



MEMORANDUM

DATE: March 13, 2019
For March 28, 2019 Hearing

TO: John Iurino
Zoning Examiner

FROM: Scott Clark
Planning & Development Services
Interim Director

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT
C9-19-03 Town West – First Avenue, R-2 to C-1 (Ward 3)

Issue – This is a request by Raul Reyes of Town West Design Development, Inc. to rezone approximately 3.03 acres from R-2 to C-1 zoning. The rezoning site is comprised of five parcels located west of First Avenue, south of Limberlost Drive, and north of Calle Arizona (see Case Location Map). The preliminary development plan proposes a retail commercial building with 6,034 square feet in the northern portion of the site, an office building with 10,000 square feet in the southern portion of the site, and a food service use with 3,000 square feet and a drive-thru lane near the center of the site. Associated parking and landscaping is shown around the three buildings and near the site perimeter.

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

Background Information

Existing Land Use: vacant, undeveloped land

Zoning Descriptions:

Existing: R-2 – This zone provides for medium density, single-family and multifamily, residential development, together with schools, parks, and other public services necessary for an urban residential environment.

Proposed: C-1: This zone provides for low-intensity, commercial and other uses that are compatible with adjacent residential uses. Residential and other related uses shall be permitted.

Surrounding Zones and Land Uses:

North: Zoned R-3;	Apartment complex
South: Zoned R-2;	Single- and multi-family residences
East: Zoned C-1 & O-3;	Convenience mart, offices, and vacant land
West: Zoned R-2;	Duplex and Single-family residences

Previous Cases on the Property:

C9-86-55 Kolt - Limberlost Drive R-2 to B-2A (C-2) This was a rezoning request on the north 1.5 acres of property of the subject property for auto service and retail. The Mayor and Council approved the rezoning request on January 26, 1987. The conditions of rezoning were not met and the case expired on January 26, 1995.

C9-88-16 Kolt – First Avenue R-2 to B-2A (C-2) This was a rezoning request on the subject property for a used car lot. The applicant put the case on hold after receiving a negative recommendation from the Zoning Examiner. The case was closed on April 12, 1989, due to inaction by the applicant.

C9-01-14 Kolt – First Avenue Rezoning, R-2 to O-2 and C-1 This was a request to rezone the subject property from R-2 to O-2 and C-1 zoning for a 10,000-square foot bank building on the north 1.5 acres and a 14,000-square foot office building of on the southern 1.5 acres. The Mayor and Council authorized the rezoning with conditions on September 15, 2001. Subsequently the Mayor and Council granted a 5-year time extension, for a total of ten years of authorization. The conditions were not met and the case expired on September 17, 2011.

C9-11-12 Town West – First Avenue, R-2 to O-2 and C-1 This was a request to rezone the subject property from R-2 to O-2 and C-1 zoning for an office and retail commercial building of 9,636 square feet on the north 1.62 acres, requested for C-1 zoning, and an office building of 24,208 square feet on the southern 1.41 acres, requested for O-2 zoning. The Mayor and Council adopted ordinance 10960 on January 24, 2012. Subsequently the Mayor and Council granted a 5-year time extension by adopting Ordinance No. 11434 on March 7, 2017. However, the rezoning was never effectuated and was withdrawn by the applicant on January 30, 2019 in order to proceed with the current rezoning request for the site.

Related Cases:

C9-04-11 Landmark Series 1 – First Avenue, MH-1 to C-1 This was a rezoning for a portion of a new shopping center east of the rezoning site, for 93,632 square feet of gross floor area in five buildings on 9.8 acres. Mayor and Council adopted Ordinance 10241 on January 24, 2006, which was effectuated on August 22, 2006 by issuance of a building permit.

C9-05-26 Continental 61 – First Avenue, MH-1 to C-1 and C-2 This was a companion rezoning to C9-04-11. This rezoning was for 40,000 square feet of gross floor area on 4.7 acres. Combined, the two rezoning cases were developed as a single shopping center with approximately 133,632 square foot of gross floor area on approximately 14.5 acres. Mayor and Council adopted ordinance 10243 on January 24, 2006, which was effectuated on August 22, 2006 by issuance of a building permit.

Applicant's Request – The request is for C-1 zoning. The preliminary development plan proposes a commercial building of 6,034 square feet in the northern portion of the site, an office building of 10,000 square feet in the southern portion of the site, and a food service use with 3,000 square feet and a drive-thru lane near the center of the site. All buildings are designed with one story and a height of 18 feet, with 24-foot high corner features.

