



CITY OF
TUCSON
ZONING
EXAMINER'S
OFFICE

Zoning Examiner's Preliminary Report

May 24, 2018

Brian Underwood of The Planning Center, on behalf of the property owner
Abraham Slilaty
Fort Lowell Park, LLC
PO Box 40333
Tucson, AZ 85717

**SUBJECT: C9-18-05 Fort Lowell Park – Fort Lowell Road, MH-1 & R-3
to C-2 (Ward 3)
Public Hearing: May 17, 2018**

Dear Mr. Underwood,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case **C9-18-05 Fort Lowell Park – Fort Lowell Road**.

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 the Planning and Development Services Department (PDSD) 791-5550 or the City Clerk.

If you or 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 Brian Underwood of The Planning Center, on behalf of the property owner Abraham Slilaty of Fort Lowell Park, LLC, to rezone approximately 7.92 acres from MH-1 and R-3 to C-2 zoning.

The rezoning site is comprised of predominantly vacant land located on the south side of Fort Lowell Road approximately 800 feet east of Alvernon Way (see Case Location map).

The preliminary development plan (PDP) proposes a mixed-use infill development with ten buildings totaling 212,220 square feet of floor area, with required parking, screening and landscaping. Approximately 120,000 square feet of self-storage with RV parking in three buildings, which is designated as Phase 1 of the project, will be constructed in the eastern portion of the site, and 93,000 square feet of commercial retail and restaurant uses in seven buildings, which is proposed as Phase 2, will be constructed in the remaining western portion of the site.

The maximum proposed building height on the rezoning site is 40 feet, as allowed in the C-2 zone.

There are two single-story single-family residences located on a parcel in the northeast area of the subject property in an area where a portion of the self-storage use is proposed. Both of these residences will be demolished prior to construction of the proposed storage facility.

Public Hearing

At the Zoning Examiner's Public Hearing held on May 17, 2018, Mr. John Beall (PDSD Staff) reported that they had received three (3) written approvals and two (2) written protests. All of the written approvals are outside of the notification area.

Meeting Summary:

The applicant presented the case. He gave a brief description of the property and its surrounding uses. He then talked about the project's goals and described the various design elements, features and mitigation techniques to reduce any impact on the adjacent residences. He discussed the proposed street improvements for Fort Lowell Road. He spoke about the history of property stating that there were previous rezoning efforts including 2 area plan amendments. The second area plan amendment was completed in 2017 and added commercial uses to the previously approved plan amendment which only allowed office and residential uses on this property.

Mr. Underwood specifically spoke about the following items:

- There have been several street improvements and widening projects in this area, all of which help support this rezoning request. This proposed development and rezoning request is appropriate for this area. This is supported by the all of the recent commercial and office development in this area as well as the fact that the neighborhood area plan has been successfully amended, twice.
- The street improvements proposed on Fort Lowell Road will help reduce the impact of this new proposed development's anticipated traffic demand increases.
 - The applicant is proposing a new left turn center lane along the entire frontage of the project as well as a new deceleration lane between the intersection at Alvernon Way and the western driveway to the new retail and commercial portion of the project (Phase 2).
 - These improvements proposed for Fort Lowell will not occur until the western portion of the commercial and office development starts construction as defined as Phase 2 by the applicant.
- The proposed new storage facility proposed as Phase 1 of this project, on the east portion of the site, will consist of the following:
 - The front portion along Fort Lowell Road will be a two (2) story air-conditioned building designed to include architectural features so as to appear as an office use rather than a storage facility.
 - The center portion will be a more traditional single story building with overhead roll-up metal doors.
 - The rear building will be a three (3) story building. There will be outdoor RV and large vehicle storage/parking south of that.

The applicant concluded his presentation and I asked him if the owner would consider revising the project's phasing limit shown so as to include the driveways shown on the west side of the rear building as part of Phase 1. I felt that this was necessary in order to allow traffic to circulate in a counter-clockwise direction around the entire perimeter of the rear building, thus providing access to the one-way angled parking for RV's shown behind the rear building. The applicant agreed to modify the Preliminary Development Plan.

One (1) person spoke in **favor** of this request. He stated that he supported this rezoning request and felt that it would be appropriate for the neighborhood; however, he did have a few concerns.

