

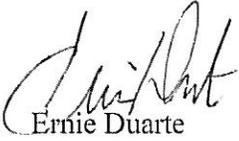


# MEMORANDUM

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DATE: January 21, 2015  
For February 5, 2015 Hearing

TO: Linus Kafka  
Zoning Examiner

FROM:   
Ernie Duarte  
Planning & Development Services  
Director

SUBJECT: REZONING  
PLANNING & DEVELOPMENT SERVICES REPORT  
C9-14-13 Valley of the Moon – Allen Road  
R-1 to HLR-1 (Ward 3)

**Issue** – This is a request by Demion Clinco, of the Tucson Historic Preservation Foundation, on behalf of the property owner, the George Phar Legler Society, Inc., to rezone approximately 2.3 acres from R-1 to HLR-1 (Historic Landmark) zoning to create the Valley of the Moon Historic District. Valley of the Moon is a nonconforming Cultural Use. Physical improvements consist of a parking lot serving a garden with interconnected walkways, fanciful buildings and structures, reflecting pools, grottos and caves, native and non-native plants, utility buildings and a residence. It was primarily created by George Phar Legler from 1923 to 1932 as a theatrical experience from a child's perspective available for tours on weekends and during special events. The rezoning site is located 320 feet east of Tucson Boulevard on the south side of Allen Road (see Case Location Map). The Valley of the Moon Historic Site Plan submitted in support of the rezoning request serves the purpose of a preliminary development plan and is referred to as such throughout this report. The preliminary development plan does not propose any change of use nor does it propose any new development at this time. The Historic Landmark application indicates the Valley of the Moon property will remain as it exists today.

**Planning & Development Services Recommendation** – The Planning & Development Services Department recommends approval of HLR-1 zoning, subject to the attached preliminary conditions.

## **Background Information**

Existing Land Use: Cultural Use

### Surrounding Zones and Land Uses:

North: Zoned R-1; Single-family Residential  
South: Zoned R-2; Single-family Residential  
East: Zoned R-1; Single-family Residential  
West: Zoned R-1; Single-family Residential

Previous Cases on the Property:

HL-14-01 – Historic Landmark (HL) Designation – Valley of the Moon On May 22, 2014, the Tucson-Pima County Historical Commission Plans Review Subcommittee made a recommendation to adopt the Historic Landmark nomination for the Valley of the Moon. On August 5, 2014, the Mayor and Council directed staff to initiate the rezoning process for the Historic Landmark designation of Valley of the Moon

Related Cases: There are five Historic Landmarks within the City of Tucson:

1. San Pedro Chapel, designated May 11, 1981
2. El Tiradito Wishing Shrine, designated August 7, 1995
3. Cannon-Douglas House, designated June 23, 1986
4. Smith House, designated June 23, 1986
5. El Con Water Tower, designated August 12, 1991

Applicant's Request – “To protect this historic resource of Historic significance the application is for Historic Landmark designation.”

Planning Considerations – Land use policy direction for this area is provided by the *Northside Area Plan* and *Plan Tucson*. The rezoning site is located within an Existing Neighborhood as identified on the Future Growth Scenario Map of *Plan Tucson*. Existing Neighborhoods are primarily developed and largely built-out residential neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next several decades. The goal is to maintain the character of these neighborhoods while accommodating some new development and redevelopment and encouraging reinvestment and new services and amenities that contribute further to neighborhood stability. *Plan Tucson* supports overlay districts such as Historic Landmark designation as a way to promote the preservation and enhancement of historic structures and districts.

The *Northside Area Plan* allows for nonresidential uses that are designed in harmony with adjacent development. The *Northside Area Plan* requires that all applications for rezoning include a plan showing at least (but not limited to) the location of structures, screening and landscape buffers, building heights, setbacks, pedestrian and vehicular circulation, existing vegetation, lighting, and the parking layout. The rezoning site is located within the *Tucson-Prince Subarea* of the *Northside Area Plan*. Within the Tucson-Prince Subarea, building height is limited to a maximum of 26 feet, all new nonresidential development should have primary access from an arterial street, and business activities that generate excessive noise, lights, and traffic between 9 p.m. to 6 a.m. are discouraged. Access to the rezoning site is from Allen Street, a local street, via Tucson Boulevard, also a local street, to Prince Road approximately 1,250 to the south. Prince Road is identified on the *Major Streets and Routs Plan* map as an arterial street. Given the unique nature of the existing development, a reliable estimate for the number of vehicle trips per day is not available. If use of the rezoning site remains as it is today, no new traffic will be generated.

