



MEMORANDUM

DATE: October 30, 2019
For November 14, 2019 Hearing

TO: John Iurino
Zoning Examiner

FROM: Scott Clark
Planning & Development Services
Director

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT
C9-19-19 Alvernon & Drexel, R-1 to C-2 (Ward 5)

Issue – This is a request by Brian Underwood of The Planning Center, on behalf of the property owner Mike Finkelstein V Fund V LLC, to rezone four parcels totaling approximately 2.62 acres from R-1 to C-2 zoning. The rezoning site is comprised of vacant land located on the west side of Alvernon Way approximately 900 feet north of Drexel Road (see Case Location map). The preliminary development plan (PDP) proposes a mixed-use infill development with specific uses to be determined at a later time. The project intends to use the Opportunity Zone (OZ) program, initiated and administered by the U.S. Department of Treasury. The OZ identifies areas throughout the City that are currently underserved, including distressed neighborhoods, and encourages reinvestment through the provision of tax benefits for low income communities through a qualified Opportunity Fund.

No proposed buildings, parking, or landscaping are shown on the preliminary development plan (PDP), but all uses and development as allowed in the requested C-2 zone will be required to meet standards of the *Unified Development Code (UDC)*. The maximum allowed building height in the C-2 zone is 40 feet and setbacks will be based on the surrounding zoning classifications as well as the required Major Streets & Routes setbacks along Alvernon Way. The properties adjacent to the south of the rezoning site are also vacant, under the same ownership, and are currently zoned C-2. The applicant states that although there is uncertainty on the timing of development of the subject property and the adjacent commercially zoned parcels, the approval of C-2 zoning would allow the potential for concurrent development as one consolidated project.

Planning & Development Services Recommendation – The Planning & Development Services Department recommends approval of C-2 zoning, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Vacant, undeveloped land.

Zoning Descriptions:

Existing: R-1 – This zone provides for urban, low density, single-family, residential development, together with schools, parks, and other public services necessary for a satisfactory urban residential environment. Certain other uses, such as day care and urban agriculture, are permitted that provide reasonable compatibility with adjoining residential uses.

Proposed: C-2 – This zone provides for general commercial uses that serve the community and region. Residential and select other agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zones and Land Uses:

North: Zoned R-1, Single-family residential

South: Zoned C-2; Vacant land

East: Zoned CR-3; Single-family residential and Educational Use (Los Niños School site)

West: Zoned R-1; Single-family residential

Previous Cases on the Property:

None.

Related Cases:

None.

Applicant's Request – C-2 (General Commercial) zone is requested for development of a mix of commercial uses to be determined at the time of development.

Planning Considerations – *Plan Tucson (PT)* provides policy direction for the rezoning site.

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.

The rezoning site totals 2.62 acres and consists of four parcels. Three of the parcels, which are adjacent to Alvernon Way are contiguous and roughly rectangular, with the fourth parcel being trapezoidal in shape, set back from Alvernon Way, and separated from the other parcels by C-2 zoned property under the same ownership. Based on the PDP, the parcels will likely be combined or reconfigured. To the north and west of the site are single-family homes in R-1 residential zoning. To the east across Alvernon Way are single family homes and an elementary school in Pima County CR-3 residential zoning, and to the south is vacant, undeveloped land in C-2 commercial zoning.

Field inspection by staff indicates there are no billboards on the rezoning site. However, there are two billboards configured back-to-back on a parcel located just south of the rezoning site with signs facing both north and south near the west side of Alvernon Way. Should the subject site and the billboard parcel ever be combined for development, the billboard must be removed, or the area around the billboard must be developed to the criteria of *UDC* 4.9.4.G.

Design Considerations

Land Use Compatibility – The rezoning request to C-2 is to allow a mix of commercial uses to be determined at time of development. The Design Compatibility Report states that the rezoning proposal takes advantage of the Opportunity Zone designation to attract new investment and promote revitalization in the area. The report is indefinite regarding uses proposed and no specific site design (building layout, circulation/parking lot configuration, landscape borders, screening, loading zones, retention/detention area, etc.) is shown on the PDP. Sensitivity to the adjacent residential neighborhood is a high priority in *Plan Tucson*. Design of the rezoning site will be based on development standards and other requirements outlined in the *UDC*.