Planning Considerations – Land use policy direction is provided by *North Stone Neighborhood Plan (NSNP)* and *Plan Tucson. (PT)*. The rezoning site is located within a Mixed-Use Corridor as identified on the Future Growth Scenario Map of *PT*. Mixed-Use Corridors are defined as corridors that contain a higher-intensity mix of jobs, services, and housing along major streets. Businesses and residences within these corridors are served by a mix of transit options, as well as pedestrian and bicycle facilities. *PT* policies support the location of employment, retail and other commercial services in proximity to each other to allow easy access and reduce dependence on the car. *PT* calls for the development of mixed-use centers combined with a variety of retail services, offices, and other uses. *PT* considers the expansion of commercial areas into residential areas when there are logical boundaries, such as existing streets or drainage ways, and adjacent residential property is appropriately screened and buffered. *PT* also supports environmentally sensitive design that complements adjacent land uses, and enhances the overall function and visual quality of streets, adjacent properties, and the community.

Rezoning and development proposals in the *NSNP* are evaluated on the basis of plan policies and recommendations. Overall goals of the *NSNP* are to encourage a compatible mix of residential, office, and commercial uses while protecting the integrity of existing neighborhoods, provide safe and efficient circulation systems for all modes of transport, including pedestrian, and protect mountain views. The *NSNP* identifies intersections of major streets as appropriate for commercial and office uses, provided access is from a major street. Consolidation of uses is encouraged.

Nonresidential policies establish design and location criteria for commercial uses adjacent to existing neighborhoods. Buffering techniques can be used in various combinations to ensure compatibility of proposed nonresidential uses adjacent to residential development. Overall goals of nonresidential policies are to promote mixed-use development with shared access, circulation systems, parking, and other amenities. *NSPS* policies promote buffering of, and appropriate transitions to, residential uses, an aesthetically pleasing streetscape, and provisions for pedestrian and bicycle access. *NSNP* policies and the *Design Guidelines Manual* address landscaping, walls, location of vehicular access, building heights, architectural detail and integration, the

visual impact of parking areas, the location of dumpsters, loading spaces, mechanical equipment, and lighting.

The site is undeveloped. The adjacent residential neighborhood to the west and south is developed predominantly with single-story, single-family homes, many of which are owner-occupied. Within the interior of the neighborhood there are some residential rental properties. Assessor's records indicate the adjacent residential homes immediately west of the proposed development are mostly owner-occupied. The property located to the north, across Limberlost Drive, is a large multi-family apartment complex, zoned R-3. Property to the east across First Avenue is zoned C-1 and O-3 and developed as a convenience store with gas pumps at the southeast corner of First Avenue and Limberlost Drive, a small office complex to the south, with a vacant parcel in between.

The preliminary development plan and the Design Compatibility Report (DCR) address *Plan* policies by mitigating non-residential land uses adjacent to residential land uses, providing access to a major street, limiting vehicular ingress/egress, and integrating the development of the two parcels. The rezoning site would create a transition between the more intense commercial zones and land uses at the intersection of First Avenue and Limberlost Drive and the residential neighborhood west of the site. The rezoning request is in general compliance with the policies and intent of the *NSNP* and *PT* and a plan amendment is not required.

Design Considerations

The rezoning site was previously authorized for C-1 and O-2 zoning in case C9-01-14 Kolt – First Avenue, which expired on September 17, 2011, and also in case C9-11-12 Town West – First Avenue, which was withdrawn on January 30, 2019. Both cases were approved with rezoning conditions negotiated with the surrounding neighborhood. The preliminary development plan (PDP) for the current case is fairly similar to the PDP's for C9-01-14 and C9-11-12, however the new request is solely for C-1 commercial zoning and also includes a food service use. The new site design shows a total proposed building square footage of 19,034, which is substantially reduced from the previously approved rezonings, which proposed 33,844 square feet with C9-11-12, and 24,000 square feet with C9-01-14.

