



# ZONING EXAMINER

## REPORT TO MAYOR AND COUNCIL

August 15, 2019

**C9-19-06 Benedictine Monastery PAD – Country Club Road  
O-3 and R-3 to PAD zone (Ward 6)  
Public Hearing: August 1, 2019**

### **BACKGROUND**

This is a request by Corky Poster, of Poster Frost Mirto, Inc., on behalf of the property owner, Tucson Monastery, LLC, to rezone approximately 6.89 acres from O-3 and R-3 to PAD zoning. The rezoning site is located at 800 North Country Club Road, approximately 771 feet south of Speedway Boulevard (see Case Location Map). The proposed project is an adaptive re-use of the Benedictine Monastery site which would include rehabilitating and repurposing the monastery building with commercial and multi-family residential uses, as well as new construction of multi-family residential, and a parking garage. The new construction would have varied building heights of 35-feet, 45-feet and 55-feet. The PAD will include an Historic Landmark designation for the Benedictine Monastery.

### **PUBLIC HEARING SUMMARY**

#### ***Zoning Examiner Hearing August 01, 2019***

The Applicant's representative spoke in support of the proposed rezoning. A representative of the Miramonte Neighborhood Association spoke in opposition to the 45' height of the proposed buildings on the east side of the development along Anderson Boulevard. The speaker testified that this height was inconsistent with the *Miramonte Neighborhood Plan*, which provides for "carefully designed transitions between land uses" and "encourage[s] developers of higher density housing to step down heights and densities to the property edges." *Miramonte Neighborhood Plan*, Policy 1.1; Policy 3.2, Strategy 3.2.1. Another speaker testified that it was unfair for the building heights on the east side of the proposed development, adjacent to the Miramonte neighborhood, to be higher than the building heights on the west side of the proposed development, along Country Club Road.

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

As of the date of the Zoning Examiner's hearing, there were two (2) written approvals and three (3) written protests.

**FINDINGS OF FACT**

**Zoning Descriptions**

**Existing Zoning**

Office Zone (O-3) – Professional and semiprofessional office, high density residential developments, and limited research and development uses permitted.

Residence Zone (R-3) – This zone provides for high density, residential development and compatible uses. Civic, educational, recreation, religious uses, and select other uses, such as day care and urban agriculture, are also permitted.

**Proposed Zoning**

Planned Area Development (PAD) – The purpose of the Planned Area Development (PAD) zone is to enable and encourage comprehensively planned development in accordance with adopted plans and polices.

Historic Landmark (HL) – The PAD will include Historic Landmark designation for the Benedictine Monastery (HL area specifically dimensioned) that imposes standards and procedures that are in addition to those required under the PAD zoning standards.

**Surrounding Zones and Land Uses**

North: Zoned O-3 and C-1; Administrative and Professional Office; General Merchandise Sales

South: Zoned O-3; Administrative and Professional Office

East: Zoned R-3 and R-2; Residential

West: Zoned R-1; Residential

**Planning Considerations**

Land use policy direction for this area is provided by *Plan Tucson, Alvernon-Broadway Area Plan* and *Miramonte Neighborhood Plan*.

*Plan Tucson* – *Plan Tucson* supports maintaining the character of existing neighborhoods, while accommodating some new development and redevelopment, and encouraging reinvestment and new services and amenities that contribute further to

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

neighborhood stability. It supports adaptive reuse of historic landmarks and the preservation of Tucson's historic architecture. *Plan Tucson* supports high density residential and commercial development along arterials. It supports infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adheres to relevant site and architectural design guidelines. It encourages special zoning districts, such as Planned Area Developments (PAD) or overlay districts, as a way to promote the reuse of historic structures or sites, foster mixed-use activity nodes, and pedestrian and multi-modal oriented development areas.

*Alvernon-Broadway Area Plan* - The *Alvernon-Broadway Area Plan (ABAP)* general goals are to identify appropriate locations for new development, and to protect and preserve the integrity of established residential, low-density neighborhoods. The *ABAP* identifies the rezoning site for commercial-neighborhood level, office, and high density residential land uses. The *ABAP* defines neighborhood-level commercial as commercial uses intended primarily to serve a local neighborhood market, for example those uses allowed in the City's C-1 zone. It states that high density residential uses are generally appropriate along arterial streets, with residential development that is sensitively designed to enhance existing land uses by compatibility of scale, density, and character with existing development. Nonresidential uses are intended to be at locations that are most suited to handle the intensity of such uses in terms of traffic generation and other potential impacts on adjacent residential uses. Nonresidential uses should be along arterials, with all parking needs met onsite. Screening and buffering for adjacent residential uses must be provided on-site. The *ABAP* suggests providing setbacks and a transition of heights and/or densities for proposed development which is adjacent to less intense uses, unless other mitigation measures provide adequate buffering. It calls for a transition of building heights downward from the arterial street frontage along Country Club Road towards adjacent residential uses to be compatible with adjacent buildings. The *ABAP* calls for minimizing traffic impacts of Country Club Road on surrounding neighborhoods and encouraging the enhancement of the visual streetscape along Country Club Road.

*Miramonte Neighborhood Plan* - The *Miramonte Neighborhood Plan (MNP)* and the *ABAP* were amended December 18, 2018 (Resolution 22976) to allow for adaptive re-use of the Benedictine Monastery site. The amended Conceptual Land Use map identifies the amendment site for commercial-neighborhood level, office, and high density residential. *MNP* - Policy 2.4 calls for the preservation and reuse of the Benedictine Monastery site. This section of the *MNP* encourages the preservation of the Benedictine Monastery through an Historic Landmark designation process. It allows a maximum height of 55-feet, but with step downs towards Country Club Road, with architectural style of new development to be compatible with the monastery and the overall design character of the

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

adjacent neighborhoods. It allows 250 new construction residential units, and additional residential units allowed in the monastery above that amount, with no limit to the number of potential residential units to be located inside the existing monastery. The amendment required that an advisory committee with neighborhood representation be formed during the PAD rezoning process to ensure neighborhood input and feedback throughout the design and PAD rezoning. *MNP*, Section 2.4.6 calls out the terms of an agreement made during the plan amendment process as binding conditions within the PAD document.