On August 20, 2019 the applicant held the required neighborhood meeting, where there were 9 neighbors in attendance, plus the applicants. A main issue discussed was security to prevent trespassing, crime, and other nuisances, including noise-generating uses. Neighbors stated a preference for retail/commercial services and an assisted living facility. The applicant stated that a minimum 6-foot high wall will be built along the west and north perimeter of the site, and provided some examples of how to mitigate noise-generating uses, such as placing them within enclosed buildings, locating them closer to Alvernon Way, and limiting hours of operation.

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.

Drainage/Grading/Vegetation – The site is in the Julian Wash watershed, a balanced basin. Downstream reaches of the Julian Wash are subject to flooding, the project shall be developed as a critical basin project. Landscaping in the form of drought-tolerant canopy trees, shrub and groundcover should be planted to enhance the overall visual impact of the uses and the parking area. Upon development the site will be required to meet the criteria in *Unified Development Code* 7.6. Landscaping and Screening.

Road Improvements/Vehicular Access/Circulation – The rezoning site is located along the west side of Alvernon Way. The site and its parking area will be accessed from Alvernon Way but the PDP does not show how many access points will be constructed, or their location. According to the *Major Streets and Routes Plan* map, Alvernon Way is a major arterial with a future right-of-way of 120 feet.

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

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated September 9, 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 minimum six (6) foot high masonry wall shall be constructed adjacent to residentially-zoned properties to the north and west of the rezoning site. Six (6) inch wide masonry block or greater shall be used for perimeter walls. 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. Commercial delivery hours shall be limited to between 7:00 am and 10:00 pm.
8. Food service uses shall be limited to between the hours of 5:00 am and 12:00 am.
9. There shall be no drive-thru loud speakers permitted.

10. All dumpsters, loading zones, and any other outdoor activities and noise generating uses, shall be located a minimum of 50 feet from the boundary of the residentially zoned property immediately to the west and north of the rezoning site.

TUCON AIRPORT AUTHORITY

11. According to the Federal Aviation Administration (FAA) Notice Criteria Tool, this project area is located in proximity to a navigation facility and could impact navigation signal reception. As the project site develops every project applicant shall file FAA Form 7460 with the FAA at least 45 days before construction activities begin for every proposed project unless FAA staff, with the Obstruction Evaluation / Airport Airspace Analysis (OE/AAA), provides the project applicant with written communication that filing FAA Form 7460 is not required. It is highly recommended that the applicant file earlier than 45 days to provide the applicant with sufficient time to respond to any concerns which are identified by the FAA. Any cranes which are used must also be identified with Form 7460. Please file Form 7460 at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>
12. Prior to the City's approval of this rezoning request, the property owner shall record the Avigation Easement which discloses the existence, and operational characteristics of the Tucson International Airport to future owners or tenants of the property and further conveys the right to the public to lawfully use the airspace above the property. The Avigation Easement shall be recorded in a manner with the Pima County recorder which shall document it as having title liability. The content of such documents shall be according to the form and instructions provided.

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 C9-19-19 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 C9-19-19.

