (1 letter)

GENERAL PLAN LAND USE MAP DESIGNATION

Commercial

CHARACTER OF SURROUNDING LAND USE

	Zoning	Land Use
On-site:	C-O (Approved C-1)	Vacant
North:	C-1	Preschool
South:	R1-6	Single-Family Residential
East: (Across 43rd Avenue)	R1-6	Single-Family Residential
West:	C-O (Approved R1-6)	Single-Family Residential

PLANNING HEARING OFFICER FINDINGS

The Planning Hearing Officer's recommendation was based on the following findings:

- 1) The request to modify Stipulation 1 regarding general conformance to a site plan and elevations is recommended for approval with a modification to provide more standard conformance language. The original rezoning case consisted of three distinct areas, with commercial zoning proposed along Cactus Road and 43rd Avenue, and a single-family residential subdivision at the southwest portion of the site. The subject property of this case is the commercially zoned parcel along 43rd Avenue only.

The stipulated site plan for this area depicted an approximately 9,000 square foot commercial building located along the north property line and parking along the south and west property lines. The proposed conceptual site plan depicts a 14-unit multifamily residential development at approximately 12.96 dwelling units per gross acre. Units have private garages which are located in the center of the site. Parking is located along the west property line and a portion of the south property line. Open space is located along the south property line. The site offers no vehicular access to any single-family neighborhoods to the west or south. The proposed site plan was significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign moves the 10-plex building to the north property line, approximately in the same location as the original proposed commercial building. This change significantly reduces the impact of building massing on homes to the south and west. A smaller 4-plex building is now located along the south property line, shifted towards the 43rd Avenue frontage, to allow (previously) disconnected common areas to be combined along the south property line and further from the arterial street.

No building elevations were stipulated for the proposed commercial uses in the original case. The proposed conceptual elevations depict a maximum height of two stories at approximately 22 feet 5 inches (24 feet 8 inches to the ridge), which is more restrictive than the two stories and 30 feet otherwise permitted by the current zoning. The proposed elevations were also significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign includes new architectural detailing and features intended to better comply with an existing stipulation regarding four-sided architecture. Additionally, on the south elevation of the 4-plex building, bedroom windows on end units were shifted to the east and west elevations to reduce privacy concerns on adjacent neighbors. The south elevation now includes only two-bedroom windows which are required by building code.

The proposal is compatible with its location near the intersection of two arterial streets. The proposed density and height are below the maximum permitted by the current zoning and consistent with the original approval. The recommendation for general conformance will control for deviation from the proposed plans.

- 2) The request to delete Stipulation 4 regarding parking lot landscaping is recommended for approval. This stipulation is specific to the layout on the original stipulated plan which would be removed by the recommendation in Stipulation 1. The development will be subject to existing Ordinance requirements for parking lot landscaping relevant to the new, proposed multifamily residential use.
- 3) 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.

PLANNING HEARING OFFICER RECOMMENDED STIPULATIONS

1.	That THE development shall be in general conformance with the site plan AND ELEVATIONS date stamped JULY 20, 2022, May 24, 2004 and elevations date stamped July 7, 2004 as approved or modified by the FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.
2.	That Four sided architecturEal shall be used on residential development. Examples of the types of details to consider are French windows,

	ornamentation in the gable area, garages setback to the rear of the house, garage door windows, porches, 18 feet inch eaves, shutters, decorative framing around the windows, window sills, window fenestrations, balconies, lighting, and other enhancements as approved by THE PLANNING AND Development Services Department.
3.	That Mature trees a minimum of 2-inch caliper spaced 20-feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department SHALL be installed along the west side of Parcel B and the south side of Parcel A in order to buffer the proposed commercial development from proposed residential uses.
4.	That mature trees a minimum of 2 inch caliper be placed in the three parking islands and the two corners of the parking lot on the south side of Parcel B in order to buffer the proposed commercial development from existing residential uses.
4.	That Right-of-way totaling 50 feet shall be dedicated for the south half of
5.	Cactus Road.
5.	That The developer shall construct all streets within and adjacent to the
6.	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 all ADA accessibility standards.
6.	That Construction vehicle access to the residential Parcel C shall be off of
7.	43rd Avenue or Cactus Road during the construction phase.
7.	That Lot 1, and two of Lots 7, 8, 9 and 10, shall be limited to one story, for
8.	a total of three lots being limited to one story.
8.	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.

Exhibits

- A – Appeal Document (2 pages)
- B – Applicant’s Narrative (2 pages)
- C – Aerial Map (1 page)
- D – Zoning Map (1 page)
- E – Approval Letter from Rezoning Case No. Z-58-04 (2 pages)
- F – Sketch Map from Rezoning Case No. Z-58-04 (1 page)
- G – Proposed Site Plan date stamped July 20, 2022 (1 page)

- H – Stipulated Site Plan date stamped May 24, 2004 (1 page)
- I – Proposed Elevations date stamped July 20, 2022 (4 pages)
- J – Stipulated Elevations date stamped July 7, 2044 (2 pages)
- K – North Mountain Village Planning Committee Summary from May 18, 2022 (3 pages)
- L – PHO Summary for PHO-1-22--Z-58-04-1 from June 15, 2022 (3 pages)
- M – PHO Summary for PHO-1-22—Z-58-04-1 from July 20, 2022 (6 pages)

EXHIBIT A

PLANNING HEARING OFFICER APPEAL			
I HEREBY REQUEST THAT THE PLANNING COMMISSION/CITY COUNCIL HOLD A PUBLIC HEARING ON:			
CASE NUMBER:	PHO-1-22--Z-58-04-1 (Continued from June 15, 2022)		
LOCATION:	Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road		
PHO HEARING DATE:	July 20, 2022	RECEIVED:	07/27/2022
APPEALED BY:	<input checked="" type="checkbox"/> Opposition	<input type="checkbox"/> Applicant	
APPEALED TO:	PLANNING COMMISSION	September 1, 2022	
		TENTATIVE DATE	
	CITY COUNCIL	October 12, 2022	
		TENTATIVE DATE	
APPELLANT NAME AND ADDRESS:		PHONE:	
Mark George 4312 West paradise Drive Glendale, AZ 85304 mgeorge@allcovered.com		623-533-7086 (leave Voice Mail)	
RECEIPT NUMBER:			
REASON FOR REQUEST:			
We are not happy with the distribution, location, and size of the planned units. Would like to review options – our major concerns are: privacy, safety, and property aesthetics.			
TAKEN BY:	Brad Wylam, Planner I		

- c: Alan Stephenson
 Joshua Bednarek
 Tricia Gomes
 Racelle Escolar
 Adam Stranieri
 Greg Harmon
 Brad Wylam
 Victoria Cipolla-Murillo
 Julie Garcia
 Ben Ernyei - Posting
 GIS Team



JUL 27 2022

Planning & Development
Department

The PLANNING HEARING OFFICER agenda for July 20, 2022 is attached.