The rezoning site consists of two parcels totaling 2.3 acres forming a 165 by 632 foot rectangle in the interior of a residential neighborhood south of the Rillito River, east of the Christmas Wash, and west of the Binghamton Rural Historic Landscape. The surrounding and immediate adjacent land uses are attached and detached single family residential units with R-1 and R-2 zoning.

The Valley of the Moon Historic District consists of 26 contributing historic resources: four buildings, 20 structures, one object, and one site, all created no later than 1963. The contributing resources have names such as the “Enchanted Castle and Magic Stairs,” the “Temple of Fairies,” the “Gnome Village,” and “The Wonderland Theater.” There are also eight non-contributing resources: two buildings, two structures, and four objects all completed and installed more recently. The non-contributing resources include a bathroom building and four large statues relocated in 2010 from the Magic Carpet Miniature Golf business formerly located on Speedway Boulevard. In addition, a fanciful 20 foot tall parking lot light structure with two lights on 15 foot arms was installed in the recent past but not documented on the Historic Landmark application.

Zoning – The rezoning site has nonconforming status for a Cultural Use. “Nonconforming” means the use of the site is legal but not in conformance with the current R-1 zoning. Valley of the Moon is nonconforming because it existed prior to adoption of Pima County zoning and prior to annexation by the City of Tucson. “Cultural Use” is defined as the collection and display of objects having literary, artistic, historic, natural, historic or scientific value for public appreciation. As a nonconforming Cultural use, Valley of the Moon may continue indefinitely but cannot be expanded or intensified.

The Historic Landmark designation is a zoning overlay which is added to the base zoning (in this case R-1 zoning) of a specific tract of land or property, but does not change the allowable uses, including nonconforming uses. The purpose of the Historic Landmark designation is to encourage preservation and rehabilitation of significant historical resources. A Historic Landmark is defined as a historic site or structure of the highest historic, cultural, architectural or archaeological importance to Tucson that if demolished or significantly altered would constitute an irreplaceable loss to the quality and character of Tucson. A Historic Landmark is an outstanding or unique example of architectural style; is associated with a major historic event, activity, or person; or has unique visual quality and identification. A Historic Landmark may be located within the boundaries of or outside a historic district.

### **Design Considerations**

Land Use Compatibility – The Valley of the Moon is a Cultural Use within a residential neighborhood that was developed over the years in an organic nature and primarily constructed between 1923 and 1932. The proposed rezoning is for a Historic Landmark designation, with no new development proposed at this time. Comments from the neighborhood meeting held on December 2, 2014, reflected concerns regarding annual events, overflow parking, intermittent noise levels, and lighting. Though outside the scope of the rezoning/Historic Landmark designation, recommended “Good Neighbor” practices include the following:

1. Provide event management contact information (phone number and email) in a conspicuous location near the pedestrian entrance to the facility.
2. A facility management plan with the days/hours of operation, a schedule of regular/recurring events, description of potential special/non-recurring events, overflow parking plan, and methods for addressing pedestrian traffic, intermittent noise levels, and lighting.
3. Regular attendance at neighborhood association meetings to ensure information regarding upcoming events is available to neighborhood leadership and other interested parties.