- He asked that the applicant protect and maintain the existing mature mesquite trees along the west property line of the project.
- He also requested that the applicant provide an additional deceleration lane in front of the new Phase 1 eastern curb-cut driveway on Fort Lowell Road for the proposed new storage facility since traffic is so bad on Fort Lowell Road.

- He asked if the lighting would be shielded and aimed away from the neighboring residences to the east where he lived. He acknowledged that this would probably be required as part of the normal permit review process.

There were no other people present who wanted to speak on this matter.

I then asked the applicant to address this neighbor's concerns. Mr. Underwood stated that the owner would be happy to protect and maintain the existing mature mesquite trees along the western property line. He also said a traffic engineer would probably not support an additional deceleration lane for the eastern Phase 1 curb-cut driveway on Fort Lowell Road. He went on to point out that the traffic impact study states that storage facilities do not generate many trips per day and that they do not normally occur during any peak demand times. He said that traffic in and out of storage facilities typically occur at random times. Hearing that, I asked the applicant to consult with his traffic engineer to determine if the City would even allow this additional deceleration lane.

I stated that I may add a special condition requiring the owner to provide temporary construction fencing around all of the existing mature mesquite trees along the eastern property line to ensure their protection.

Existing and Surrounding Land Uses

Existing Land Use:

Vacant land with two (2) single-family homes in the northern portion of the site.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

The existing surrounding zoning and land uses are:

North:	Zoned C-2, MH-1 and R-1; office, self-storage, mobile home park and single-family residential
South:	Zoned MH-1; mobile-home park
East:	Zoned R-2; single-family residential
West:	Zoned C-1 and MH-1; office and mobile home park

The rezoning site totals 7.92 acres and consists of eight parcels. Based on the PDP, the parcels will be combined/reconfigured. The project site has an irregular U-shape, measuring roughly 630 feet north-to-south by 660 feet east-to-west. Two single-family homes in the northeast corner of the "U" are proposed for demolition to accommodate development, parking, and access to the self-storage site. An existing apartment complex occupies the central area between the "arms" of the U-shaped project area. To the west of the site are office uses in C-1 zoning, and a mobile home park, zoned MH-1. To the north across Fort Lowell Road are office uses, a self-storage facility, a mobile home park and single-family homes in

C-2, MH-1 and R-1 zoning. To the east are single family residences, zoned R-2. To the south is a mobile home park, zoned MH-1.

Previous Cases on the Property:

Plan Amendment (1)

The applicant successfully processed an amendment to the Grant-Alvernon Area Plan to allow for office and high-density residential uses along the Fort Lowell frontage of the rezoning site (Resolution No. 20819 adopted November 13, 2007).

Plan Amendment (2)

The applicant successfully processed an amendment to the Grant-Alvernon Area Plan to allow commercial, office and high-density residential uses on the rezoning site, with building heights restricted to a maximum of 40 feet (Resolution No. 22846 adopted December 19, 2017).

Land Use Plans

Land use policy direction for this area is provided *Plan Tucson (PT)* and the *Grant-Alvernon Area Plan (GAAP)*.

Plan Tucson

Sensitivity to the adjacent residential neighborhoods is a high priority within *PT*. *PT* policy supports neighborhood commercial and retail uses along arterial streets, taking into consideration traffic safety and congestion issues. *PT* guidelines support the location of employment, retail and services in proximity to each other to allow easy access and reduce dependence on car travel, and supports infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines. *PT* also supports strategically located mixed-use activity centers and activity nodes in order to increase transit use, reduce air pollution, improve delivery of services, and create inviting places to live, work, and play, while protecting established residential neighborhoods by supporting compatible development, which may include other residential, mixed-use infill and appropriate non-residential land uses.

The proposed site is within an area identified in *PT* as “Existing Neighborhood”, which are primarily developed, 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 protect and maintain the character of the neighborhood by accommodating new, compatible development, and encouraging reinvestment and new services as area amenities. *PT* also encourages context-sensitive community design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of adjacent streets.

Grant-Alvernon Area Plan

Policies encourage development of vacant properties if the use is compatible with and the design is sensitive to surrounding uses with an overall goal of improving the visual appearance of the area. Policies support commercial and office development near residential areas that will serve to protect and enhance the quality of life for neighborhood residents. The conceptual land use map for this site calls for commercial, office and residential uses with a maximum height of 40 feet.