The City Council May Ratify the Recommendation of the Planning Hearing Officer on August 31, 2022 Without Further Hearing Unless:

- A REQUEST FOR A HEARING BY THE PLANNING COMMISSION is filed by 5:00 p.m. on July 27, 2022. (There is a \$630 fee for hearings requested by the applicant.)

Any member of the public may, within seven (7) days after the Planning Hearing Officer's action, request a hearing by the Planning Commission on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. on July 27, 2022.

APPEAL FORM

I HEREBY REQUEST THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING ON:

PHO-1-22--Z-58-04-1
(Continued from June 15, 2022)

Approximately 550 feet south of the southwest
corner of 43rd Avenue and Cactus Road

APPLICATION NO.

LOCATION OF APPLICATION PROPERTY

Mark George

OPPOSITION

APPLICANT

NAME (PLEASE PRINT)

4312 W Paradise Dr

MGEORGE@ALLCOVERED.COM

STREET ADDRESS

Glendale, AZ 85304

623-533-7086 (Please leave VM if no answer)

CITY, STATE AND ZIP CODE

TELEPHONE NO

BY MY SIGNATURE BELOW, I ACKNOWLEDGE THE SCHEDULED HEARING DATE AS FOLLOWS:

APPEALED FROM July 20, 2022 PHO HEARING TO September 1, 2022 PC HEARING
DATE DATE

SIGNATURE:

DATE: 7/27/2022

REASON FOR APPEAL: We are not happy with the distribution, location, and size of the planned units
Would like to review options - our major concerns are: privacy, safety, and property aesthetics.

APPEALS MUST BE FILED IN PERSON AT THE 2ND FLOOR ZONING COUNTER, 200 W. WASHINGTON STREET, 602-262-7131, Option 6

PLANNER TAKING APPEAL: BW

Copies to:

Case File

PHO Planner - Bradley Wylam

PHO Secretary - Vikki Cipolla-Murillo

EXHIBIT B

April 1st, 2022

RE: 43rd Avenue Commons
APN: 148-01-001N
Village: North Mountain
11990 North 43rd Avenue
Phoenix, AZ 85304

Written Request

TO: City of Phoenix Planning and Development Department
Planning Hearing Officer

1.0 Introduction

The purpose of this request is to slightly modify the design stipulations on the property at 11990 North 43rd Avenue. (See Aerial.) This Lot is currently zoned C-0 and is approved for C-1. The modifications are to stipulations on zoning case Z-58-04-1.

2.0 Project Background

This lot is at 11990 North 43rd Avenue in Glendale, Arizona. This lot had an amendment to the zoning approved on October 14th, 2004, subject to stipulations of zoning case Z-58-04-1. The current owner wishes to construct two (2) new buildings. One of them will be located at the south area of the parcel and will contain ten (10) 1200 square foot condominiums. The second one will be located at the north area of the parcel and will contain four (4) 1200 square foot condominiums as well. Each condominium will also have an enclosed one (1) car garage and storage. The stipulations only allow a development to match the previous design from 2004, which limits the options for residential design. The Owner requested that stipulation #1 should be modified to allow Lot B to deviate from the old layout to one which is more efficient, more usable for multifamily, and better overall design. They also asked that stipulation #4 be removed to allow our parking configuration and landscaping to better match this better design. This submittal is requesting a slight adjustment in stipulation #1 and the removal of stipulation #4 for lot APN-148-01-001N only.

3.0 Request and Rationale

We are requesting the following changes to Zoning Stipulation #1 and #4 of Application No: Z-58-04-1 as indicated in capitalization/bold-text and strikethrough:

*STIPULATION 1 - **MODIFICATION**:*

*That development shall be in general conformance with the site plan **AND ELEVATIONS** date stamped ~~May 24, 2004~~, **APRIL 1, 2022** and elevations date stamped ~~July 7, 2004~~, as approved or modified by the Development Services Department.*

The existing stipulations limit the layout of future developments to the footprint and elevations of the dated 2004 development plan. The Owner requested that the stipulations be modified to allow a better design, suited for multi-family residential units. This submittal is requesting a slight adjustment in stipulation #1 to let us present an alternative development plan. This development would add to the value of the area by giving growing families alternative options for living in the area, granting them access to local amenities and schools.

Please see accompanying drawings.