The applicant states in the DCR that the current proposal will meet appropriate conditions of the past approved rezoning cases and is supported by the Limberlost Neighborhood Association. Past rezoning conditions were based in part on a previous neighborhood agreement. The preliminary rezoning conditions for this request also contain provisions based on this agreement. Consistent with previously authorized rezoning conditions, and the previous neighborhood agreement, staff recommends that delivery times be restricted to the hours of between 6:00 AM to 5:00 PM and that no outdoor activities such as sitting areas, smoking areas, patios, loud speakers or any other use that may generate noise or encourage gathering of people, be permitted within 50 feet of the west property line. The provision in previous rezoning cases was for a minimum setback for these types of outdoor activities to be only 25 feet. The current PDP proposes greater setback distances for these uses, including more than 100-foot setback for the

restaurant building and approximately 70 feet for the restaurant drive-thru lane. Wide landscape borders and a wall exceeding *UDC* height requirements, consistent with the previous rezoning conditions, are provided along the west property line to further mitigate impacts on the adjacent residential properties.

The rezoning site is bounded by three public streets, with vehicular access proposed from First Avenue to the east and from Limberlost Drive to the north. No access is proposed from Calle Arizona to the south. First Avenue, identified as an arterial roadway on the *Major Streets and Routes Plan (MS&RP)* map, has a future right-of-way of 120 feet and is slated for future improvements, as part of the Regional Transportation Authority (RTA) Plan. Limberlost Drive is a local street. It was previously identified as a collector roadway on the *MS&RP* map, however, it was removed from the map in an amendment to the *MS&RP* in 2007. Calle Arizona to the south of the site is also a local street. The Limberlost Drive/First Avenue intersection is signalized. The First Avenue/Calle Arizona intersection is controlled by a stop sign on Calle Arizona.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 1,858 vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site.

The five parcels are proposed to be consolidated into a single development site with shared access, parking, delivery and refuse collection. The DCR indicates the site and buildings are to be designed to provide privacy to the residential neighbors, and scaled to be compatible with surrounding structures. The maximum height of each building is 18 feet, with 24-foot high corner treatments. The PDP indicates that the 28 parking spaces located near the west property line will be covered, thereby reducing the solar gain of the asphalt.

A 15-foot wide landscape border is proposed along the entire west property line and along the south property line adjacent to Calle Arizona. The *UDC* only requires ten feet. A 10-foot wide landscape border and a 30-inch high masonry screen wall are proposed along the First Avenue frontage, as required by the *UDC*. Table 7.6.4-1 of the *UDC* requires a five (5)-foot tall screen and a 10-foot wide street landscape border along Calle Arizona and Limberlost Drive. The PDP shows only a 30-inch screen wall along Limberlost Drive. The walls appear to encroach into the required street landscape borders. The *UDC* limits such encroachment to the width of the wall. These issues and discrepancies with code will need to be addressed in the DP review, or a Board of Adjustment variance may be required.

Road Improvements/Vehicular Access/Circulation - The PDP proposes a right-turn-lane for eastbound Limberlost Drive to improve access onto First Avenue and reduce traffic backup. In addition, a southbound right-turn lane is proposed along First Avenue to facilitate access to the rezoning site and to avoid delays for southbound through traffic. Fifteen feet of right-of-way will be dedicated to accommodate this turn lane. New sidewalks are proposed along all three immediately adjacent streets—First Avenue, Limberlost Drive, and Calle Arizona.

Conclusion – The proposed development will provide a transition from the more intense uses east of the site. The site has been designed to mitigate impacts on adjacent residential properties through increased screening, wider landscape borders, building design and orientation. The proposal is in substantial compliance with the policy direction of the *North Stone Neighborhood Plan* and *Plan Tucson*. Subject to compliance with the attached preliminary conditions, approval of the requested C-1 zoning is appropriate.

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated January 15, 2019, and required reports, is 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. A masonry wall at least six (6) feet high along shall be constructed along all property lines adjacent to residential zoning or uses.
7. All walls visible from a public right-of-way and/or adjacent to existing residential development, 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. Six (6) inch wide masonry block or greater shall be used for perimeter walls.
9. All dumpsters, loading zones, and any other outdoor activities and noise generating uses, including drive-thru speakers, shall be located a minimum of 50 feet from the boundary of the residentially zoned property immediately to the west of the rezoning site.
10. Commercial deliveries shall be made no earlier than 6:00 a.m. and no later than 5:00 p.m.

11. Maximum building height shall be 18 feet with architectural corner treatments no higher than 24 feet.
12. A minimum fifteen (15)-foot wide landscape border shall be provided along the west property line of the rezoning site

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(I).