DESIGN CONSIDERATIONS

Land Use Compatibility

The rezoning request to C-2 is to allow self-storage with RV storage, commercial retail and food service uses. Sensitivity to the adjacent residential neighborhood is a high priority in *Plan Tucson*, and the *Grant-Alvernon Area Plan*. Per the submitted PDP, a 10-foot wide landscape border is proposed along the entire boundary of the project, with retention-detention basins in the southeastern and northwestern portions of the rezoning site, and screen walls as required by the *Unified Development Code*.

On February 8, 2018 the applicant held the required neighborhood meeting, where there were 7 neighbors in attendance plus the applicants. Issues discussed included traffic, access, vehicle/pedestrian circulation, and concerns regarding widening Fort Lowell Road to provide a left turn lane into the site for westbound traffic. Other questions from the attendees related to the hours of operation, delivery, building heights, lighting, the type of landscaping vegetation proposed, and whether there would be an onsite manager for the self-storage facility.

Staff recommends that deliveries be limited to between the hours of 7:00 am and 10:00 pm, and that food service uses be limited to between the hours of 5:00 am and 12:00 midnight. Staff further recommends that no drive-thru loud speakers be permitted.

Road Improvements, Vehicular & Pedestrian Traffic Circulation

The rezoning site is located along the south side of Fort Lowell Road. The PDP reflects that the site and its parking area will be accessed at two points from Fort Lowell. A widening of Fort Lowell Road is proposed as part of the rezoning request to accommodate a continuous left-turn lane in the center of the right-of-way, and a right-turn deceleration lane at the western (phase 2) access point. Both driveways will be positioned to closely align with existing access drives on the north side of Fort Lowell Road. According to the *Major Streets and Routes Plan* map, Fort Lowell Road is a major arterial with a future right-of-way of 100 feet. The PDP shows dedication of right-of-way as required along the south side of Fort Lowell Road adjacent to the rezoning site.

Drainage/Grading/Vegetation

Drainage from the site runs off to the Christopher City Wash watershed and Alvernon Wash watershed. The Christopher City Wash watershed is classified as a balanced basin. The Alvernon Wash is subject to flooding as a FEMA special flood hazard area. Discharges to drainage facilities in both watersheds are at or above capacity. Retention of 100 percent of the 5-year discharge will be required for all development in this site, and all on-site run-off should drain towards water harvesting areas before overtopping to the adjacent right-of-way or private property. Landscaping in the form of drought-tolerant canopy trees, shrub and groundcover should be planted to enhance the overall visual impact of the proposed uses and the parking area, as required to comply with *Unified Development Code* Table 7.6.4-I.

CONCLUSION

The proposed rezoning is consistent with, and supported by, the policy direction provided in Plan Tucson and the Grant-Alvernon Area Plan. Subject to compliance with the attached preliminary conditions, approval of the requested rezoning is appropriate.

RECOMMENDATION

The Zoning Examiner recommends **approval** of the C-2 zoning subject to the attached special conditions.