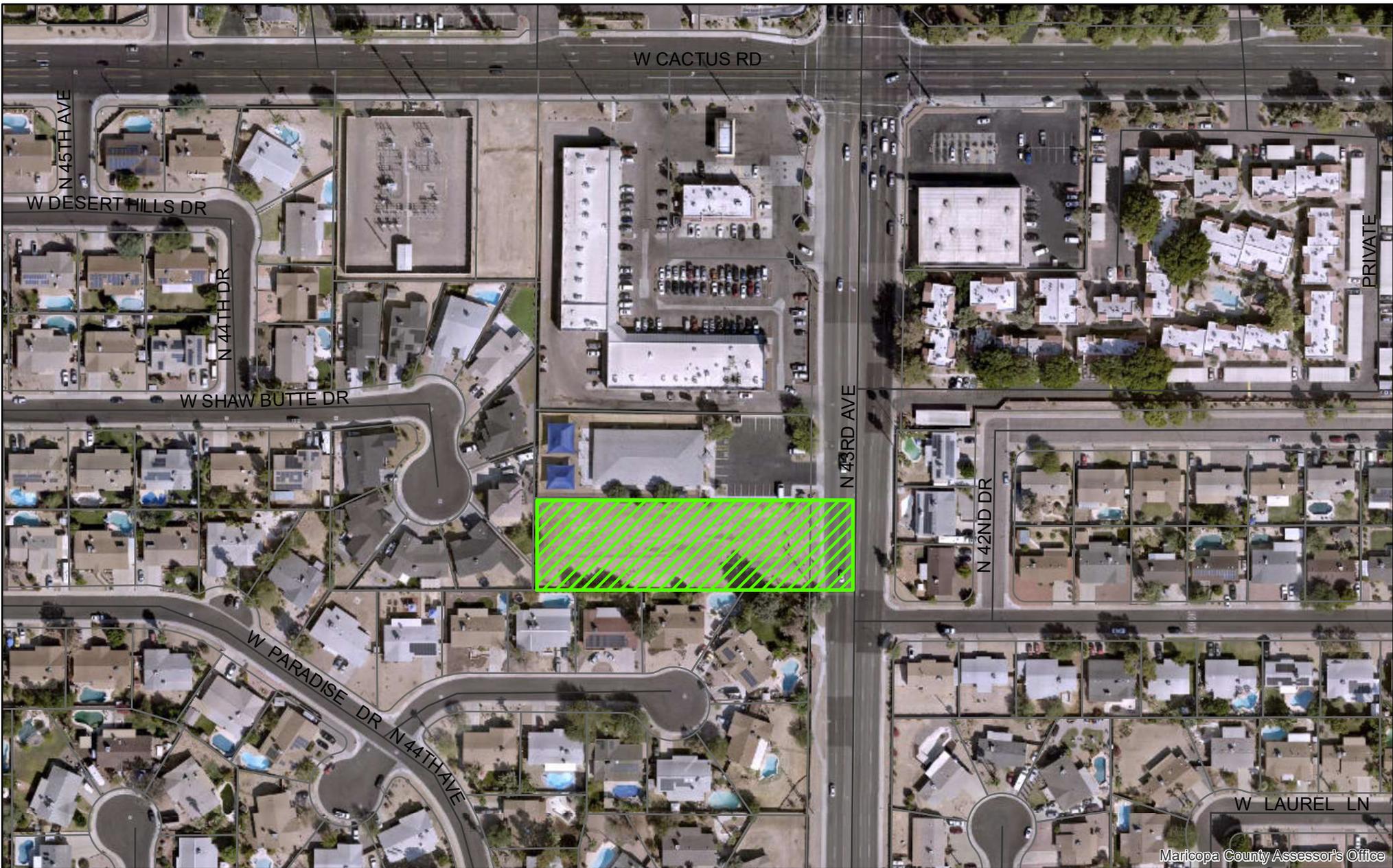
*STIPULATION 4 - **REMOVAL**:*

~~That mature trees a minimum of 2-inch caliper be placed in the three parking islands and the two corners of the parking lot on the south side of Parcel B in order to buffer the proposed commercial development from existing residential uses.~~

This stipulation is based upon the parking layout of the previous development plan and would contradict the more efficient layout of our proposed development. The Owner requested that this stipulation be removed to allow our new parking layout, since it is more complementary to the multi-family units, and it provides more shared landscaped amenity area, while still meeting parking requirements.

Please see accompanying drawings.

EXHIBIT C

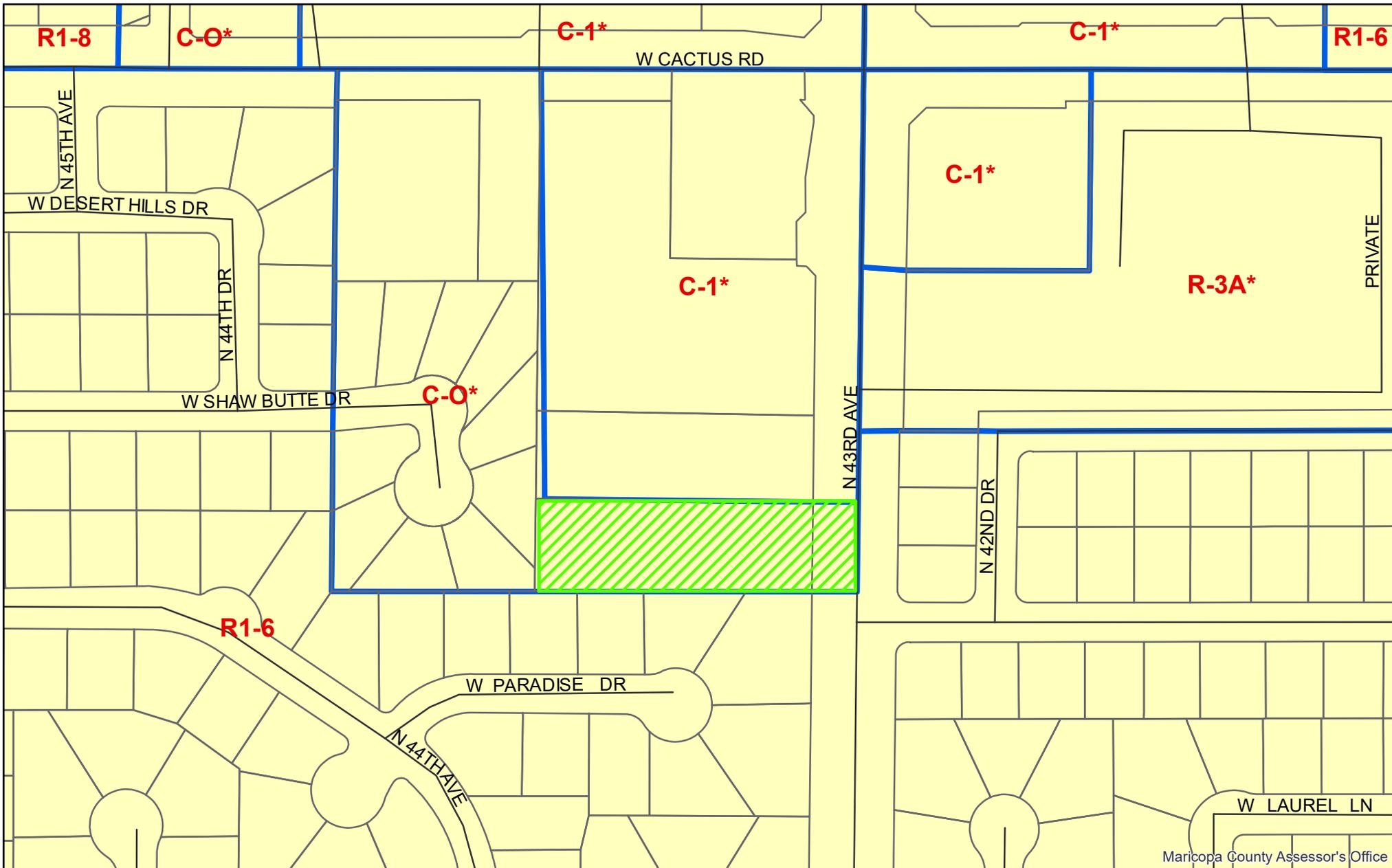


PHO-1-22--Z-58-04-1

Property Location: Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road



EXHIBIT D



Maricopa County Assessor's Office

PHO-1-22--Z-58-04-1

Property Location: Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road



Planning & Development Department

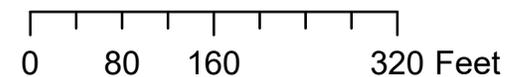


EXHIBIT E



City of Phoenix
PLANNING DEPARTMENT

SCANNED

October 14 2004

Taurus Renovations LLC
4532 E Beryl Lane
Phoenix AZ 85028

Dear Applicant

RE Z-58-04 1 Approximately 550 feet south of southwest corner of 43rd Avenue
and Cactus Road

Please be advised that the Phoenix City Council in accordance with the provisions of Section 506 B 4 of the Zoning Ordinance as amended has on October 6 2004 concurred in the recommendation of the Planning Commission and the Zoning Hearing Officer and has ratified Application Z-58 04-1 from C O to **C 1 R1 6** on approximately 3.96 acres subject to the following stipulations

