



CITY OF
TUCSON
ZONING
EXAMINER'S
OFFICE

PRELIMINARY REPORT

June 1, 2017

Jim Egan
Heights Properties, LLP
6179 E. Broadway Blvd.
Tucson, AZ 85711

**SUBJECT: C9-16-11 Brake Masters – Speedway Boulevard
C-1 to C-2
Public Hearing: May 25, 2017**

Dear Mr. Egan,

Pursuant to the City of Tucson's Unified Development Code (UDC) and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter is the Zoning Examiner's written notification of the summary of rezoning findings for rezoning case **C9-16-11 08 Brake Masters – Speedway Boulevard**.

At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

SUMMARY OF FINDINGS

This is a request by Jim Egan, on behalf of the property owners, LDR – Silverbell, LLC, to rezone approximately 0.37 acres from C-1 to C-2 zoning. The rezoning site is a vacant lot within a regional shopping center recorded in the plat, Albertson's at El Rio Plaza as lot 4, located at the northeast corner of Speedway Boulevard and Silverbell Road. The preliminary development plan proposes an automotive minor service and repair land use within a 3,820 square foot single-

service bays in a north/south alignment within the building. The building is designed to be open on both the north and south sides.

The rezoning site is triangular in shape due to the natural course of the Silvercroft Wash, which abuts the rezoning lot along its east perimeter. The shape of the lot limits site design options and the applicant has revised the building and parking orientation in an effort to improve the site design layout.

At the May 25, 2017 Zoning Examiner's Public Hearing, staff reported no written approvals and two written protests. Staff noted that the written protests were not from nearby property owners. Besides the applicant, there was one speaker in support. He noted that the shopping center was envisioned to develop in four stages first the anchor supermarket, then the exterior pad buildings, next the interior tenants and finally the triangular property that is the rezoning. He noted that the rezoning site was considered difficult to develop but it is appropriate and has support.

No one spoke in protest, however, there is a letter dated May 16, 2017 from the Barrio Hollywood Neighborhood Association. The letter recommends denial of the rezoning and points out several areas of concern including the following: there is an inadequate pedestrian area along the west side of the rezoning; there is no limit on potential C-2 uses allowed including adult uses; and there is concern about noise pollution coming from the six-bay building using noisy equipment and tools.

The applicant's representative stated no objection to the Planning and Development Services' rezoning conditions. The Zoning Examiner asked that he respond to the items of concern listed in the May 16, 2017 neighborhood association letter. Regarding the pedestrian area, he noted that the driveway connecting the subject property to the main shopping center would have no sidewalk to connect to with the shopping center. There are alternatives for pedestrians along the shopping center's sides. He stated that the shopping center had covenants that would prohibit intensive uses like adult uses. Further, the Zoning Examiner noted that the PDS Condition 1 required adherence the preliminary development plan (PDP) as presented, which showed a building designed for automotive services. The representative stated that he offered a noise study to the association but there was no agreement on the scope of the study. He said that in lieu of the study they have taken other steps to reduce the noise impact of the land use. Both the north and south sides of the building are open thus removing any bounce back of noise but instead allowing the noise to dissipate in both directions. The building is oriented toward the commercial buildings south of Speedway Boulevard. According to the PDP, the nearest residential buildings are to the southeast of the corner of the rezoning site thus out of the line of the direct line of potential noise. Finally, Speedway Boulevard which has six lanes (counting four through lanes and two turning lanes) in front of the rezoning site carries about 35,000 vehicle trips a day in front of the proposed building and the existing residential properties to the southeast. Any noise from the proposed building will most likely dissipate into the ambient noise of the traffic on the arterial street. He said the hours of operation are from 7:30am to 5:30pm Monday

through Saturday when traffic is likely to be the heaviest on Speedway. Finally, he said that the applicant has sent a letter in both English and Spanish stating that the property owner would have a point of contact for the neighborhood from construction through the property management of the subject property. He mentioned that they had received written approvals earlier in the process from surrounding neighbors but did not produce them. Further, the applicant had incorporated more landscaping along Speedway into the project at the request of the neighborhood.

Existing Land Use and General Location –The rezoning site is vacant land. To the north and west is a C-1 zoned regional shopping center, to the south is commercial and existing single family residences zoned respectively C-1 and R-1. To the east is vacant land zoned C-1.

Land Use Plans –

Land use policy direction for this area is provided by the *Plan Tucson (PT)* and the *Santa Cruz Area Plan (SCAP)*.

Plan Tucson identifies the rezoning site as part of an Existing Neighborhood Building Block as shown on the *Future Growth Scenario Map*. A goal of *PT* applicable to the existing neighborhood category is to maintain the character of the neighborhoods, while accommodating new development to encourage reinvestment and amenities that contribute to the community and further stabilize the neighborhood.