The *MNP* calls for preserving the character of the neighborhood by ensuring that future land uses make a positive contribution to the neighborhood through such elements as an increase in home ownership in both low and high density development; a diverse mix of land uses that contribute to the traditional character of the neighborhood; carefully designed transitions between land uses; functional open space in all residential zones; green and sustainable development; and the use of native and/or drought tolerant plant materials.

The *MNP* supports the preservation and economic sustainability of the Benedictine Monastery as an important historic site, including preservation of the landscape buffering. The *MNP* calls for creating transitions between residential and commercial areas. It encourages that high density housing step down heights and densities to the property edges and extensive use of landscape plant materials and screening to buffer the edges of higher density residential development.

***PAD Zoning Standards***

The Benedictine Monastery PAD utilizes the basic parameters of the C-1 zone, with the PAD consisting of a single modified zoning district with specifically crafted development regulations and guidelines for the property in its entirety. Only the permitted land uses specified in the PAD and the historic designation documents are permitted within the PAD (See Part 3.B Permitted Uses, A, page 56-58). It should be noted that land uses such as Group Dwelling, Large Bar, and Large Dance Hall are not permitted. The PAD does not allow for personal storage except for tenants of the property. The PAD proposes 253 new construction residential units, 35 rehab residential units within the monastery, and approximately 20,000 square feet of commercial uses. The concept plan shows commercial uses located within the monastery building and at the northwest portion of the site along Country Club Road (see Exhibit 3A, page 53). The proposed residential parking requirements are 1.08 spaces per residential unit and non-residential parking at 1 space for each 400 square feet of non-residential space (see Part 3.C Development Standards,8, page 61). The garage is currently planned for four levels and 216-230 vehicles, with an additional 140-160 surface parking spaces currently planned. The proposed parking garage will have a maximum building height of 55-feet. Buildings

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

fronting on Country Club Road, excluding the Benedictine Monastery building and the parking garage, will have a maximum building height of 35-feet. Buildings along Anderson Boulevard are proposed to have a maximum building height of 45-feet. All other structures will have a maximum building height of 55-feet (See Exhibits 3B and 3C, pages 63-64).

The Benedictine Monastery PAD includes in Appendix A a copy of the December 18, 2018 plan amendment (Resolution 22976) to both the *Alvernon-Broadway Area Plan* and the *Miramonte Neighborhood Plan* that provided for adaptive re-use of the Benedictine Monastery. Appendix A also includes a table that outlines how the implementation of these Plans is being addressed within the PAD document, citing both amendment language and conditions, and then relating them to the corresponding sections within the PAD.

**Transportation Standards**

Country Club Road is identified as an arterial road on the City's Major Streets and Routes Map. The applicant's Traffic Impact Study indicates that at full build-out the proposed development is expected to generate a total of 2,536 daily trips, 211 AM Peak Hour trips, and 230 PM Peak Hour trips. The mode traffic split is estimated at 60% autos, 25% bicyclists, and 15% pedestrian/transit users.

In lieu of the standard dedication of right-of-way according to the City of Tucson Major Streets and Routes plan, the PAD contains language agreed upon by both the City of Tucson Department of Transportation and the developer in which the developer covenants and agrees to control this strip of right-of-way, but will transfer it at no cost to the City of Tucson in the event of a future widening of Country Club (See Part 3, page 55). There are two primary access points along Country Club Road with one access point on 2nd Street. No primary access will be allowed on the east side of the property along Anderson Boulevard; however, there will be one controlled service access point not available to project residents (See Exhibit 3D, page 65). A two-way left turn lane along Country Club Road will be designed and constructed by the developer, including addition of new 5-foot sidewalks along the property on local streets, with a 6-foot sidewalk along Country Club Road (see Exhibit 3E, page 66).

**PAD Historic Landmark Standards**

The boundary of the Historic Landmark area within the PAD encompasses 51,501 square feet of the total 6.89 acre PAD site. Part 3, D, Historic Landmark Standards, outlines the design guidelines for the exterior of the Benedictine Monastery based on the Secretary of

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

the Interior Standards for the treatment of Historic Properties. This section includes an Historic Landmark development standards table. Part 3, Section F outlines the design review process for the HL, with a full review by the Tucson-Pima County Historical Commission, Plans Review Subcommittee required for any project involving a building permit or modification of the exterior appearance of the monastery.

The PAD document states that Secretary of the Interior Standards for new construction adjacent to Historic Structures will provide the following limited guideline: new additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. The developer's proposal accomplishes this by the following:

- The massing and heights of the new construction reflect those of the Monastery.
- The 55' height matches the Chapel facade.
- The lower level arcade on the Country Club north facade recalls the arcade porch of the Monastery.
- The heavy chocolate brown lower level of the new work matches the Roy Place poured stone columns and Chapel entry.
- Like the Monastery, the upper level stucco lightens the massing. The upper-most levels further lighten with a glass and metal finish.
- The proposed new construction is contemporary, having "its own time and place." But the design is carefully organized to be respectful of Roy Place's legacy.

**CONCLUSION**

The request to rezone the site to PAD zoning is consistent with *Plan Tucson*, the *Alvernon-Broadway Area Plan*, and the *Miramonte Neighborhood Plan*, which recognize this site as appropriate for an adaptive reuse project of the Benedictine Monastery site with a mixed-use project consisting of residential, office and commercial/retail uses.

There is, however, a conflict among some of the policy goals and strategies within the *Miramonte Neighborhood Plan* in the context of the proposed development. The December 18, 2018 Plan Amendment specifies that "residential heights [be] based on the careful design of the project, allowing heights to 55' (as defined by Section 6.4.4 of the Unified Development Code), but with step downs toward Country Club Road." *MNP* Policy 2.4, Strategy 2.4.3 (amended December 18, 2018). The December 18, 2018 Plan Amendment does not require a similar step down toward Anderson Boulevard and the Miramonte neighborhood. However, the December 18, 2018 Plan Amendment did not alter *MNP* Policy 3.2, Strategy 3.2.1, which "encourage[s] developers of higher density

**C9-19-06 Benedictine Monastery PAD  
O-3 and R-3 to PAD Zone (Ward 6)**

housing to step down heights and densities to property edges.” It would appear that Strategy 3.2.1 would counsel stepping down the heights of the buildings adjacent to Anderson Boulevard.