STIPULATIONS

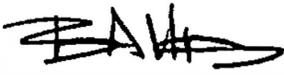
- 1 That development shall be in general conformance with the site plan date stamped May 24 2004 and elevations date stamped July 7 2004 as approved or modified by the Development Services Department
- 2 That four sided architectural shall be used on residential development. Examples of the types of details to consider are French windows ornamentation in the gable area garages setback to the rear of the house garage door windows porches 18 foot inch eaves shutters decorative framing around the windows window sills window fenestrations balconies lighting and other enhancements as approved by Development Services Department
- 3 That mature trees a minimum of 2 inch caliper spaced 20 feet on center or equivalent groupings as approved by the Development Services Department be installed along the west side of Parcel B and the south side of Parcel A in order to buffer the proposed commercial development from proposed residential uses
- 4 That mature trees a minimum of 2 inch caliper be placed in the three parking islands and the two corners of the parking lot on the south side of Parcel B in order to buffer the proposed commercial development from existing residential uses
- 5 That right of-way totaling 50 feet shall be dedicated for the south half of Cactus Road
- 6 That the developer shall construct all streets within and adjacent to 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 all ADA accessibility standards

October 14, 2004
Z 58-04 1
Page 2

- 7 That construction vehicle access to the residential Parcel C shall be off of 43rd Avenue or Cactus Road during the construction phase
- 8 That lot 1, and 2 of lots 7 8 9 and 10 shall be limited to 1 story for a total of three lots being limited to 1-story

Development and use of the site is subject to compliance with all applicable codes and ordinances

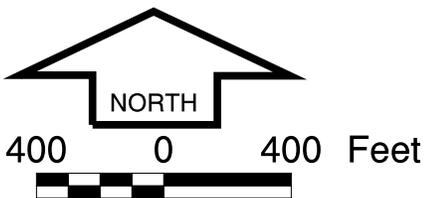
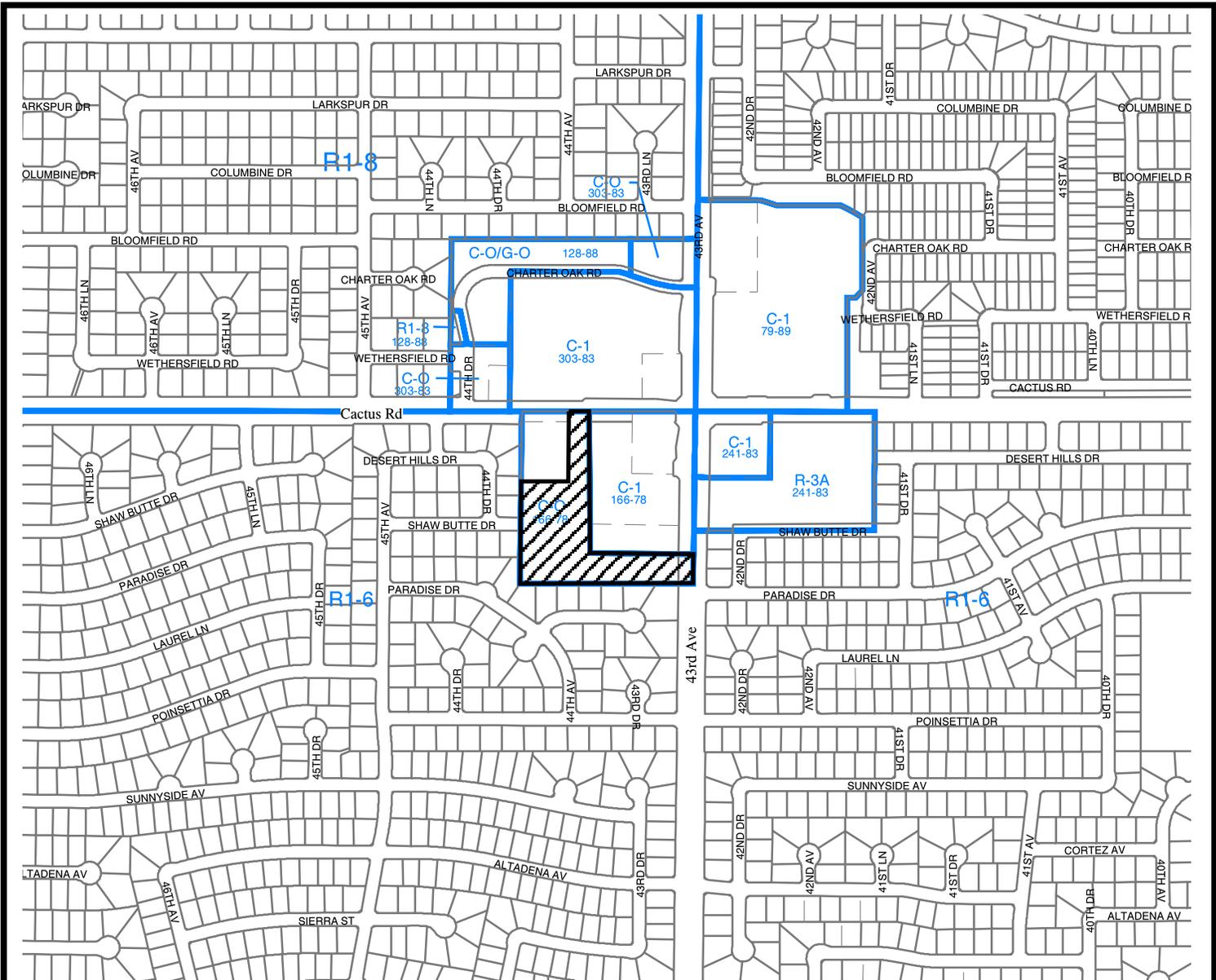
Sincerely



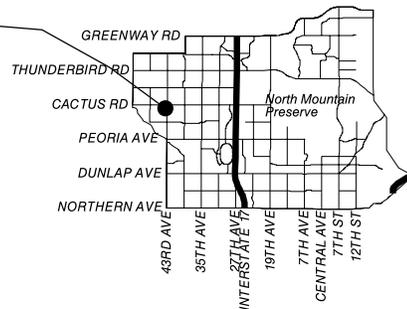
Bernadine Ailing
Planner II

cc	City Clerk	Jay Neville (email)
	Files	Book
	Bernadine Ailing (email)	Dave Barrier DSD (email)
	Ben Leonard Public Transit (email)	Victor Morrison Vega NSD (email)
	Kelly Kvetko Site Planning(email)	Bob Luxton Sign Enf (email)
	Kenneth Black (email)	Lynn West (email)