Plan Tucson policy calls to preserve the distinct physical character and identity of individual neighborhoods and commercial districts in the community and supports community commercial uses located at the intersections of arterial streets, taking into consideration traffic safety and congestion issues.

An *SCAP* policy states that new and existing neighborhoods should include related commercial services with specific locations decided on a case-by-case basis according to overall plan policies and depending on specific market conditions.

Specific policy direction is provide by Key Parcel 10 which states that locally oriented commercial uses should be provided and focused at the intersection of Speedway Boulevard and Silverbell Road.

The Speedway Boulevard and Silverbell Road are identified as arterial streets on the *Major Streets and Routes Plan* map. Speedway Boulevard is identified with a 120-foot cross section on the *Major Streets and Routes Plan* standards.

Site Plan Considerations

Site Design Features The applicant has met neighborhood representatives to focus on their concerns related to removal of hazardous waste generated by Brake Masters and traffic flow issues. The rezoning site is within a regional shopping center anchored by the Albertson's supermarket with approximately 60,000

square foot of building area. The rezoning site is the only undeveloped lot within the regional shopping center.

The property's triangular shape limits potential site design. The revised PDP, dated November 1, 2016, provides a thirty-foot building height and a floor area of 3,820 square feet. There will be eleven on-site parking spaces. The six-bay, tandem design allows bay doors to be open on both ends thus reducing noise from automotive equipment by removing a wall causing noise to bounce toward nearby residential uses.

The representative stated at the public hearing that there would be a liaison who would work with the neighbors on concerns from construction through regular property management. The Zoning Examiner researched the noise issue and it appears that most of the steps being taken can significantly reduce the noise from the building. However, there is still some potential for intermittent noise to cause concerns. A new condition is included requiring the property owner to work with the neighborhood to mitigate noise if needed. It could include closing the bay doors facing south, using sound absorbing insulation in the interior, and isolating acoustically such equipment as the air compressor.

To improve on-site vehicle circulation and traffic safety three service bays are oriented with bay doors on the south side of the building facing Speedway Boulevard, and three service bays in the tandem design with bay doors on the north side facing the El Rio Golf Course.

The site was previously mass-graded, most likely during the installation of the infrastructure for the overall shopping center improvements. Since then vegetation including some trees have matured on-site. The applicant has provided an inventory of trees, specifically the mature trees along the northeast and south perimeters of the rezoning site. Eight on-site trees will remain in place and six on-site trees will be relocated to accommodate site design. Trees to remain in place are along its northeast property line and the southeast corner of the rezoning site from the El Rio Golf Course to the east. Trees in the southeast corner of the site will also help screen the use from the residential neighborhood located southeast across Speedway Boulevard.

The proposed automotive land use would be one of two parcels located along Silverbell Road to offer a C-2 zone land use. At 2240 N. Silverbell Road, there is a Brake Max similar to the proposed rezoning.

Pedestrian Access/Circulation – A pedestrian trail along the Silvercroft Wash is in place. As part of the Silvercroft Wash trail, the regional shopping center has a pedestrian path that partially follows the west bank of Silvercroft Wash and at a location approximately three hundred feet north of the rezoning site. The path is routed west toward the interior of the shopping center and extends south within the shopping center and connects to the Speedway Boulevard public sidewalk. The rezoning site will provide a pedestrian path from the auto service building to the public sidewalk along Speedway Boulevard.

Vehicular Access/Circulation – Access to the rezoning site is from Speedway Boulevard provided by a Parking Area Access Lane (PAAL), which abuts and is partially located within the whole length of the west property line of the rezoning site. This PAAL is part of the shopping center on-site traffic circulation system and is thirty-one feet wide for two-way traffic, as shown on the revise PDP dated November 1, 2017. The rezoning site design during the development review process will account for providing safe access to and from the site within the shopping center. A Traffic Impact Analysis (TIA) has been completed and the conclusion of the TIA is that based on the analysis conducted the proposed automobile care center development is not expected to have an adverse impact on the signalized intersection's Level of Service.

CONCLUSION

The rezoning substantially complies with the land use plans. Condition 1 limits the site to buildings accommodating automotive uses. The distance from residential property plus the landscaping buffer, building orientation and design and the separation of the land use from residential uses by the major arterial, Speedway Boulevard should cause noise impacts to be dissipated by the current ambient noise of this arterial corridor. However, a new Condition 10 allows area residents to work with the property owner to address any practical needed mitigation to address noise concerns.

RECOMMENDATION

The Zoning Examiner recommends approval of the rezoning to the C-2 zone subject to the Zoning Examiner's recommended conditions.