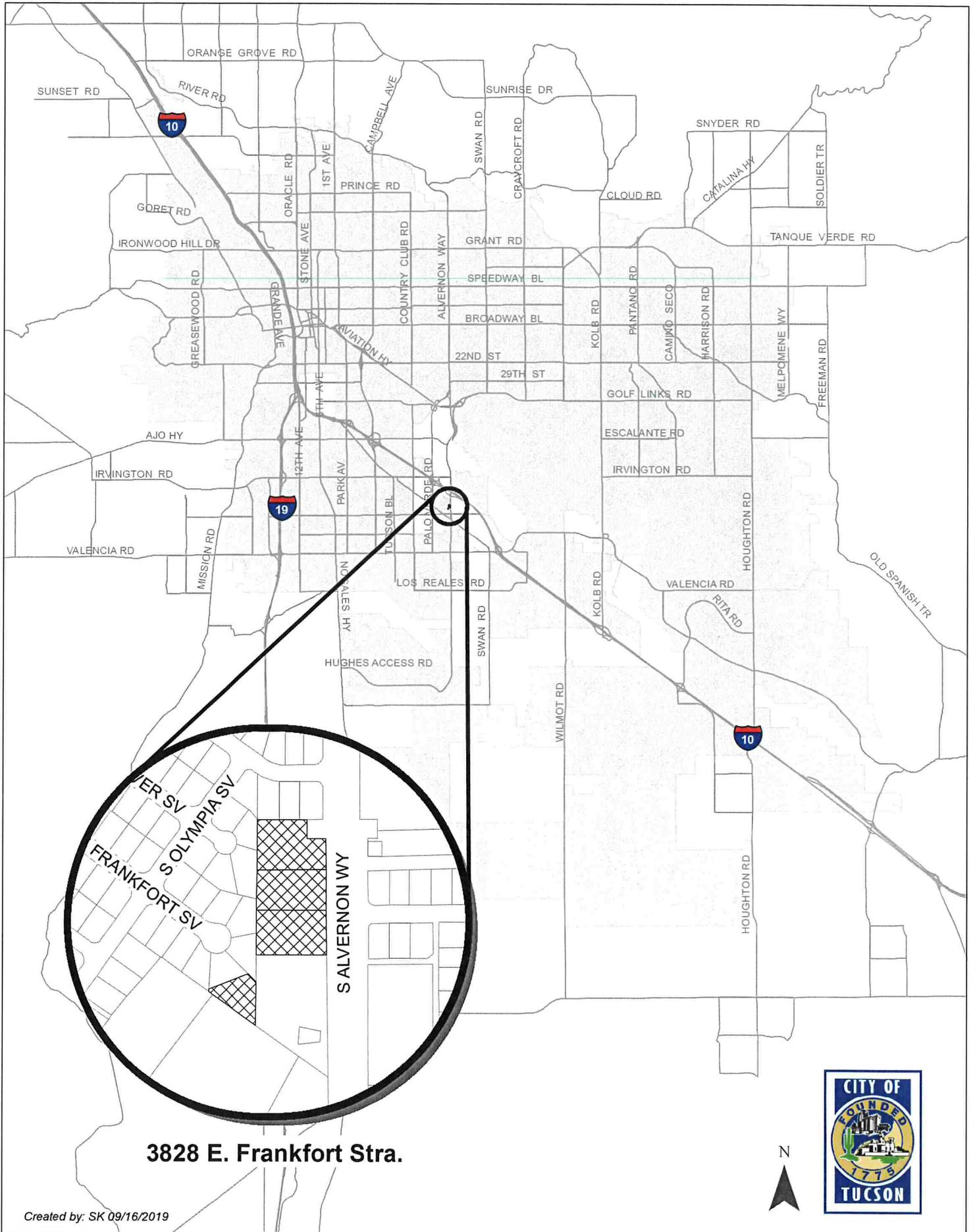
The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative 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.