EXHIBIT F



58-04



CITY OF PHOENIX PLANNING DEPARTMENT

North Mountain Village

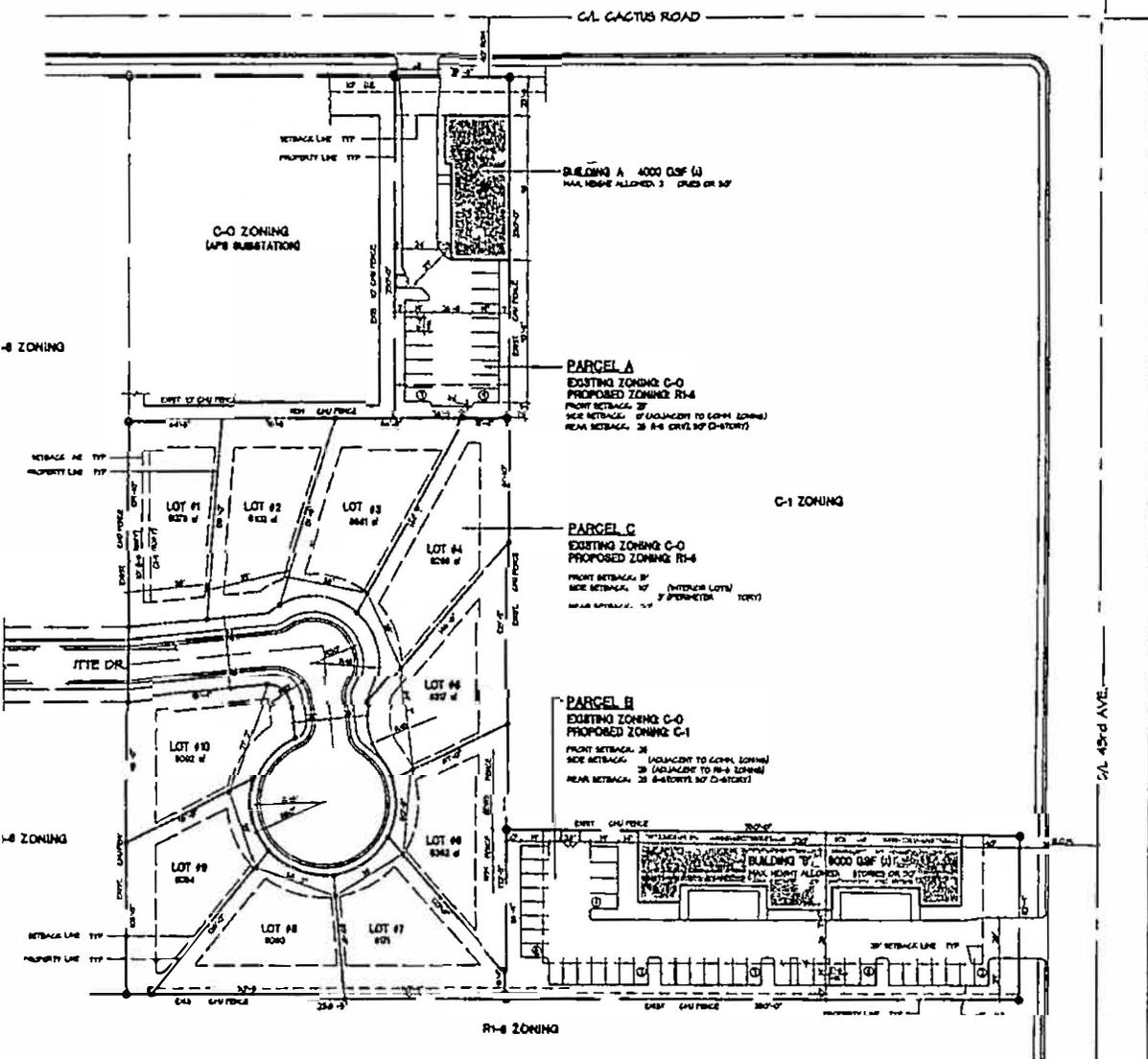
CITY COUNCIL DISTRICT: 1

APPLICANT'S NAME: <p style="text-align: center;">Taurus Renovations, LLC</p>		REQUESTED CHANGE: FROM: C-O TO: C-1 (1.54 ac), R1-6 (2.42 ac)	
APPLICATION NO. <p style="text-align: center;">58-04</p>	DATE: <p style="text-align: center;">4-29-2004</p>	REVISION DATES: 	
GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX. <p style="text-align: center;">3.96 Acres</p>	AERIAL PHOTO & QUARTER SEC. NO. <p style="text-align: center;">Q30-18</p>	ZONING MAP <p style="text-align: center;">K6</p>	
MULTIPLES PERMITTED <p style="text-align: center;">C-O C-1, R1-6</p>	CONVENTIONAL OPTION <p style="text-align: center;">N/A N/A / 12</p>		* UNITS P.R.D. OPTION <p style="text-align: center;">N/A N/A / 13</p>

* Maximum Units Allowed with P.R.D. Bonus

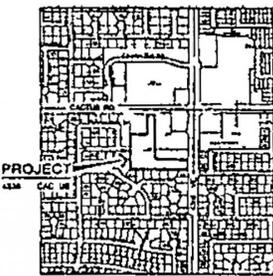
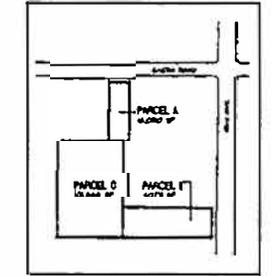
EXHIBIT G

EXHIBIT H



PROJECT INFORMATION

GENERAL INFORMATION	
PROJECT ADDRESS: 4336 WEST CACTUS RD APN: 181-10-001	PROJECT: LSC ARCHITECTURE 4336 WEST CACTUS ROAD, PHOENIX, AZ 85018 GENERAL LAND SURVEY COVER APNO: 181-10-001, 181-10-002
OWNER APPLICANT: ALAN BERRY, PONS LLC 4336 EAST BIRDALE LANE, PHOENIX, AZ 85018 CONTACT: BARRY BERRY PHONE: 602-765-1834	CIVIL ENGINEER: SHELL DEVELOPMENT 3301 WEST GAVELBANK ROAD, 300 CONTACT: TRACY O'NEILL PHONE: 602-340-0000 / FAX: 602-340-0122
SITE INFORMATION	
PARCEL A: GRASSY AREA: 14,000 SF (1/4 ACRES) NET SITE AREA: 14.00 ACRES PROPOSED BUILDING: 4000 SF LOT COVERAGE: 28.58% FLOOR AREA RATIO: 10	PARCEL: GRASSY SITE AREA: 10,000 SF (1/3 ACRES) NET SITE AREA: 14.00 ACRES PROPOSED BUILDING: 4000 SF LOT COVERAGE: 28.58% FLOOR AREA RATIO: 10
PARKING INFORMATION	
RETAIL OFFICE COMMERCIAL USE: SPACE: 300 SF MEDICAL OFFICE USE: SPACE: 200 SF PARKING SPACE REQUIREMENTS: RETAIL USE: 200 SF PER 1000 SF OF SPACE OTHER USES: 10' SPACE, 30' WALKWAY	PARCEL A: BUILDING AREA: 4000 SF (1/4 ACRES) PARKING REQUIRED: MED OFFICE: 4000/200 = 20 SP OTHER USES: 4000/200 = 20 SP AREAS PROVIDED: RETAIL: 60' OFFICE) 34 RETAIL SPA (6 OFFICE)
PROJECT DESCRIPTION	
<p>BECAUSE THE PROPERTY MAY BE REZONED, PARCELS AS FOLLOWS REFER TO PARCEL MAPS:</p> <p>PARCEL A: WEST CACTUS RD. PARCEL B: ALAN BERRY. PARCEL C: TO BE REZONED TO C-1 ZONING.</p> <p>PARCEL A: THE SOUTHWEST PORTION OF PROJECT SHALL BE REZONED FROM C-0 AND SHALL BE REDEVELOPED INTO LOW DENSITY RESIDENTIAL LOTS. EACH LOT SHALL HAVE AN AREA OF 8000 SF OR GREATER, 10' WALKWAY FROM THE INTERIOR, EACH LOT SHALL HAVE 10'0" OF 30' OR MORE, AS MEASURED FROM THE FRONT SETBACK LINE TO SETBACKS ADJACENT TO THE SIDE LOT LINES. SWIMMING POOL SHALL BE SETBACKED BY THE PROPERTY PROVIDED ACCESS TO THE RESIDENTIAL LOTS.</p> <p>AT LOCATIONS WHERE NONE CURRENT, COUNTY, CITY, STATE OR FEDERAL SHALL BE REZONED TO FURNISH, SEPARATE THE PARCELS FROM ADJACENT COMMERCIAL PARCELS TO THE NORTH AND WEST FROM PROJECTED USE PLAN.</p>	