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 C9-19-03 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City grant a Special Exception Land Use for the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the Special Exception Land Use. The Owner believes that the Special Exception Land Use for 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 Special Exception Land Use in Case C9-19-03.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested Special Exception Land Use that limit the potential development of the Property. The Owner acknowledges that the Special Exception Land Use 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 Special Exception Land Use application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the Special Exception Land Use 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 Special Exception Land Use. If the Owner withdraws the application or does not effectuate the Special Exception Land Use, 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 C9-19-03.

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

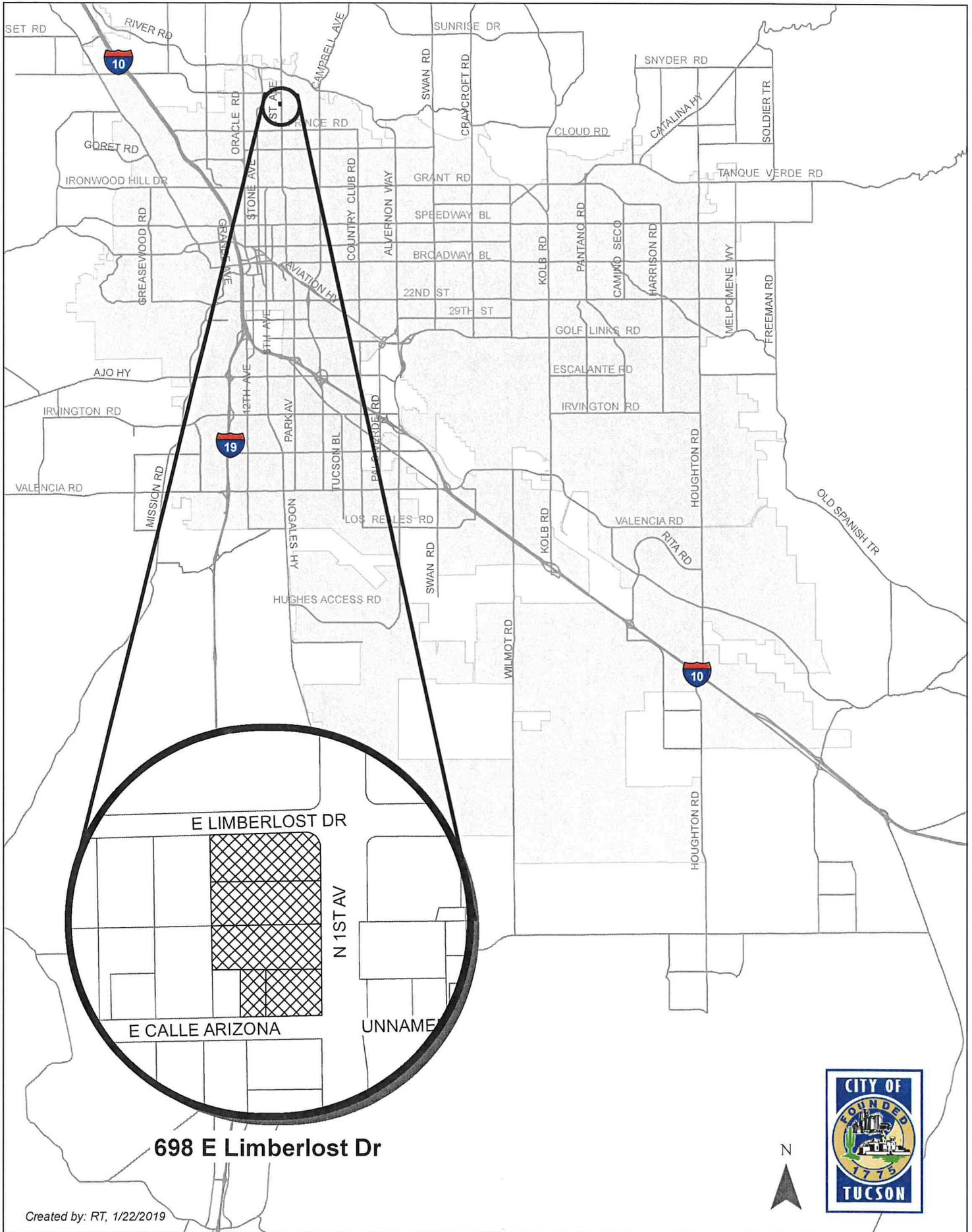
My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.