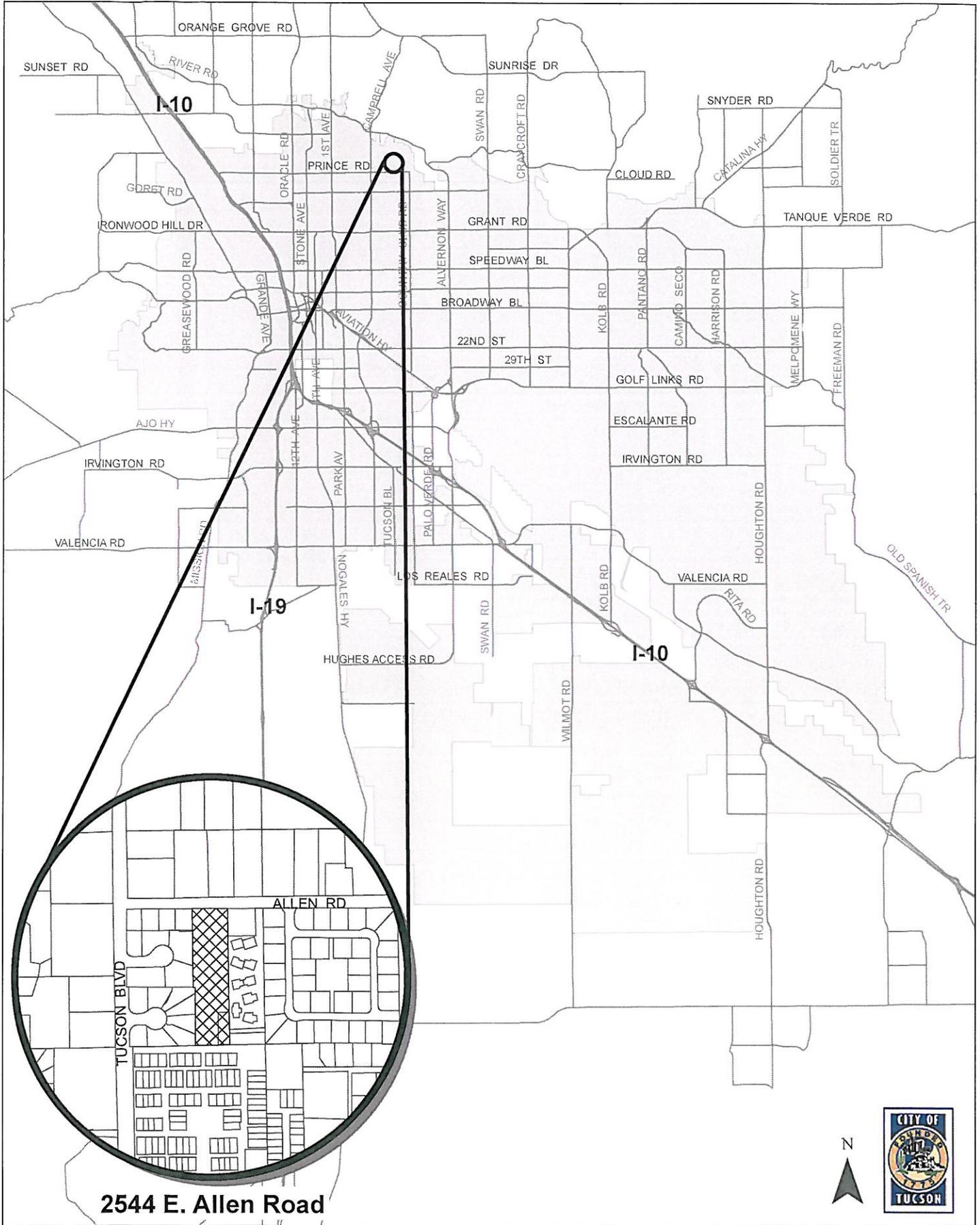
**Conclusion** – The *Northside Area Plan* supports the proposed Historic Landmark designation. *Plan Tucson* supports preservation of distinctive historic resources for the larger community and the establishment of overlay districts, such as Historic Landmark designation, as a way to promote the preservation and enhancement of historic structures and districts. Given the importance of Valley of the Moon to the history, quality, and character of Tucson, the requested Historic Landmark Designation (HLR-1 zoning), is appropriate

The appropriateness of the Historic Landmark designation for the Valley of the Moon is independent of its legal status as a nonconforming Cultural Use. As Cultural Use it has been and will continue to be open to the public. Because of the location within the interior of a residential neighborhood and given the concerns regarding the use of the site identified during the rezoning process, “Good Neighbor” practices are appropriate to further stabilize use of the property and achieve the goal of the Historic Landmark Designation to preserve and enhance the Valley of the Moon for future generations of Tucson children.

1. Excluding modifications that do not impact the exterior of any building, structure, or historic resource, or interior and/or non-visible repairs or maintenance, any development or rehabilitation of the site shall be in substantial compliance with the Valley of the Moon Historic Site Plan dated July 2010, and reviewed and approved in accordance with UDC Section 5.8.5.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. If determined to be necessary by the City of Tucson Historic Preservation Officer, an archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as needed. Copies of testing plans, testing reports, data recovery plans and final reports shall be submitted to and approved by the City Historic Preservation Office prior to construction work commencing. If, during construction, human remains and/or associated burial items are discovered, ground disturbing activities in the vicinity of the discovery will cease, the discovery site will be secured, and the Arizona State Museum will be immediately notified as required under A. R. S. 41-865.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
6. New permanent lighting shall be compatible with the architectural style of the subject structure and contributing historic resource and shall reflect the historic period of the HL. An Architectural Lighting Plan can be considered if approved by the T-PCHC plans review subcommittee.