Under Arizona law, zoning must be consistent with adopted land use plans. However, basic harmony with the entire land use plan, not exact conformity with each element, is what is required. *Haines v. City of Phoenix*, 151 Ariz. 286 (1986). Judged by this standard, the proposed PAD is consistent with the *MNP*.

**RECOMMENDATION**

The Zoning Examiner recommends approval of the proposed rezoning.

Sincerely,

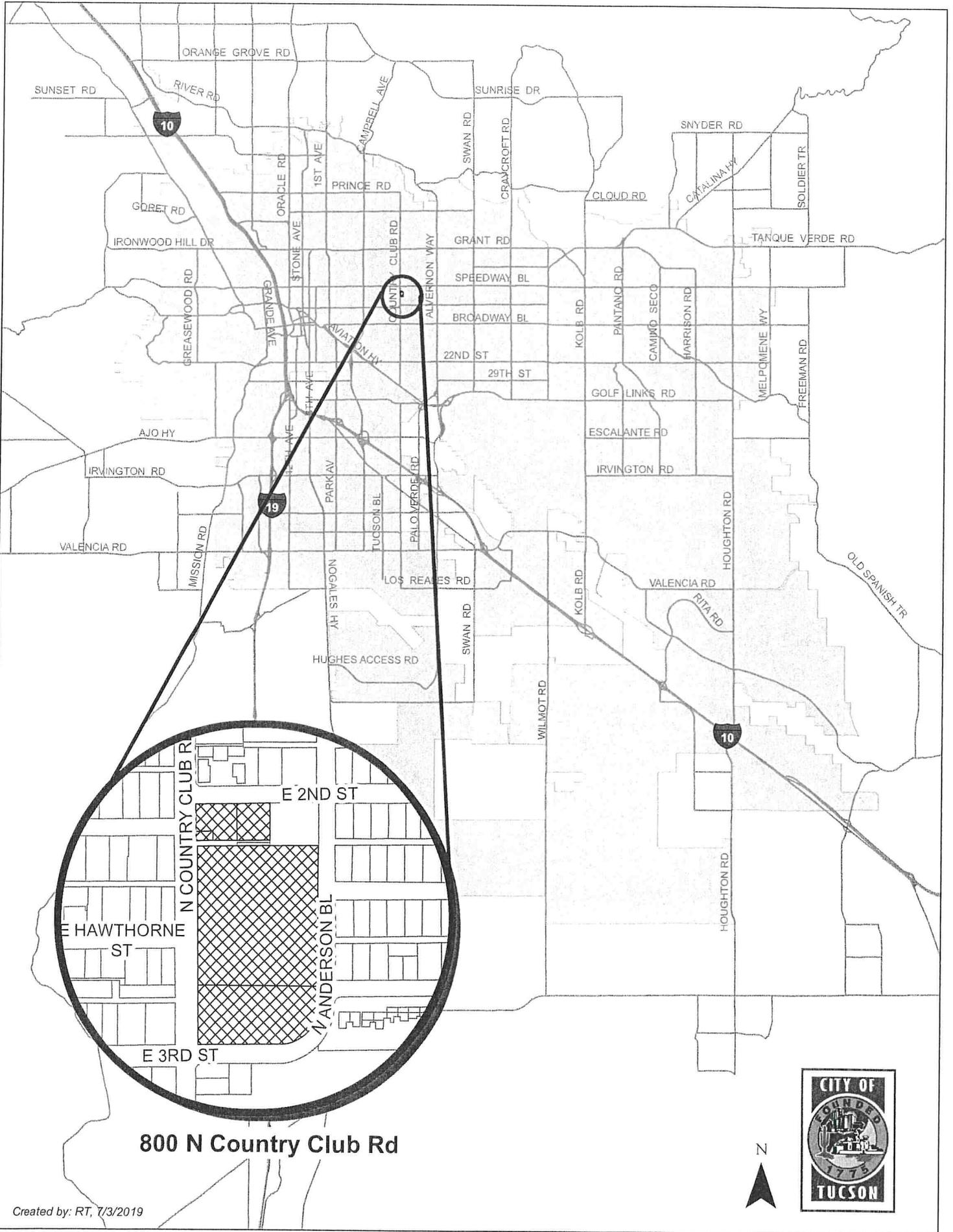
John Jurino  
Zoning Examiner

**ATTACHMENTS:**

Case Location Map  
Rezoning Case Map  
Public Hearing Minutes

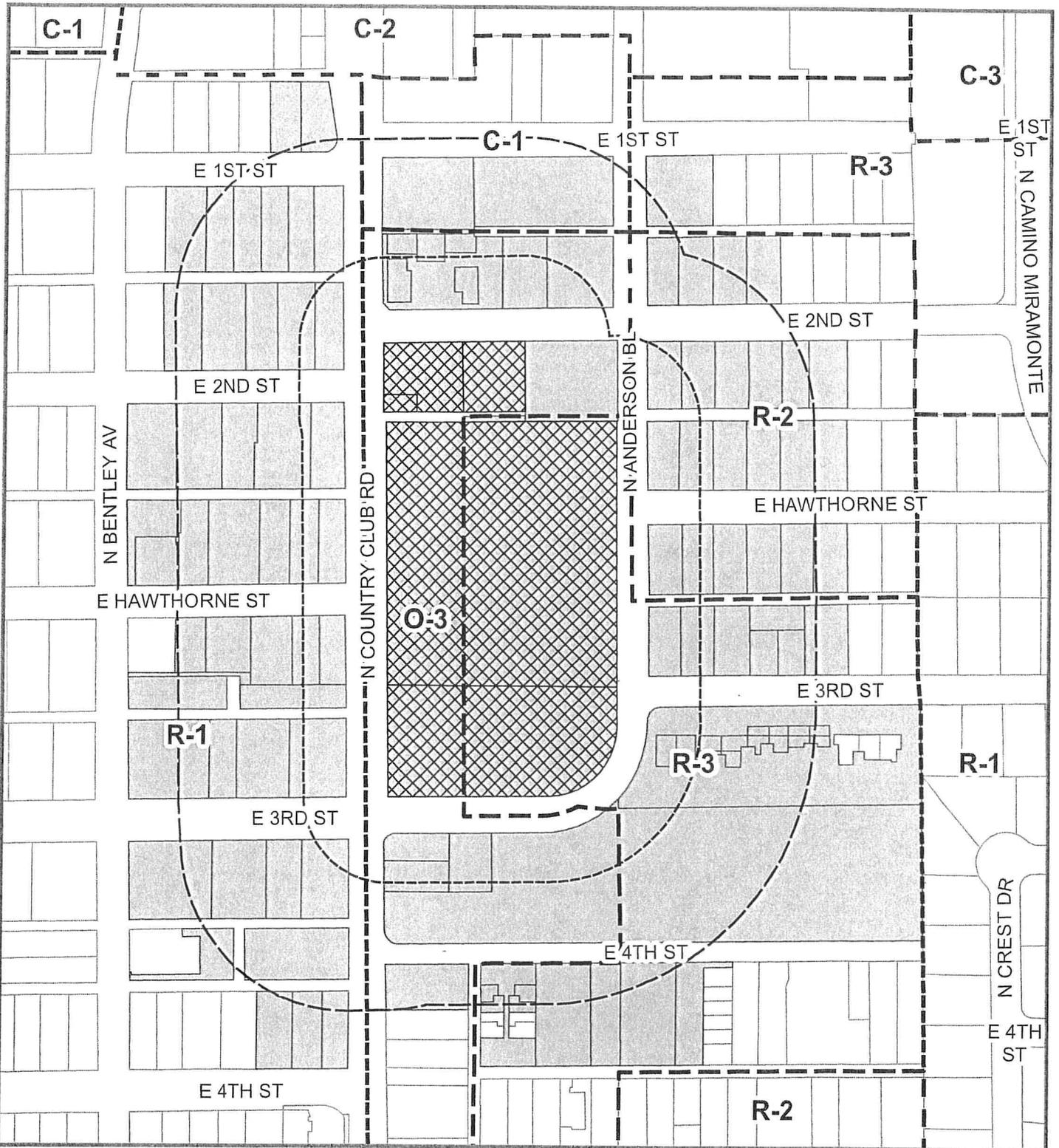
cc: City of Tucson Mayor and Council

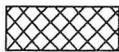
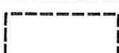
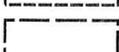
**C9-19-06 -Benedictine Monastery**  
Rezoning Request: From O-3/R-3 to PAD



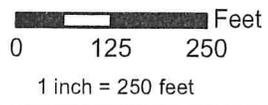
**800 N Country Club Rd**

**C9-19-06 -Benedictine Monastery**  
 Rezoning Request: From O-3/R-3 to PAD



-  Area of Rezoning: O-3/R-3 to PAD
-  Protest Area (150 ft. radius)
-  Notification Area (300 ft. Radius)
-  Zone Boundaries
-  Properties Notified

Address: 800 N Country Club Rd.  
 Base Maps: Twp.14S Range 14E Sec. 9  
 Ward: 6



ZONING MEMBERS PRESENT:

John Iurino, Zoning Examiner  
John Beall, Planning & Development Services  
Mari-Carmen Grimm, City Recording Clerk

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1                   ZONING EXAMINER: And the next case is Case: C9-19-06  
2 Benedictine Monastery PAD. Mr. Beall?

3                   MR. BEALL: This is a request by Corky Poster of Poster  
4 Frost Mirto on behalf of the property owners, Tucson Monastery, LLC,  
5 to rezone approximately 6.89 acres from O-3 and R-3 to PAD zoning.  
6 The rezoning site is located at 800 North Country Club Road,  
7 approximately 770 feet south of Speedway Boulevard.

8                   The proposed project is an adaptive reuse of the  
9 Benedictine Monastery site which would include rehabilitating and  
10 repurposing the monastery building with commercial and multi-family  
11 residential uses, as well as new construction of multi-family  