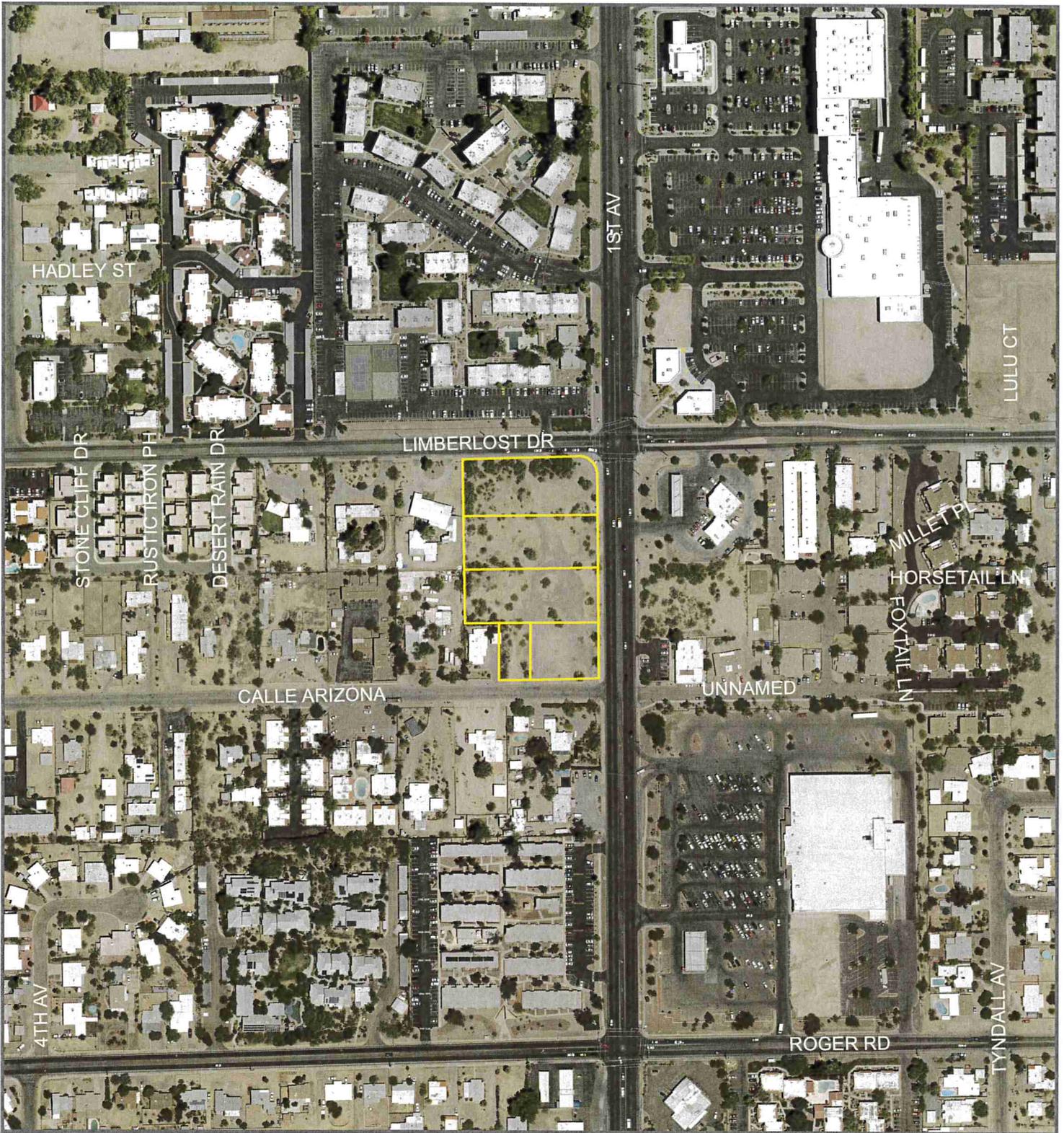
C9-19-03 First and Limberlost
Rezoning Request: From R-2 to C-1