PARCEL MAP NO SCALE **LOCATION MAP** NO SCALE

CITY OF PHOENIX

MAY 24 2004

PLANNING DEPT.
ADMIN



LSC Architecture
4332 West Beryl Lane
Phoenix, Arizona
Phone: 602-765-1834
Fax: 602-765-1834

VACANT LAND USE PROPOSAL
4336 WEST CACTUS ROAD
South and West of S W-C CACTUS RD & 43rd AVE.
PHOENIX, ARIZONA

Date:
02/06/2004
REV: 04/01/2004
REV: 06/11/2004

Drawn: Nuno

SP

KIVA # 04-400
SDEV 0400210

EXHIBIT I

EXHIBIT J

SEENED



ELEVATION "A"

SCALE 1/8" = 1'-0"

CITY OF PHOENIX

JUL 07 2004

PLANNING DEPT
ADMIN

P&Z # Z-58-04

L S C
architecture
4532 east beryl lane
phoenix, arizona
phone 602 765-1854
fax 602 765-1854

CONCEPTUAL ELEVATIONS
4335 WEST CACTUS ROAD
South and West of S-W-C CACTUS RD & 43rd AVE.
PHOENIX ARIZONA

Drawing Number
EL-1
Sheet 1 of 2
Date
07/05/2004



ELEVATION "B"

SCALE 1/8" = 1'-0"



ELEVATION "C"

SCALE 1/8" = 1'-0"

CITY OF PHOENIX

JUL 07 2004

**PLANNING DEPT
ADMIN**

P&Z # Z-58-04

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CONCEPTUAL ELEVATIONS
4335 WEST CACTUS ROAD
South and West of S-W-C CACTUS RD & 43rd AVE.
PHOENIX ARIZONA

Drawing Number
EL-2
Sheet 2 of 2
Dates
07/05/2004

EXHIBIT K

Village Planning Committee Meeting Summary
PHO-1-22--Z-58-04-1

Date of VPC Meeting	May 18, 2022
Date of the PHO Hearing	June 15, 2022
Request	Request to modify stipulation number 1 regarding general conformance to the site plan and elevations. Request to delete stipulation number 4 regarding landscaping standards for parking islands. Technical corrections to stipulation numbers 2 and 3.
Location	Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road
VPC Recommendation	13-2
VPC Vote	Denial

VPC DISCUSSION

At this time, Larson arrived bringing the quorum to 15 members (11 being required for a quorum).

STAFF BACKGROUND PRESENTATION

Klimek provided a background presentation including the site context, the original plan, the current plan, and the applicant's proposal to modify the stipulations. The site currently allows a height of two-stories and multifamily but restricts the building footprints to the location specified in the 2004 plan and requires landscape plantings to buffer the development from the single-family homes south of the subject site.

APPLICANT PRESENTATION

Mark Cunningham introduced himself as the applicant's representative, thanked Klimek for the presentation, and provided a short overview of their proposal.

QUESTIONS FROM COMMITTEE

Larson asked how the adjacent daycare has responded to the proposal. **Cunningham** responded that they have not responded to the required neighborhood notification. **Larson** indicated that the entrance to the site is situated at a merge point which may be problematic.

Steinmetz expressed concern over the impact of these two-story units on the surrounding single-story neighborhood. He asked if there will be balconies.

Cunningham responded that there will not be balconies and that they feel the two story height is necessary to give their future tenants enough space to live and grow their families. He added that the site is not stipulated to a maximum of one story.

Steinmetz suggested skylights to allow natural light while protecting privacy. **Chair Krentz** responded that windows are required for emergency egress.

Veidmark asked that the windows be put as high as possible while still complying with fire requirements to help reduce privacy concerns. She asked for confirmation that the applicant is allowed to build two stories presently. **Klimek** confirmed.

Chair Krentz expressed concern over the proposal which is trying to simply maximize its yield without respect to the context and adjacent landowners. He asked if the applicant had considered shifting the intensity to the north property line as a buffer.

Cunningham responded that they had considered shifting the density toward the north but decided against it to protect the privacy of the daycare and to allow residents to utilize the broader required setback to the south for functional open space.

Veidmark asked for the square footage of the proposed units. **Cunningham** responded 1,200 square feet. **Veidmark** indicated that the square footage is probably as small as possible for a family but expressed concern that the number of units is too high. She stated that she is sympathetic to the concerns of the single-family homes and the monstrosity that is proposed adjacent to their homes and asked the applicant to consider a more sensitive approach.

PUBLIC COMMENTS

Timothy Kester thanked the committee for their time and thoughtful deliberation. He indicated that the single-family homes adjacent to this proposal have several children and they like to allow their children to play in the yards. Unlike the daycare which has professional staff, these are private homes, and they should be allowed to be unattended. He indicated that the building would be like “docking an ocean liner behind their houses” and that none of the owners bought their homes as a development asset and that their homes are their primary assets. He expressed concern over the imposing structure within 10 feet of the rear property line, the loss of real and perceived privacy, and the loss of value that owners will incur. The units will not produce a comfortable place to live for residents.

APPLICANT RESPONSE

Cunningham responded that they want to respect all property concerns, that they recognize privacy concerns as legitimate, and that the plan seeks to balance those concerns.

Argiro asked if the committee can add stipulations. **Klimek** responded that the role of the committee is to evaluate the appropriateness of the proposed modifications and can recommend changes or additional stipulations that are related to the proposed modifications. The Planning Hearing Officer will then take the recommendation under advisement.