Sincerely,



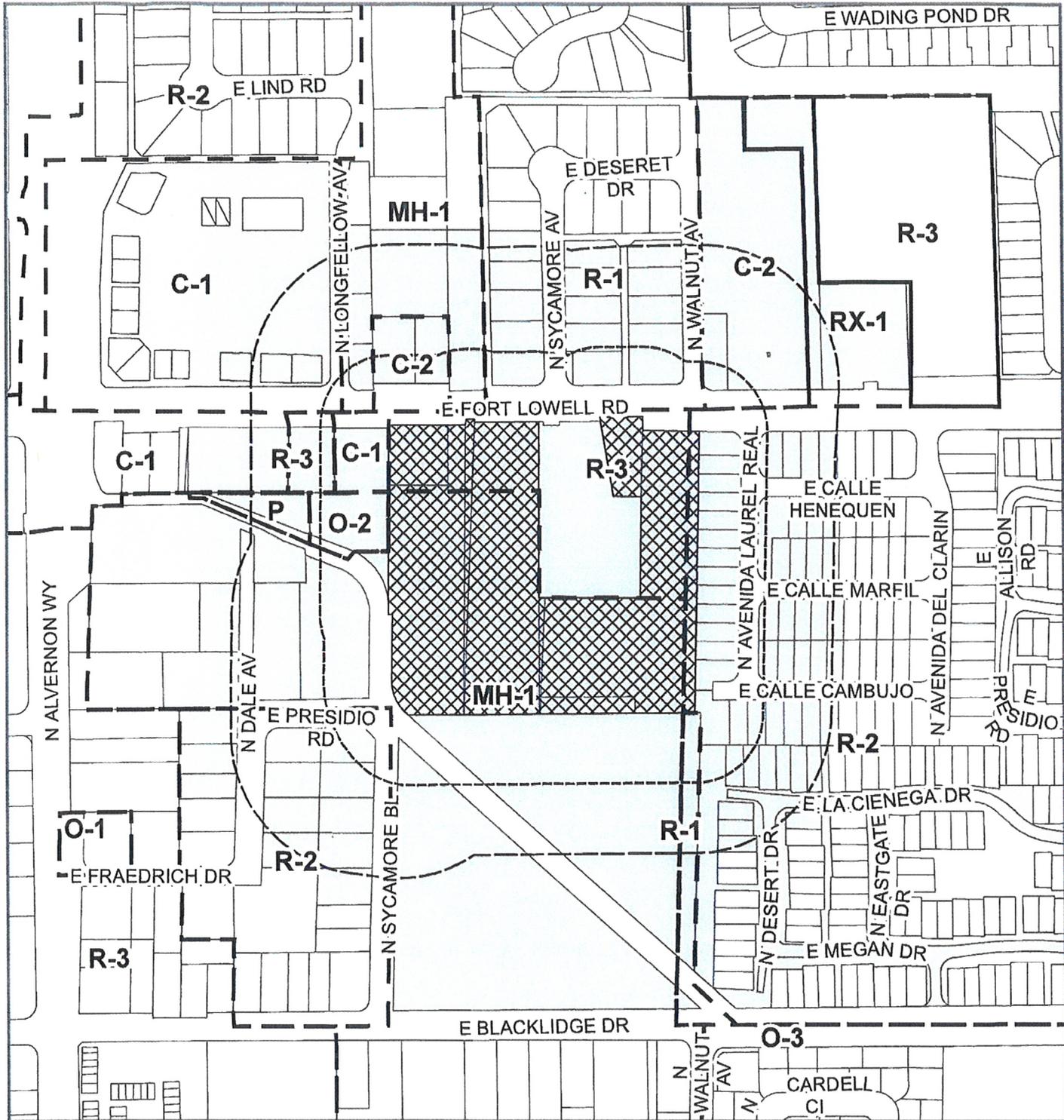
Steven C. Shell
Zoning Examiner

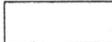
ATTACHMENTS:

Case Location Map
Case Aerial Photo
Zoning Examiner's Preliminary Conditions

cc: City of Tucson Mayor and Council

C9-18-05 - Fort Lowell Park
Rezoning Request: From MH-1 and R-3 to C-2



-  Subject Property
-  Notification Area (300-foot Radius)
-  Protest Area (150-foot Radius)
-  Zone Boundaries
-  Properties Notified

Address: 4002-4068 E. Fort Lowell Rd.
 Base Maps: Twp.13S Range14E Sec. 34
 Ward: 3



1 inch = 300 feet



C9-18-05 - Fort Lowell Park

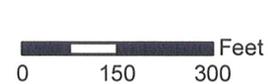
Rezoning Request: From MH-1 and R-3 to C-2



 Area of Rezoning Request



Address: 4002-4068 E. Fort Lowell Rd.
Base Maps: Twp.13S Range14E Sec. 34
Ward: 3



1 inch = 300 feet



PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated February 26, 2018, 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. All walls visible from a public right-of-way 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.
7. Six (6) inch wide masonry block or greater shall be used for perimeter walls.
8. Commercial delivery hours shall be limited to between 7:00 am and 10:00 pm.
9. Hours of operation for food service uses shall be limited to between 5:00 am and 12:00 midnight Sunday through Thursday, and between 5:00 am and 2:00 am Friday and Saturday. There shall be no drive-thru loud speakers permitted.

10. Gate hours for the storage use shall be limited to between 6:00 am and 10:00pm.
11. Revise the project phasing limits to include the driveways located on the west side of the storage facility's rear building in order to provide vehicular access to the one-way drive and angled parking shown behind the building as part of Phase 1.
12. Protect and preserve the mature mesquite trees along the entire east property line of the subject property. Temporary fencing around all trees shall be placed prior to grading. Fencing and trees to be protected shall be identified on the grading plans.

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 C9-18-05 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 C9-18-05 .

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 C9-18-05.

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.