12 residential and a parking garage.

13                   The new construction will have varied building heights  
14 ranging from 33 feet, 44 feet and 55 feet, and the PAD will include a  
15 Historic Landmark designation for the Benedictine Monastery.

16                   The Benedictine Monastery PAD utilizes the basic parameters  
17 of the C-1 zone with the PAD consisting of the single, modified zoning  
18 district with specifically crafted development regulations and  
19 guidelines for the property in its entirety.

20                   Only the permitted land uses specified in the PAD and  
21 historic designation documents are permitted within the PAD. It  
22 should be noted that land uses such as group dwelling, large bar and

1 large dance hall are not permitted. The PAD does allow for personal  
2 storage but only for tenants of the property.

3 The Benedictine Monastery PAD in Appendix A includes a  
4 table that outlines how the implementation of these plans is being  
5 addressed within the PAD document, citing both amendment language and  
6 conditions and then relating them to the corresponding sections within  
7 the PAD.

8 Part 3-D of the Historic Landmark standards within the PAD  
9 outline the design guidelines for the exterior of the Benedictine  
10 Monastery based on the Secretary of the Interior standards for the  
11 treatment of historic properties.

12 The request to rezone the site, the PAD zoning is  
13 consistent with Plan Tucson, Alvernon-Broadway Area Plan and the  
14 Miramonte Neighborhood Plan which recognize this site as appropriate  
15 for an adaptive-use project of the Benedictine Monastery site.

16 A plan amendment has been approved to facilitate the PAD  
17 rezoning. No additional conditions are recommended for the  
18 Benedictine Monastery PAD. Approval of the requested Benedictine  
19 Monastery PAD is appropriate only if C9-19-07 Benedictine Monastery  
20 (Historic Landmark) is approved by Mayor and Council.

21 As of to date, there have been two approvals and three  
22 protests. Two, two of those protests are outside the 150-foot area.  
23 And then there's one protest within 150 feet.