FLOOR/PUBLIC COMMENT CLOSED: MOTION, DISCUSSION, AND VOTE

MOTION:

Chair Krentz motioned to deny the request as presented. **Veidmark** seconded the motion.

DISCUSSION:

Barraza noted that the previously approved elevations were for two story and that the change in density is consistent with the zoning and the general concept of the previous plan.

Ford noted that the motion is based on items outside the scope of what the committee should be looking at.

Larson indicated that he would like to see if the density can be repositioned along the north property line.

O'Hara noted that there is a need for affordable housing and new housing. Already established neighborhoods are a good place to building due to the existing neighborhoods but he indicated that there is also a responsibility to respect existing property owners and that he doesn't think these stipulations do that.

Perez echoed O'Hara.

Chair Krentz stated that higher density development is appropriate in some places, but it is not appropriate here because it is out of context.

VOTE: 13-2, motion passes with Alauria, Argiro, Fogelson, Larson, McBride, O'Connor, O'Hara, Perez, Steinmetz, Veidmark, Whitney, Vice Chair Jaramillo, and Chair Krentz in favor; Barraza and Ford in dissent; and none in abstention.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS

None.

EXHIBIT L

REPORT OF PLANNING HEARING OFFICER ACTION
Adam Stranieri, Planner III, Hearing Officer
Bradley Wylam, Planner I, Assisting

June 15, 2022

ITEM NO: 1

DISTRICT 1

SUBJECT:

Application #: PHO-1-22--Z-58-04-1
Location: Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road
Zoning: C-O (Approved C-1)
Acreage: 1.08
Request: 1) Modification of Stipulation 1 regarding general conformance with the site plan date stamped May 24, 2004 and elevations date stamped July 7, 2004.
2) Deletion of Stipulation 4 regarding parking lot landscaping
3) Technical corrections for Stipulations 2 and 3
Applicant: Mark Cunningham
Owner: Benjamin and Corina Covaciu
Representative: Mark Cunningham

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer continued this case to the July 20, 2022 hearing.

Village Planning Committee (VPC) Recommendation: The North Mountain Village Planning Committee heard this request on May 18, 2022 and recommended denial by a vote of 13-2.

DISCUSSION:

Daniel Istrate, representative with Kontexture, introduced the subject site and surrounding uses. He stated that a multifamily residential development is proposed consisting of 14 townhome-style dwelling units. He provided an overview of the proposed site plan and noted that a ten-unit residential building would be located along the south property line of the site and a four-unit residential building would be located along the north property line. He noted that additional landscaping is depicted to provide additional privacy for tenants and neighbors of the site to the south. He stated that the proposed elevations depict two-story buildings. He noted that the colors depicted on the proposed elevations that were presented to the North Mountain Village Planning Committee (VPC) have changed to provide consistency between the two buildings and are of the

same desert tones and materials. He stated that Stipulation 4 regarding parking lot landscaping was relevant to the original project, which depicted landscape islands in the parking lot of a commercial development and proposed deleting it.

Adam Stranieri, Planning Hearing Officer, stated that two letters of public correspondence were received expressing concerns regarding height and privacy for neighbors to the south. He noted that an additional letter was received proposing to deny the proposed residential development and develop the site as a park or greenbelt. Mr. Stranieri noted that the North Mountain VPC recommended denial on May 18, 2022 by a vote of 13-2.

Mr. Istrate stated that the concerns heard at the North Mountain VPC meeting regarding privacy have been considered and noted that the parking and building locations were chosen to create a buffer between this development and neighboring uses. He noted that a daycare business is located north of the subject site and the location of parking provides additional privacy for that site. He noted that trees are proposed to be located along the south property line to provide privacy for adjacent neighbors. He stated that an alternative site plan could be considered that would place the 4-unit building on the south in place of the 10-unit building, which may alleviate privacy concerns for neighbors to the south. Mr. Stranieri asked for clarification of the alternative plan and asked if the development would be a direct mirror of the proposed site plan, including parking lot locations. Mr. Istrate noted that the project could be fully mirrored, including the parking, and that a site plan could be submitted depicting this modification.

Mr. Stranieri noted that the concerns raised by the North Mountain VPC denial were focused on height and privacy for single-family residential neighbors to the south and west of the subject site. He noted that reducing the building massing along the south property line would help mitigate those concerns as fewer units would be overlooking the community to the south. He noted that the privacy concerns regarding the daycare may already be addressed due to the location of the buildings being located near the daycare parking lot rather than outdoor open space areas. Mr. Istrate agreed that mirroring the development would likely not impact the daycare and noted that the parking lot for the proposed residential development is located near the daycare's outdoor open space area. He stated that windows on the units overlooking the residential neighborhood to the south could be relocated to the east and west sides of the building to reduce the number of windows facing the backyards of neighbors.

Mr. Stranieri stated that the alternatives mentioned by Mr. Istrate would be difficult to capture in stipulations and stated that he would not be comfortable recommending approval until he has the alternative site plan and elevations. He stated the case could be put under advisement or continued. Mr. Istrate stated that he is comfortable with a continuation. Mr. Stranieri noted that there is no concern with the proposed deletion of Stipulation 4 and that there are no

department comments of note that recommend additional stipulations. Mr. Stranieri recommended a continuance to the July 20, 2022 PHO hearing.

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EXHIBIT M

REPORT OF PLANNING HEARING OFFICER ACTION
Adam Stranieri, Planner III, Hearing Officer
Bradley Wylam, Planner I, Assisting

July 20, 2022

ITEM NO: 2	
	DISTRICT 1
SUBJECT:	
Application #:	PHO-1-22--Z-58-04-1 (Continued from June 15, 2022)
Location:	Approximately 550 feet south of the southwest corner of 43rd Avenue and Cactus Road
Zoning:	C-O (Approved C-1)
Acreage:	1.08
Request:	1) Modification of Stipulation 1 regarding general conformance with the site plan date stamped May 24, 2004 and elevations date stamped July 7, 2004. 2) Deletion of Stipulation 4 regarding parking lot landscaping. 3) Technical corrections for Stipulations 2 and 3.
Applicant:	Mark Cunningham
Owner:	Benjamin and Corina Covaciu
Representative:	Mark Cunningham

ACTIONS:

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

Village Planning Committee (VPC) Recommendation: The North Mountain Village Planning Committee heard this request on May 18, 2022 and recommended denial by a vote of 13-2.