7. Fences, walls, or other physical features used to enclose open space or provide privacy shall be compatible with the architectural style of the subject structure and with Contributing Properties within the development zone and shall reflect the historic period of the HPZ.
8. Six inch wide or greater masonry shall be used for new perimeter walls. Exposed masonry block is not permitted material in the HL.
9. The requested HLR-1 zoning shall become effective 30 days after Mayor and Council adoption of the rezoning ordinance.

# C9-14-13 Valley of the Moon - Allen Road



2544 E. Allen Road





TUCSON BOULEVARD

ALLEN ROAD



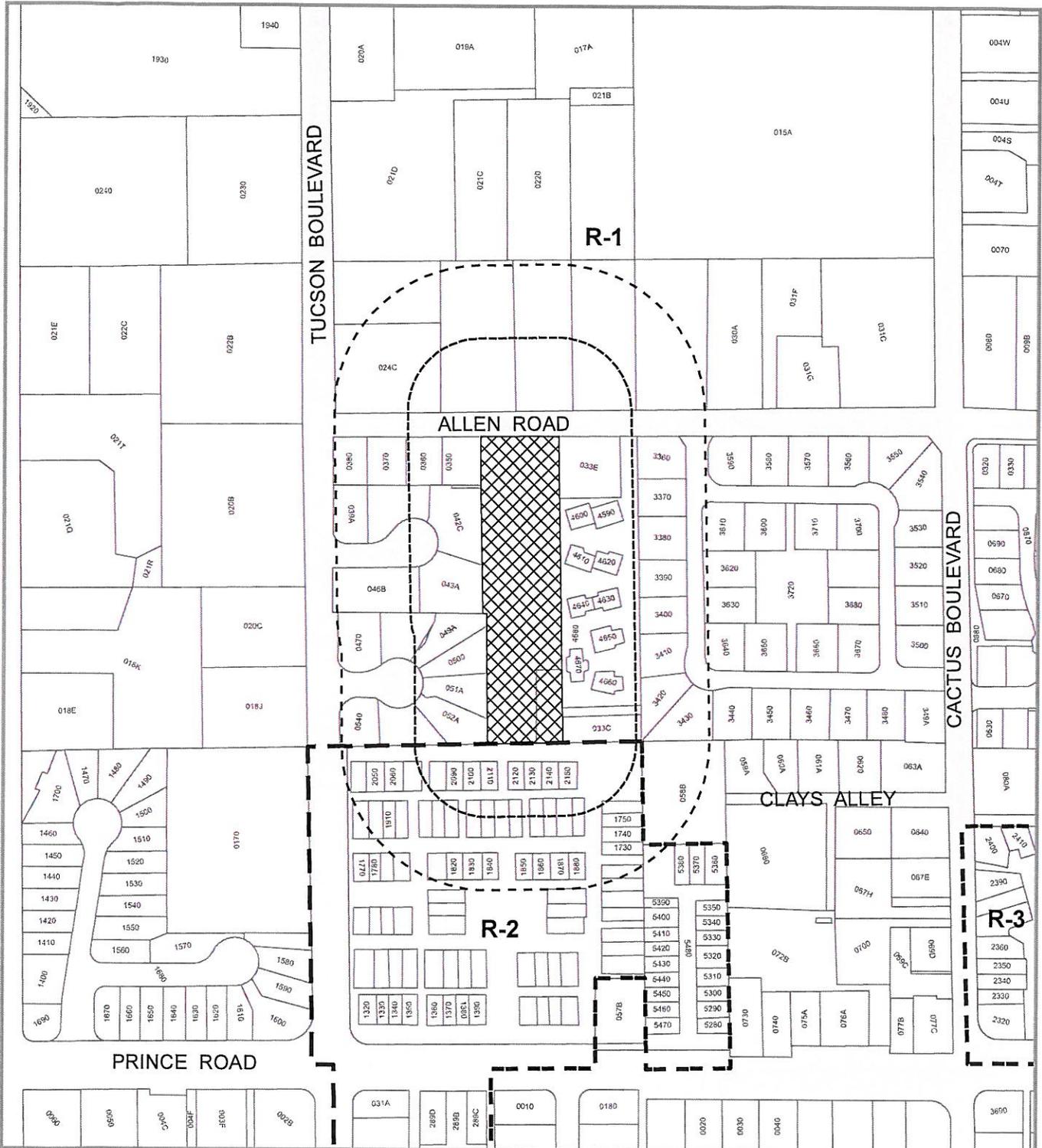
**C9-14-13 Valley of the Moon - Allen Road**  
2014 Aerial