Sincerely,



Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:

Case Location Map
Rezoning Case Map
Zoning Examiner Conditions

cc: City of Tucson Mayor and Council

Zoning Examiner Conditions

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated November 1, 2016, and the design compatibility report dated September 14, 2016, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
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. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
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. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

6. Limited to six (6) north-south oriented service bays. On-site vehicles shall not back-out into the PAAL located on the west property line.
7. All walls visible from a public right-of-way and/or adjacent to residentially zoned property, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
8. Building shall not exceed thirty (30) feet height, including architectural features.
9. Graffiti shall be removed within seventy-two (72) hours of discovery.
10. The property owner shall work with the neighborhood association to include measures to reduce noise complaints and perform practical acoustical mitigation as approved by the Planning and Development Services Department. The air compressor shall be acoustically isolated to reduce noise from the building.

DRAINAGE/VEGETATION/BUFFERS

11. Per preliminary development plan, dated November 1, 2016, the eight identified trees shall be preserved in place and protected during the construction phase of development.
12. Development package to include the following; depress all landscape areas twelve (12") inches and route all hard scape surfaces to these areas.

13.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(l).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-16-11 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-16-11.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-16-11.

Dated this _____ day of _____, 20__.

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
)
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

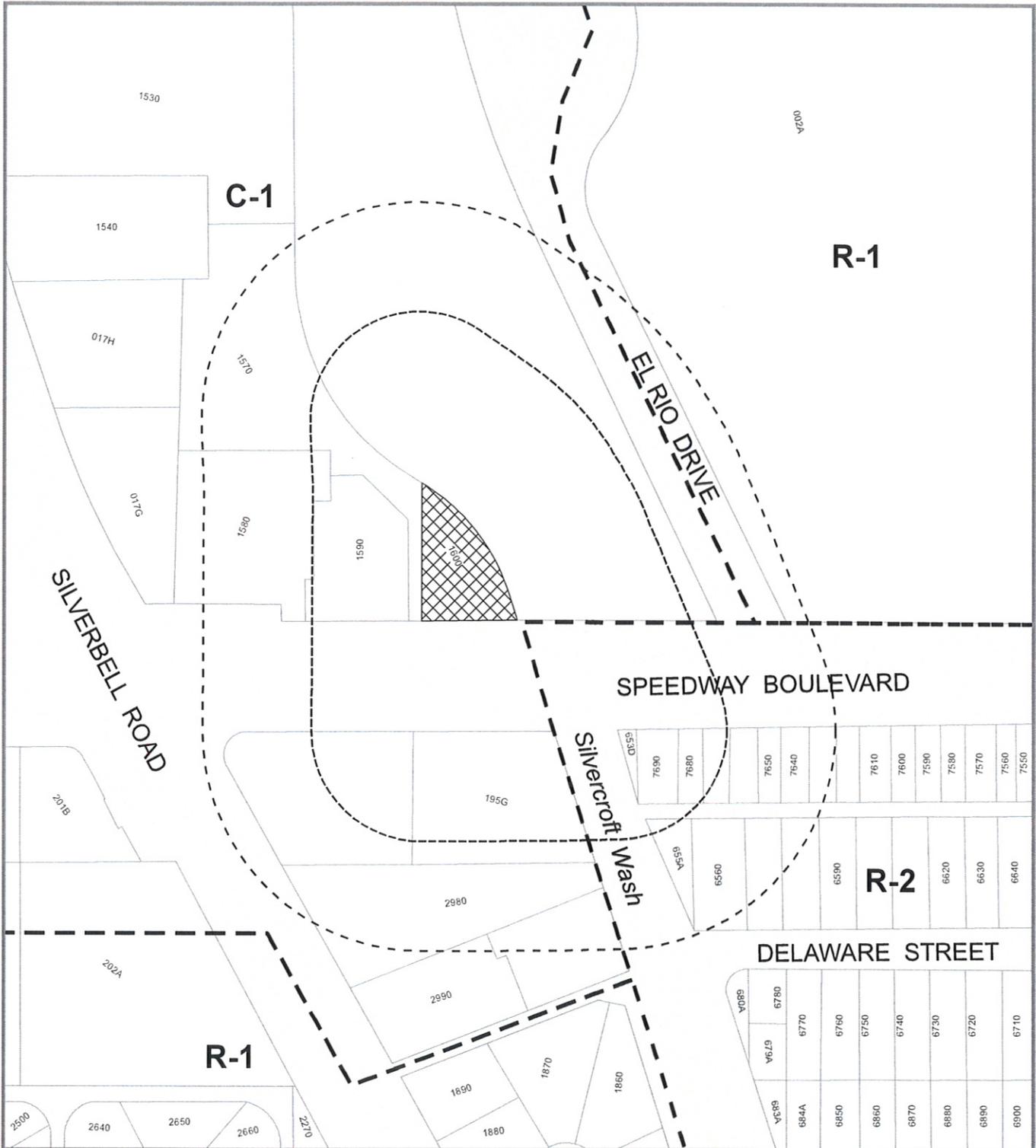
City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.