DISCUSSION:

Jorge Toscano, representative with Kontexture, stated that the case was continued from the June 15, 2022 Planning Hearing Officer (PHO) hearing. He stated that improvements have been made to the proposed site plan and elevations intended to mitigate the impact of building massing on existing single-family residences to the south and west. He stated that the proposed multifamily development consists of 14 townhome-style dwelling units. He stated that the site plan presented at the June PHO hearing depicted a ten-unit residential building along the south property line and a four-unit residential building along the north property line. He stated that after hearing concerns in the prior hearings and in

correspondence, two alternative site plans were created to mitigate potential impacts by reversing the building locations and revising conceptual elevations. He presented two site plans he labeled as Options 1 and 2. He stated that the Option 1 plan places the four-unit building along the south property line closer to 43rd Avenue, and the Option 2 plan places the four-unit building further to the west, representing a direct mirror-image of the conceptual site plan presented at the VPC and June PHO hearings. He stated that modifications were also made to the elevations for the four-unit building which shifted two windows from the south elevation around to the east and west elevations to address privacy concerns. He noted that by changing the location of each building and these windows, he had reduced the total number of second-story windows on the south elevation, facing the existing residences to the south, from 10 to 2. He stated that Stipulation 4 regarding parking lot landscaping is proposed to be deleted as it was relevant to the original proposed commercial development on the site.

JoHannah Flesch, homeowner of an adjacent property to the south, spoke in opposition to the request and expressed concerns regarding privacy, light pollution, and the location of the trash enclosure. She stated that she has additional concerns regarding the maintenance of landscaping along the south property line. She stated that in the event the case was recommended to be approved, she preferred the building layout depicted on the Option 1 conceptual plan.

Mr. Toscano stated that both conceptual site plans presented depict revisions intended to mitigate potential impacts of the development on the community to the south and west. He stated that the developer is working with a landscape architect now to design specific landscape concepts. He stated that the lighting plan will minimize light pollution by following all City guidelines.

Adam Stranieri, Planning Hearing Officer, provided a summary of the North Mountain Village Planning Committee meeting on May 18, 2022 and all correspondence received by staff. He noted that the concerns heard at the VPC meeting and in correspondence centered on privacy and building height. He also noted a comment expressing a desire to create a park or greenbelt on the site. He summarized prior discussion at the June 15, 2022 Planning Hearing Officer (PHO) hearing and noted that the case was continued in order to allow the applicant to submit a revised conceptual site plan and elevations, consistent with the applicant's proposal to redesign the building layout and elevations as stated at that hearing. He stated that the proposed elevations depict a reduction of windows on the south elevation as proposed and noted that it may not be possible to reduce the number of windows any further due to building code requirements. He stated that he preferred the Option 1 conceptual site plan, which depicts the four-unit building on the southeast portion of the site. He stated

that this layout would allow the developer to combine parking areas and multiple open space areas which were separated in the original concept. He stated that the proposal is compatible with its location near the intersection of two arterial streets. He noted that the proposed density of 12.96 dwelling units per gross acre is below the 17.4 dwelling units per gross acre (R-3 PRD development option with density bonus) permitted by the current zoning. He noted that the proposed building height of approximately 22 feet and 5 inches is below the maximum 30 feet permitted by the current zoning.

Mr. Stranieri recommended approval of the request to modify Stipulation 1, regarding general conformance with the site plan and elevations, with a modification to reference the revised Option 1 site plan. He recommended approval of the request to delete Stipulation 4, regarding parking lot landscaping, and stated that the stipulation was specific to the commercial use and site layout on the original stipulated plan. He stated that a Recorded Proposition 207 Waiver is still 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 to a site plan and elevations is recommended for approval with a modification to provide more standard conformance language. The original rezoning case consisted of three distinct areas, with commercial zoning proposed along Cactus Road and 43rd Avenue, and a single-family residential subdivision at the southwest portion of the site. The subject property of this case is the commercially zoned parcel along 43rd Avenue only.

The stipulated site plan for this area depicted an approximately 9,000 square foot commercial building located along the north property line and parking along the south and west property lines. The proposed conceptual site plan depicts a 14-unit multifamily residential development at approximately 12.96 dwelling units per gross acre. Units have private garages which are located in the center of the site. Parking is located along the west property line and a portion of the south property line. Open space is located along the south property line. The site offers no vehicular access to any single-family neighborhoods to the west or south. The proposed site plan was significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign moves the 10-plex building to the north property line, approximately in the same location as the original proposed commercial building. This change significantly

reduces the impact of building massing on homes to the south and west. A smaller 4-plex building is now located along the south property line, shifted towards the 43rd Avenue frontage, to allow (previously) disconnected common areas to be combined along the south property line and further from the arterial street.

No building elevations were stipulated for the proposed commercial uses in the original case. The proposed conceptual elevations depict a maximum height of two stories at approximately 22 feet 5 inches (24 feet 8 inches to the ridge), which is more restrictive than the two stories and 30 feet otherwise permitted by the current zoning. The proposed elevations were also significantly redesigned after the original submittal to address concerns raised in correspondence received by staff and heard at the Village Planning Committee. The redesign includes new architectural detailing and features intended to better comply with an existing stipulation regarding four-sided architecture. Additionally, on the south elevation of the 4-plex building, bedroom windows on end units were shifted to the east and west elevations to reduce privacy concerns on adjacent neighbors. The south elevation now includes only two bedroom windows which are required by building code.

The proposal is compatible with its location near the intersection of two arterial streets. The proposed density and height are below the maximum permitted by the current zoning and consistent with the original approval. The recommendation for general conformance will control for deviation from the proposed plans.

- 2) The request to delete Stipulation 4 regarding parking lot landscaping is recommended for approval. This stipulation is specific to the layout on the original stipulated plan which would be removed by the recommendation in Stipulation 1. The development will be subject to existing Ordinance requirements for parking lot landscaping relevant to the new, proposed multifamily residential use.
- 3) 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.

STIPULATIONS:

1.	That THE development shall be in GENERAL conformance with the site plan AND ELEVATIONS date stamped JULY 20, 2022, May 24, 2004 and elevations date stamped July 7, 2004 as approved or modified by the
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	FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND Development Services Department.
2.	That Four sided architecturEa t shall be used on residential development. Examples of the types of details to consider are French windows, ornamentation in the gable area, garages setback to the rear of the house, garage door windows, porches, 18 feet inch eaves, shutters, decorative framing around the windows, window sills, window fenestrations, balconies, lighting, and other enhancements as approved by THE PLANNING AND Development Services Department.
3.	That Mature trees a minimum of 2-inch caliper spaced 20-feet on center or equivalent groupings as approved by the PLANNING AND Development Services Department SHALL be installed along the west side of Parcel B and the south side of Parcel A in order to buffer the proposed commercial development from proposed residential uses.
4.	That mature trees a minimum of 2 inch caliper be placed in the three parking islands and the two corners of the parking lot on the south side of Parcel B in order to buffer the proposed commercial development from existing residential uses.
4. 5.	That Right-of-way totaling 50 feet shall be dedicated for the south half of Cactus Road.
5. 6.	That The developer shall construct all streets within and adjacent to 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 all ADA accessibility standards.
6. 7.	That Construction vehicle access to the residential Parcel C shall be off of 43rd Avenue or Cactus Road during the construction phase.
7. 8.	That Lot 1, and two of Lots 7, 8, 9 and 10, shall be limited to one story, for a total of three lots being limited to one story.
8.	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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