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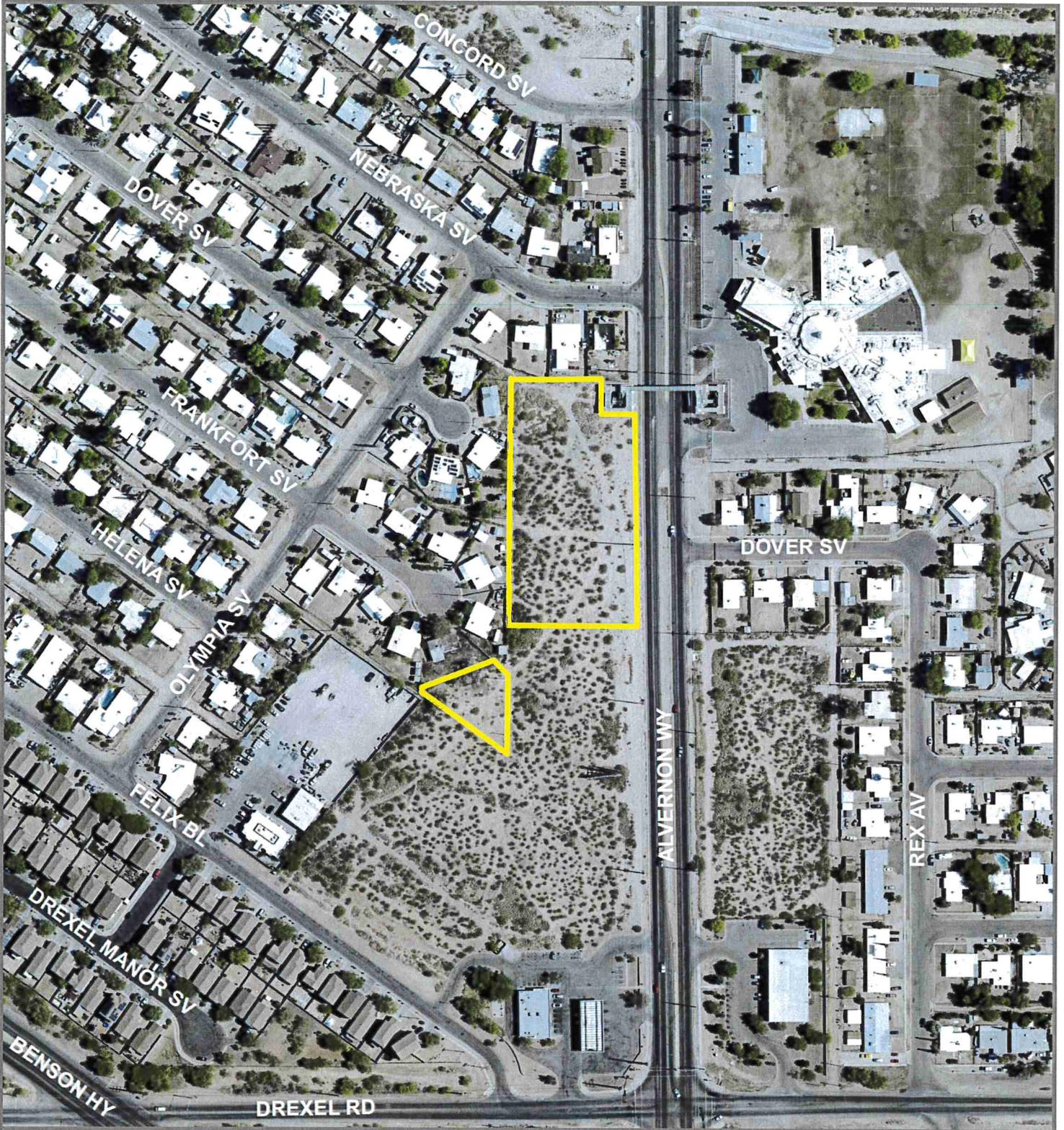
Rezoning Request: From R-1 to C-2