698 E Limberlost Dr

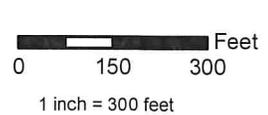


C9-19-03 First and Limberlost
Rezoning Request: From R-2 to C-1



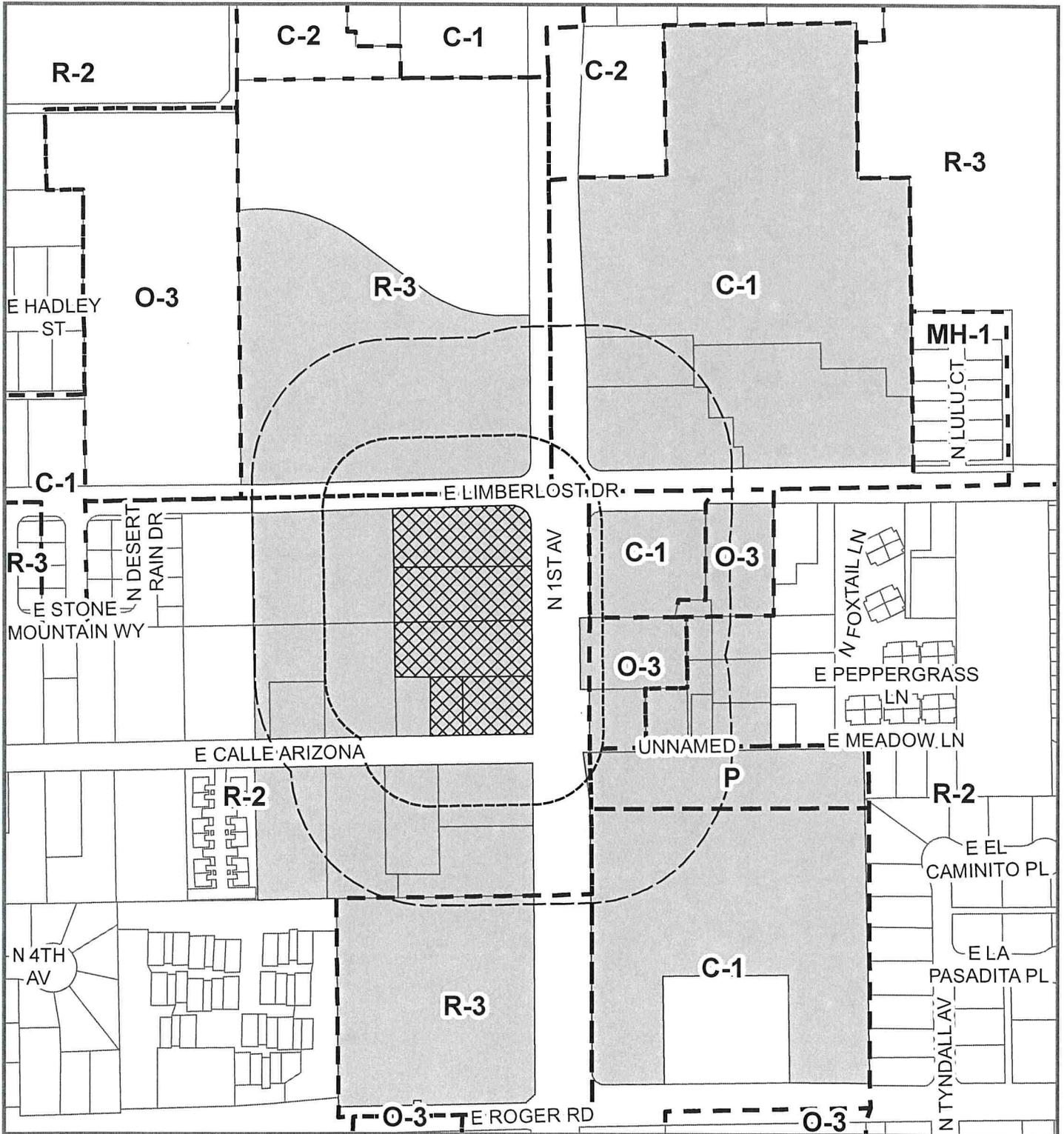
 Area of Rezoning - R2 to C1

Address: 698 E Limberlost Dr + 4137 N 1st Av
Base Maps: Twp.13S Range13E Sec. 24
Ward: 3



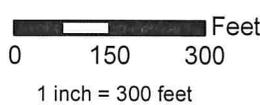
C9-19-03 First and Limberlost

Rezoning Request: From R-2 to C-1



- Area of Rezoning - R2 to C1
- Protest Area (150 ft radius)
- Notification Area (300 ft radius)
- Zone Boundaries
- 03notice

Address: 698 E Limberlost Dr + 4137 N 1st Av
 Base Maps: Twp.13S Range13E Sec. 24
 Ward: 3



Place
Stamp
Here

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

C9-19-03

Expose this flap - Affix stamp and return



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

C9-19-03

IMPORTANT LAND USE CHANGE NOTICE ENCLOSED