24 ZONING EXAMINER: Thank you. Mr. Poster?

1           MR. POSTER: Thank you again for the opportunity to speak.  
2 I just wanted to, as a preamble, talk a little bit about the  
3 relationship of this P-A-D to the plan amendment.

4           When we originally put together a proposal for this site,  
5 it went to City Staff and the City Staff pointed out an item in the  
6 mapping of the allowable future zoning which was not compatible with  
7 our recommendation. Some of us thought that the plan amendment  
8 repairs would only have to be repaired for that map. Others thought  
9 otherwise.

10           And so, we proceeded with a plan amendment that was  
11 specific. There are a lot of people who felt that the plan amendment  
12 was the gateway to the P-A-D, and didn't want to give approval to that  
13 without a very, very specific language in the P-A-D.

14           And that's how it was passed on a seven - eight, seven/zero  
15 vote by the Mayor and Council, with quite specific language about  
16 heights and setbacks and, and all of the things that are most often in  
17 a P-A-D, and less, less often in a, in a plan amendment.

18           So, what I'm gonna present tonight is by our reckoning,  
19 completely consistent with the P-A-D, by Staff's evaluation completely  
20 consistent, excuse me, completely consistent with the plan amendment,  
21 by Staff's evaluation completely consistent with the plan amendment,  
22 and follows very closely what we presented at, at that time.

23           So, now, this is the second part. We're looking at the PAD  
24 rezoning. The site, as it existed, had quite unusual zoning. There  
25 was an R-3 high density on the east side, an O-3, and it ran right

1 down the middle of the site, and in particularly right down the middle  
2 of the, of the Benedictine Monastery itself.

3 The R-3 and O-3 both allowed 40-foot height throughout the  
4 site. And so, what you're gonna see tonight is, in some cases, in  
5 excess of that height; in some cases, below that height. But in no  
6 cases is it substantially differing from that height.

7 So, in order to do the project we wanted to do, we've  
8 chosen to prepare a PAD so that we could make modest changes to that  
9 previous existing kind of odd zoning that split the site.

10 We had to do a plan amendment to do that, both the  
11 Miramonte Neighborhood Plan and the Alvernon-Broadway Plan. And as I  
12 suggested, it, it repaired that defect in the map, but also had a  
13 great number of other requirements that, that were part of that.

14 It went to the Planning Commission who continued their  
15 first public hearing on the plan amendment, and asked us to set up a  
16 substantial neighborhood negotiation to deal with issues that seemed  
17 unresolved at that point, and we did that. We came back with a  
18 written agreement about how that should proceed.

19 The Planning Commission was unable to make a decision and  
20 therefore made no recommendation to the Mayor and Council. It was an  
21 arduous process, as you know and we were glad to get through it. But  
22 we were happy that there was a seven/zero vote at the Mayor and  
23 Council on December 18<sup>th</sup> of 2018.

24 And what progress did we make from our very inception of  
25 the project to, to our, our submission to the P-A-D? This was the

1 project that we proposed on March 28<sup>th</sup>, 2018, in an informal  
2 neighborhood meeting. The buildings on the north and south were  
3 88 feet down to 55 feet, and along Anderson and about 35 feet along  
4 Country Club.

5 In the March proposal, March 2018 proposal, that's more  
6 than a year ago, there was no historic protection. The heights were  
7 88, 55 and 44, compared to the allowable 40. There was the derelict  
8 property north that had an abandoned house which has since been  
9 acquired.

10 There were commercial - it allowed for commercial - that we  
11 were proposing commercial use of the monastery, it was all surface  
12 parking and there were the same number of units as the allowable  
13 underlying zoning and no design review if we proceeded with the  
14 underlying zoning.

15 In December 18<sup>th</sup>, the agreement we made with neighbors  
16 agreed to Historic Landmark. It agreed to heights of 55, 44 and 33,  
17 again compared to the allowable 40. Mr. Rulney acquired the north  
18 property and demolished the abandoned, derelict house, much to the  
19 delight of neighbors in the area.

20 We are proposing a mix of uses in the monastery. We've  
21 added a parking structure in the north. We're at the same number of  
22 allowable new units as the underlying zoning. We worked with the  
23 Design Advisory Committee that came out of that process.

24 We had four very successful meetings in the early-spring of  
25 this year. There's - public use will be in the chapel group dwelling,

1 that is, student housing would be prohibited. We have agreed to no  
2 Miramonte auto or pedestrian entries along the perimeter, and agreed  
3 to save the oleanders.

4 ZONING EXAMINER: Going forward, who maintains that, the  
5 oleanders?

6 MR. POSTER: We do.

7 ZONING EXAMINER: The owner.

8 MR. POSTER: The, the owner of the property. Then  
9 developed standards in the P-A-D. You can't read it all, but if you  
10 can read it in detail in your report, basically, the blue, north and  
11 south are 55 feet. The - along Country Club, both of those lower  
12 areas in yellow and in orange are about 35 feet, as is the west,  
13 excuse me, as is the north parking garage, although we're proposing  
14 allowable heights to 55. We're showing setbacks in the white area  
15 that you can see. We're showing heights that are 55 -

16 ZONING EXAMINER: If I may. What's the setback from  
17 Anderson?

18 MR. POSTER: Step down from Anderson is -

19 ZONING EXAMINER: Setback.

20 MR. POSTER: Setback is - let me go back. I think it's 45  
21 feet, if I'm not mistaken, 50.

22 ZONING EXAMINER: And since you me say step down, I was  
23 gonna ask you that, too. What's the step down at Anderson?

24 MR. POSTER: Anderson, the building goes from five to four  
25 and then to Anderson, set back from there.

1 ZONING EXAMINER: I see. The north and south buildings -

2 MR. POSTER: Are five in blue.

3 ZONING EXAMINER: (Inaudible)

4 MR. POSTER: Yeah. Five stories, 55 feet roughly. The  
5 pink building is 40 feet. The reason we distinguish between the  
6 yellow and orange is the yellow is three stories of residential. The  
7 orange is two stories of residential over commercial.