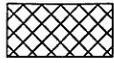
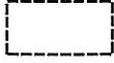
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Feet  
1 inch = 200 feet



# C9-14-13 Valley of the Moon - Allen Road

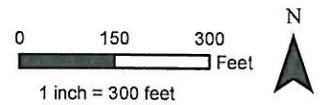
Rezoning Request: from R-1 to HLR-1



-  Area of Rezoning Request
-  150' Protest Area
-  300' Notification Area
-  Zone Boundaries



Address: 2544 E. Allen Road  
 Base Maps: Sec.29 T.13 R.14  
 Ward: 3



**PUBLIC FACILITIES AND SERVICES REPORT FOR February 5, 2015**  
(as of January 14, 2015)

**C9-14-13 Valley of the Moon – Allen Road, R-1 to HLR-1**

**CITY AGENCIES**

**Planning & Development Services – Engineering:** See attached comments dated 12/24/14.  
**Planning & Development Services – Community Planning:** See attached comments dated 1/7/15.  
**Planning & Development Services – Zoning Review:** See attached comments dated 12/23/14.  
**Transportation – Traffic Engineering:** See attached comments dated 12/24/14.  
**Office of Conservation & Sustainable Development:** See attached comments dated 12/26/14.  
**Planning and Development Services – Signs:** See attached comments dated 12/31/14.

**No Objections Noted**

**Planning & Development Services – Sign Code**  
**Environmental Services**  
**Tucson Police Department**  
**Tucson Fire Department**  
**Tucson Water Department**  
**Tucson Parks and Recreation**  
**Planning & Development Services – Landscape**  
**Transportation – Engineering**  
**Transportation – Streets**

**NON-CITY AGENCIES**

**No Objections Noted**

**Arizona Department of Transportation**  
**Pima County Development Services - Planning**  
**Pima Association of Governments**  
**Pima County Wastewater**  
**Tucson Electric Power**  
**Tucson Unified School District**

Additional information about this project, including the staff report to the Zoning Examiner and the Preliminary Development Plan, will be posted on the web by 5:00 PM, January 21, 2015 at [http://cms3.tucsonaz.gov/planning/prog\\_proj/projects/rezoning/index.html](http://cms3.tucsonaz.gov/planning/prog_proj/projects/rezoning/index.html)



## Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning and Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner’s public hearing.

**Approvals and protests must have an owner’s signature to be recorded.**

If protests are filed from property owners representing 20% or more by area in any quadrant of the area located within a 150 foot radius of the parcel(s) on which the rezoning is proposed, an affirmative vote of ¾ of the Mayor and Council will be required to approve the rezoning ordinance.

**Case: C9-14-13, Valley of the Moon – Allen Road  
R-1 to HLR-1  
Ward 3**

\_\_\_\_\_  
I/We the undersigned property owners, wish to

- APPROVE the proposed rezoning.
- PROTEST the proposed rezoning.

**Reason:**

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| PLEASE PRINT<br>YOUR NAME | PLEASE PRINT<br>MAILING ADDRESS | PLEASE PRINT<br>LEGAL PROPERTY<br>DESCRIPTION |       |     |
|---------------------------|---------------------------------|---|-------|-----|
|                           |                                 | Subdivision                                   | Block | Lot |
|                           |                                 |   |       |     |
|                           |                                 |   |       |     |

Owner’s Signature: \_\_\_\_\_ Date \_\_\_\_\_

Place  
Stamp  
Here

City of Tucson  
**Planning and Development Services Department**  
Rezoning Section  
201 N. Stone  
P.O. Box 27210  
Tucson, Arizona 85726-7210

C9-14-13

Expose this flap - Affix stamp and return

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City of Tucson JB  
Planning and Development Services  
Department -Rezoning Section  
201 N. Stone Avenue  
P.O. BOX 27210  
Tucson, Arizona 85726-7210

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C9-14-13  
**IMPORTANT REZONING NOTICE ENCLOSED**