C9-16-11 Brake Masters - Speedway Boulevard

Rezoning Request: from C-1 to C-2



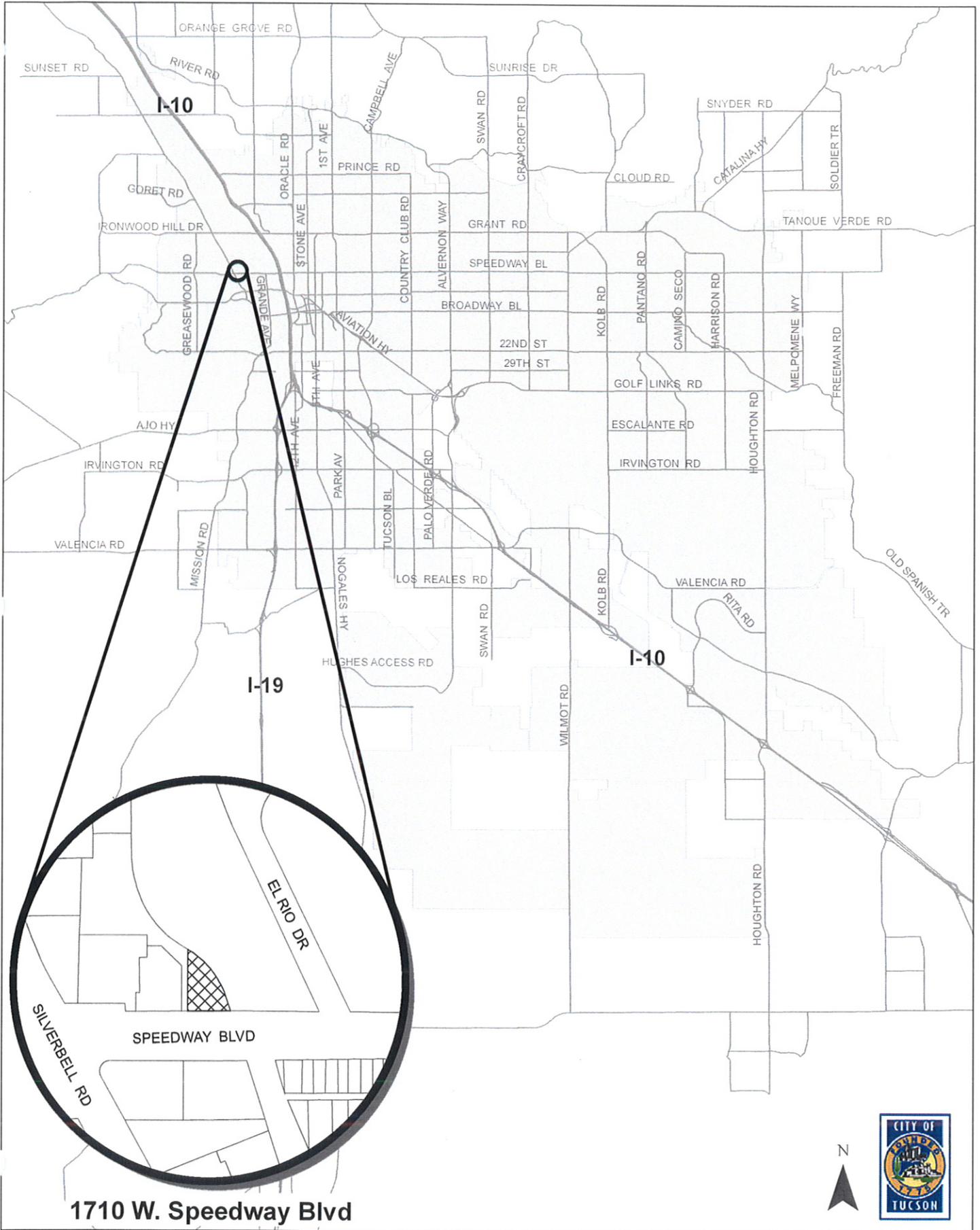
-  Area of Rezoning Request
-  150' Protest Area
-  300' Notification Area
-  Zone Boundaries



Address: 1710 W. Speedway Boulevard
 Base Maps: Sec.03 T.14 R.13
 Ward: 1



C9-16-11 Brake Masters - Speedway Boulevard



1710 W. Speedway Blvd