8 Landscape plan, pedestrian concept. We had a lot of  
9 discussion about exactly what that big, red circle is on the back gate  
10 at Anderson and agreed that it was a service-only, and that residents  
11 of the monastery development would not have access to that. So, it's  
12 keyed essentially by the owner.

13 And then no other pedestrian access anywhere until you get  
14 to the north on Second. And then there's also a gate for bicycles out  
15 on the south by the Third Street bicycle paths across Country Club.  
16 You'll see that in a, in a minute.

17 This is a trash collection in purple. Loading zone in  
18 green. And then the - another issue that was substantial discussion  
19 was the traffic and the relation to the Major Streets and Routes Plan.  
20 I'm not a big fan of the Major Streets and Routes Plan, but I won't go  
21 into that.

22 We were, the - currently, the road is 57 feet wide in front  
23 of the monastery. The Major Streets and Routes Plan says it will be a  
24 hundred feet wide. That would entail the demolition of 21 homes in

1 the Sam Hughes area to do a bilateral widening and the relocation of a  
2 major high voltage power line that was just put in.

3 We are of the opinion that that widening is never gonna  
4 happen, but the Major Streets and Routes Plan is still the law of the  
5 land and we agreed to language that said that it is our property at  
6 the present time.

7 If there is a funded widening of Country Club that requires  
8 our bilateral, our side of the street to be ten feet wider, that we  
9 would give that land to the City of Tucson for no cost. That has been  
10 approved by T-DOT and we're comfortable with that.

11 We also agreed to a cen- -- a continuous center turn lane.  
12 Country Club for almost its entire length is four lanes without a  
13 center turn lane. We agreed it's wider here so we can actually do  
14 that without changing the curb-to-curb dimension.

15 And so, we agreed to a center turn lane that would give not  
16 only access to the two entries along Country Club, keep in mind north  
17 is left, but also would give better traffic control in turning into  
18 the Sam Hughes Neighborhood northbound.

19 There was a lot of discussion about deceleration lanes, but  
20 our traffic analysis ultimately decided that it was not necessary and  
21 T-DOT agreed with that analysis.

22 And then finally, we, in contrast to that first drawing I  
23 showed you, these are the drawings that show the heights of the  
24 building relative to the monastery. Again, roughly 35 feet along  
25 Country Club.

1           We're showing a 38-foot garage at the corner, although the  
2 P-A-D allows it to be taller. Right now, we're thinking not to go  
3 taller, but we're looking for that flexibility, which was also allowed  
4 in the plan amendment.

5           And then the, the building setbacks. So, these are the -  
6 on top is the west elevation facing Country Club. The next is a  
7 section drawing through the major elements of the site looking west.

8           The building - the next elevation is the Anderson  
9 elevation. It's got about 15-foot of oleander at the property line.  
10 And the building is roughly 44 feet, but it goes down to lower heights  
11 in that gap between the two buildings, giving a little bit more access  
12 and view of the monastery tower.

13           And the next section is a, a section through the garage and  
14 an interior view of the five-story buildings on site. This is current  
15 designs. It's illustrative only. We're here for a rezoning request.

16           And then finally we had a lot of - well, four excellent  
17 Design Advisory Committee. We had three representatives from  
18 Miramonte Neighborhood and three representatives from Sam Hughes.

19           We met on four occasions, and the quote up there is from a  
20 report that Ruth Beeker wrote, who is a member of the committee. The  
21 Design Advisory Committee concluded that the relationship and  
22 coordination between the developer and the neighborhood  
23 representatives have been cordial and much improved over time as  
24 positions were clarified and modifications made. A little bit  
25 (inaudible) praise, but we'll take it. And that's the conclusion.

1           ZONING ECAMINER: Okay. Thank you. Who else would like to  
2 speak? Ms. Beeker?

3           MS. BEEKER: Actually, I did not write that quote that he  
4 had up there. That was written by another woman on the committee and  
5 I did a re-write of the document, so believe that. But it come from  
6 our committee certainly.

7           I really want to bring three perspectives to this case.  
8 I'm a neighbor who lives 500 feet east of the monastery. I'm a  
9 Miramonte Neighborhood resident and I'm co-founder, co-founder of the  
10 Tucson Residents of Responsive Government, called TRIG.

11           It's a grassroots organization seeking good public process  
12 in city government. And I've been following this permitting process  
13 for the full 20 months. The first year was uniquely ugly. What  
14 should have been a meaningful-planned area development rezoning  
15 process this year was preempted during the plan amendment process at  
16 Planning Commission last fall.

17           First, as a nearby neighbor, I regret that five acres of  
18 open space containing some tall trees will be replaced with rooftops  
19 and asphalt. I regret that neighbors were denied the opportunity to  
20 explore options to increase height of buildings to the north and south  
21 which could have lowered the height to the east or could have created  
22 more open space on the grounds.

23           Second, as a Miramonte resident, I regret that Mayor and  
24 Council added a page to the Miramonte Neighborhood Plan which set  
25 binding conditions for this project, conditions written by a small

1 invited group without any public notice. I regret that our  
2 neighborhood association was bypassed in the permitting process and  
3 that our President was treated disrespectfully.

4 And third, as the advocate for good city process, I regret  
5 that every one of Tucson Residents for Responsive Governments five  
6 essential elements of good government were repeatedly violated.  
7 Integrity, transparency, accountability, collaboration, and  
8 sensitivity to quality of life. They all took numerous hits.

9 But I had the opportunity to serve on the Design Advisory  
10 Committee earlier this year. I believe that Corky Poster's firm has  
11 produced an architectural design for the new construction which  
12 complements the historic site.

13 Unfortunately, any role in setting significant building  
14 parameters for the entire project had been taken away from the  
15 architect, as well as us as neighbors, when Mayor and Council passed  
16 the Miramonte Plan amendments on December 18<sup>th</sup>, 2018.

17 But in our committee work, we did have the opportunity to  
18 raise questions and make suggestions on lesser topics. We frequently  
19 saw our input reflected on the computer screen as the project evolved.