3828 E. Frankfort Stra.



C9-19-19 - Alvernon & Drexel
Rezoning Request: From R-1 to C-2



 Area of Rezoning: R-1 to C-2

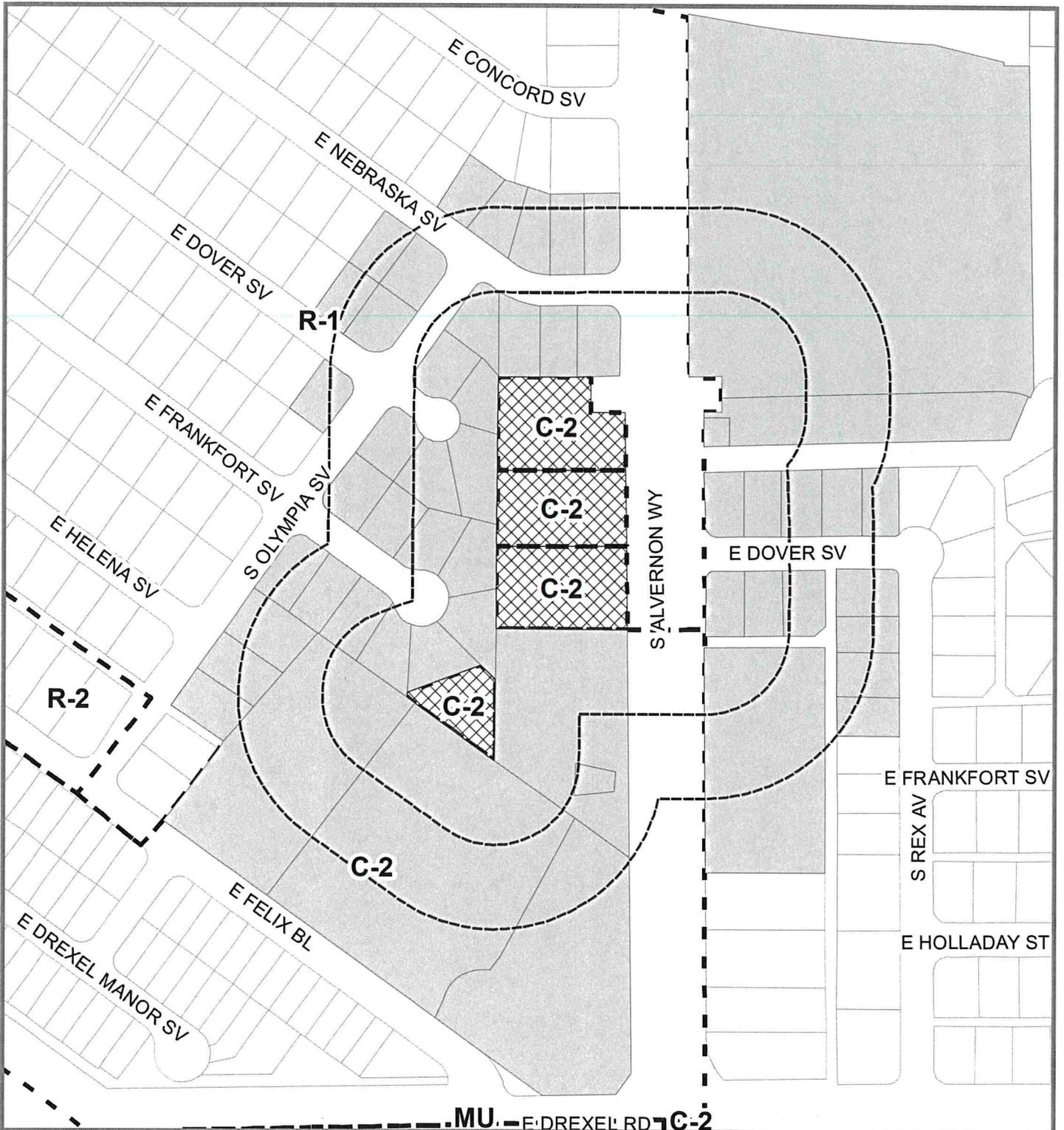
Address: 3828 E. Frankfort Stra.
Base Maps: Twp. 15S Range 14E Sec. 4
Ward: 5

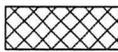
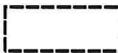


 Feet
0 125 250
1 inch = 250 feet

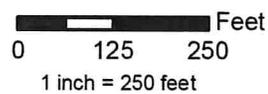


C9-19-19 - Alvernon & Drexel
Rezoning Request: From R-1 to C-2



-  Area of Rezoning: R-1 to C-2
-  Protest Area (150 foot radius)
-  Notification Area (300 foot radius)
-  Properties Notified
-  Zone Boundaries

Address: 3828 E. Frankfort Stra.
 Base Maps: Twp. 15S Range 14E Sec. 4
 Ward: 5



Place
Stamp
Here

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

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Expose this flap - Affix stamp and return



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

C9-19-19 PMc

IMPORTANT LAND USE CHANGE NOTICE ENCLOSED