20 While this may take years, and I will be dead, I believe  
21 that people will come to recognize this development as one of Tucson's  
22 best designed in-fill projects, if not the best, since the turn of the  
23 century. The Benedictine will have an elegance and attention to  
24 detail to ensure the site's continued recognition as a community  
25 legacy. Thank you.

1           ZONING EXAMINER: Thank you very much. Would anyone else  
2 speak? Please come forward.

3           MR. BEHREND: Mr. Zoning Examiner, Mr. Beall, thanks for  
4 the opportunity to speak tonight. My name is Sam Behrend. My wife  
5 and I are the owners of a home adjacent to this property that is along  
6 Anderson, corner of Anderson and Third Street.

7           And tonight, I'm also here representing the Miramonte  
8 Neighborhood Association, whose Board I'm on. And I'll point out that  
9 our President is here as well, Chuck Bayles, who's the President of  
10 Miramonte Neighborhood Association.

11           You received a letter from the association. I'm gonna  
12 leave another copy of it because I made a correction in which I  
13 mistakenly pointed to the Country Club side of the property as being  
14 east, when in fact it's the west side of the property.

15           ZONING EXAMINER: It's okay.

16           MR. BEHREND: All right. Almost two years ago in October  
17 of 2017, I met with Councilman Kozachik, Ross Rulney, who was just,  
18 was in the process of buying this property and two other neighbors,  
19 neighbors. And we walked this property and Mr. Rulney talked about  
20 his vision of building 222 one-and-two-bedroom apartments on the  
21 property.

22           He explained that that number was arrived at by looking at  
23 the existing zoning, which you've heard from Corky, was a combination  
24 of R-3 and O-3 -- is that right? But he was willing at that time to  
25 work under the existing zoning. He said specifically he didn't want

1 to go through any long processes. He didn't want to go through  
2 rezoning or anything like that, but he was going to build these 222  
3 apartments. He wasn't gonna need any approval, he was just gonna do  
4 it.

5 I think what happened soon after that, and this is before  
6 Corky was involved in the project, was that the only way he could  
7 achieve that goal was by tearing down the Benedictine.

8 And it was clear from the beginning, and I attended a  
9 couple of meetings where Council Member Kozachik said specifically to  
10 him, "If you do that, you'll rot in hell." But I think that was the  
11 sense of the community and that was the sense of pretty much everyone  
12 involved that tearing down the existing building was not an option.

13 Unfortunately, he couldn't make 222 apartments fit on that  
14 property with the height of 40 feet. And therefore, his next course  
15 of action that he took was to look at the zoning change, and  
16 particularly the option of doing a PAD. And sometime after that, he  
17 hired Corky.

18 You have, I assume, or can acquire the Miramonte  
19 Neighborhood Plan, you've got it right there. This plan is often  
20 pointed to as a model for the neighborhood plans in the city.

21 It, it was a long and thorough and exhaustive process, and  
22 in fact, Corky Poster was very much involved in developing the  
23 Miramonte Neighborhood Plan, as well as other people, some of whom are  
24 here in this audience who were on the Board of the association at that  
25 time.

1           When the, when the need to amend the plan was presented,  
2 and there was a, there were a group of neighbors who did meet and you  
3 heard about that and an agreement that took place. When that  
4 agreement went back to the neighborhood association, its reaction was,  
5 "The plan is too tall on the east side, on the Anderson side."

6           It needs to be a maximum of three stories to match the  
7 three-story step down to the west so that the heights to the Sam  
8 Hughes Neighborhood would be no less than the heights to the Miramonte  
9 Neighborhood.

10           And so, the association voted unanimously to protest the  
11 plan amendment and did so at the Planning Commission and at the Mayor  
12 and Council and - but not - but, but to no avail. But the part of the  
13 plan amendment - I'm sorry. The part of the plan - let me just read a  
14 couple things from the plan that were not amended that stand in this  
15 plan, and this will be brief. Go one, Policy 1.1.

16           ZONING EXAMINER: If you'd give me pages, too, it would  
17 help.

18           MR. BEHREND: Sure. Page 12.

19           ZONING EXAMINER: Okay.

20           MR. BEHREND: 1.1.

21           ZONING EXAMINER: Okay.

22           MR. BEHREND: Third bullet. "Carefully design transitions  
23 between land uses." And one more on page 17 under 3.2. "Encourage  
24 developers of density, of higher density housing to step down heights  
25 and densities to the property edges."

1           Those are just two, two of the statements that I think are,  
2 are relevant and are still a part of this plan.

3           The reason that the Miramonte Neighborhood Association is  
4 protesting this zoning is because the - it feels - we feel that the  
5 heights of the buildings along Anderson are too tall. That's, that's  
6 pretty much it. We have concerns about traffic. We have concerns  
7 about parking. Those things will be worked out as the project moves  
8 forward.

9           But to allow heights that are twice - essentially four  
10 stories where there's nothing anywhere adjacent or near that's more  
11 than two stories, everything to the east is one or two-stories homes,  
12 condominiums, apartments, some student housing, it's not a gradual  
13 transition, it's, it's huge. It's huge.

14           So, that is, that is why we're protesting. If you have any  
15 questions, I'd be glad to answer them.

16           ZONING EXAMINER: I don't, but thank you for speaking and  
17 go ahead sign in.

18           MR. BEHREND: (Inaudible) just leave this.

19           ZONING EXAMINER: Sure. Thank you.

20           MR. BEHREND: East and west.

21           ZONING EXAMINER: Okay. Would anyone else like to speak?

22 Mr. Poster, I have a couple of questions for you. Would you speak to  
23 Mr. Behrend's point as far as the transition from the proposed  
24 development to the neighborhood to the east?

1           MR. POSTER: Well, I can speak of it in two ways. I'll  
2 take sort of the legalistic way first and then -

3           ZONING EXAMINER: Sure.

4           MR. POSTER: - my other comment. We went through a long  
5 and painful negotiation on the plan amendment. Came to a difficult  
6 and hard-fought compromise on heights that allowed the developer to  
7 get the density needed, or desired for that site, at the same time  
8 limiting heights in the central part of the building.

9           It went in front of the Planning Commission, it went in  
10 front of the Mayor and Council. And all agreed to a 45-foot height  
11 along - all the Mayor and Council agreed to a 45-foot, foot height  
12 along Anderson which is five feet taller than the underlying zoning  
13 that we could have done without anyone's permission.

14           We've also very carefully - Sam referred to the property  
15 edges where by a setback, I think 45 feet from that edge, but in  
16 reality, more like 52 feet from that edge with an almost two-story  
17 oleander hedge blocking that view.

18           So, it's roughly a one-to-one ratio of height and setback  
19 which is actually fairly typical. And in fact, we do step down from  
20 the taller height of 55 feet which, of course, steps down from the  
21 tower height of the monastery of 88 feet.

22           We've also made an effort to break the connection between  
23 the two buildings and do some lowering there. But we felt like we  
24 were following the rule, the rules that we had developed in a very

1 long and arduous process, and that that was an agreement that, that  
2 was insisted upon early on.

3           As, as Ruth discussed the - we didn't need that level of  
4 detail in plan amendment, in which case, we'd be having that  
5 conversation now. But we had that conversation earlier and we had  
6 that vote earlier which sort of puts us in the position where we are  
7 today.

8           And then finally, from an architectural point of view, I  
9 don't think it's an issue. I don't think it's a problem. The, the -  
10 that side - and I think Vice-Mayor Romero at the, at the public  
11 hearing for the plan amendments asked the question why we were  
12 treating the Country Club elevation different than the Miramonte  
13 elevation.

14           And my answer was an architectural answer that Roy Place  
15 treated the Country Club elevation quite differently than the  
16 Anderson. The building backs up, no other way to say it, to Anderson.  
17 It has a loading dock and utilities and everything. That was the  
18 service side of the business that sits on the back of that.

19           And so, we - and it, it was set back further than it is  
20 now, of course. But we think we're happy with (inaudible) We think  
21 it works well, and we don't think it's a tragedy for the Miramonte  
22 Neighborhood.

23           ZONING EXAMINER: Okay. Thank you. If anyone else would  
24 like to speak in light of Mr. Poster's comments, I'd be happy to hear  
25 you. Otherwise, anyone?

1 MR. BEHREND: (Inaudible)

2 ZONING EXAMINER: Sure. Briefly.

3 MR. BEHREND: May I speak?

4 ZONING EXAMINER: Yeah, of course. We have to come up  
5 'cause of the microphone.

6 MR. BEHREND: Okay. Sam Behrend.

7 ZONING EXAMINER: Yeah. Thank you.

8 MR. BEHREND: I think it's important to understand that my  
9 - our perception is when a developer buys a piece of property and has  
10 a vision for it, they should know what they're getting into. Mr.  
11 Rulney had a vision to build the exact number of apartments that would  
12 fit under the existing zoning. That was 222. It went up to 250 when  
13 the additional piece of property was acquired, contiguous.

14 It isn't the neighborhood's job to determine how many units  
15 can be built under, under the existing rules. His choice could be to  
16 build less apartments. In fact, he, subsequent to all the meetings  
17 that you heard with the neighbor groups and so forth, subse- -- after  
18 that took place, two decisions were made in the design of this  
19 property.

20 One was to have two-story loft-type apartments, I believe,  
21 on the south building, the south tower. Another was to add new  
22 commercial space to the front between the parking garage and the  
23 chapel. And you saw that on Corky's drawing in orange.

24 Those had never - those things had never been discussed  
25 with the neighbors. They'd never been discussed in any of these

1 negotiations. Both of those things impacted how many - how to squeeze  
2 250, or 253 apartments into the same amount of space.

3           So, my point is, because there's a target number of how  
4 many apartments had to be built, plus there are additional, I believe,  
5 35 that are gonna be built within the monastery itself.

6           That's, that's not the neighborhood's problem, that's the  
7 developer's problem. If he miscalculated, if he decided he needed to  
8 reach a target and the only way to reach it is to go higher buildings,  
9 that's his decision.

10           I don't see why a neighborhood has to bear the brunt of the  
11 consequences of having to meet a particular numerical target of how  
12 many apartments it takes in this project. Thank you.

13           ZONING EXAMINER: Thank you.

14           MS. McLAUGHLIN: Hi.

15           ZONING EXAMINER: Hi.

16           MS. McLAUGHLIN: I'm Kathleen McLaughlin. I live in the  
17 Miramonte Neighborhood. One of the things that, that is interesting  
18 is to think about this statement that he just made with regards, Corky  
19 just made with regards to the use from the - the previous use from the  
20 east side.

21           If, if there's reconfiguration of, of other buildings that  
22 have been, been done by your company, it, it seems that before what,  
23 what he mentioned about using it as loading and unloading, things like  
24 that, well, it's a neighborhood now. It's not what it looked like  
25 before.

1           That was great, that was beautiful to see that very first  
2 picture of how open it was. Well, that was the appropriate way to, to  
3 bring things in before. But now, it's, it's a neighborhood. So, when  
4 you, you don't live in that neighborhood, when you look from that  
5 side, which is the side that I look at, it had a beautiful sunset  
6 actually last night. So, so, to see the steeple with the sunset  
7 behind it, it was - well, we aren't gonna be seeing that anymore.

8           So, people actually live in that area and are gonna have  
9 the number of stories there blocking that view. I just think that  
10 should be taken into consideration. I don't think it should be that  
11 high. Why is it a different height from, from the other side of, of  
12 Country Club?

13           Well, actually, it's a, it's a wealthier neighborhood,  
14 quite honestly. There's no major large apartment complexes. There's,  
15 there's single homes and apartment homes on, on the, on the east side.  
16 It's a different, different level of neighborhood. Not as, not as  
17 wealthy. And I think that has been taken into consideration. Thank  
18 you.

19           ZONING EXAMINER: Thank you, Ms. McLaughlin. Okay. Well,  
20 if no one else wants to speak, I'm waiting. No one does? Then I'm  
21 closing the public hearing. Thank you all for coming tonight.

22           (Case: C9-19-06 was closed.)

I hereby certify that, to the best of my ability the foregoing is a true and accurate transcription of the original tape-recorded conversation in the case reference on page 1 above.

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