



Zoning Examiner REPORT TO MAYOR AND COUNCIL

Final

August 18, 2022

SUBJECT: C9-22-03 New Era – Tanque Verde and Houghton, SR to R-1 (Ward 2)

Public Hearings: July 7, 2022

August 4, 2022

BACKGROUND

This is a request by Jim Partner, of Projects International Inc., on behalf of the property owner, New Era, LLC, to rezone approximately 11.62 acres from SR to R-1 zoning. The proposed project is a residential subdivision comprised of 33 single-family, detached homes. The Applicant proposes using the Flexible Lot Development provisions in the *Unified Development Code*. This request proposes 2.9 units per acre, with an average lot size of 6,390 square feet.

The rezoning site is located on the northeast corner of Tanque Verde Road and Houghton Road. It is surrounded on three sides by low density, large lot residential development. The property was annexed into the City of Tucson in 2016 as part of the Desert Willow annexation. At that time, and in connection with the annexation process, the property owner represented that it would later seek a rezoning to RX-1, not R-1 or other more intensive land use classification. RX-1 requires a minimum lot size of 16,000 square feet. As noted above, the current proposal for rezoning to R-1 is for 33 residential lots averaging 6,390 square feet.

PUBLIC HEARING SUMMARY

July 7, 2022, Zoning Examiner Hearing

Prior to the scheduled July 7, 2022, Zoning Examiner hearing, written protests were submitted to PDSO by more than 40 neighbors of the proposed rezoning site. In addition, an electronic petition signed by more than 2000 persons opposing the rezoning was submitted.

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The Applicant's representative requested a continuance of the public hearing at the July 7, 2022, Zoning Examiner hearing, for the stated reason of permitting additional time to meet with neighbors who opposed the proposed rezoning. The Zoning Examiner continued the public hearing to August 4, 2022.

August 4, 2022, Zoning Examiner Hearing

The Applicant's representative spoke in support of the requested rezoning at the August 4, 2022, Zoning Examiner hearing. The Applicant's representative described changes to the previously submitted development plan, which reduced the number of proposed units from 37 to 33; proposed a limitation on two story dwellings, removing them from the northern section of the rezoning site; and made slight increases in the lot sizes for the proposed development. The Applicant's representative also reviewed the traffic statement for the proposed development and the hydrologic study.

Eighteen persons spoke in opposition to the proposed rezoning. Their concerns focused on:

1. The density of the proposed development and its incompatibility with the existing neighborhoods.
2. The fact that much of the property is within the floodplain, and is an important riparian area and habitat, supporting a variety of wildlife and a mature mesquite bosque, which serves an important role in maintaining the health of the riparian environment.
3. The fact that the property owner stated during the 2016 Desert Willow annexation proceedings that it intended to develop the property under RX-1 zoning, not the more intensive R-1 use proposed in this rezoning case.
4. Flooding concerns, both for the property north of the rezoning site due to the Applicant's plan to raise the elevation of the building sites on the property by several feet using imported dirt to raise the building pads out of the floodplain, and concerns by downstream property owners that stormwater leaving the site would exacerbate the area's flooding problems.
5. The Applicant's refusal to engage in a sincere dialogue to address the neighbors' concerns following the continued July 7, 2022, Zoning Examiner hearing; and
6. All speakers stated that they were not opposed to a less dense development that would permit riparian habitat preservation, and that would be more compatible with the existing neighborhoods. Most, if not all, of the speakers stated that RX-1 zoning would be appropriate.

In response, the Applicant's representative stated that the Applicant stood by its hydrologic study and stated that *Plan Tucson* marked a shift from prior land use planning and supports the more intense development proposed in the rezoning application.

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As of the date of the Zoning Examiner hearing, there was one (1) written approval and forty-eight (48) written protests. In addition, opponents of the proposed rezoning submitted an electronic petition signed by over 2,000 persons.

Background Information

Existing Land Use: The 11.62-acre site is vacant.

Zoning Descriptions:

Existing: Suburban Ranch SR: This zone provides for low density, large lot, single-family, residential development, and suburban ranch uses, including agriculture uses. This zone is solely to provide comparable zoning for annexed areas and is not intended for rezoning.

Proposed: Residence Zone 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.

Surrounding Zones and Land Uses:

North: Suburban Ranch (SR); Vacant, Single-family Residential

South: Suburban Ranch (SR); Vacant – Pima County Flood Control mitigation property

East: Suburban Ranch (SR); Single-family Residential

West: Residence (RX-1); Single-family Residential

Planning Considerations

Land use policy direction for this area is provided by *Plan Tucson* and the *Catalina Foothills Subregional Plan*. The *Catalina Foothills Subregional Plan* provides for the adoption of plan policies and a Land Use Map for all newly annexed areas with the subregional plan area. It states:

Plan Adoption

Following legal notification to property owners within the annexation area and public hearings before the Planning Commission and the Mayor and Council, portions of the subregional plan that are applicable to a newly annexed area will be adopted. A Land Use Map Detail for the annexed area will be added to the plan document and, together with other adopted Land Use Map Details, will form the composite Subregional Land Use Map.

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Despite this requirement, no Land Use Detail Map was adopted after the Desert Willow Annexation District was enacted. It is apparent from the record of the Desert Willow Annexation District, however, that the property that is the subject of the present rezoning was intended to be rezoned to RX-1, if it was later rezoned following the annexation. The record of the Desert Willow Annexation district states:

An additional property owner has approximately 11 acres on the northeast corner of Houghton and Tanque Verde that is currently vacant. This owner would like to consider a rezoning to support a residential density similar to the Pulte project. They do need annexation to receive water service.

The "Pulte project" described in the record of the Desert Willow Annexation District was zoned RX-1, permitting the development of 49 homes on approximately 50 acres, or approximately one residence per acre.

Plan Tucson

The rezoning site is located within *Plan Tucson's* Future Growth Scenario Map which identifies the rezoning site as an "Existing Neighborhood". Existing Neighborhoods are primarily developed and largely built-out residential neighborhoods and commercial districts in which minimal new development and redevelopment are expected in the next several decades. The goal is to maintain the character of these neighborhoods, while accommodating some new development and redevelopment, and encouraging reinvestment and new services and amenities that contribute further to neighborhood stability.

Plan Tucson recognizes low-density (up to 6 units per acre) residential development is generally appropriate along local streets and in the interior of established single-family residential areas (LT28.2.1). It supports environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community (LT28.2.12). It supports infill and redevelopment that reflect sensitivity to site and neighborhood conditions. (LT28.2.13).

Design Considerations

Land Use Compatibility – The rezoning area is bordered by Houghton Road to the west, residences to the north and east, and Tanque Verde Road to the south. The rezoning request is for 33 units. The Applicant is proposing a natural-area setback, ranging in size from 45' to 130', along the project's north and west boundaries. Like much of the rest of the property, this specific area receives significant natural drainage flows and contains a healthy stand of mature mesquite and acacia trees, which would remain. Along the site's eastern boundary, the Applicant proposes transplanted mesquite and acacia trees taken from the developed portions of the project to add a visual screen and increased buffering. Along Tanque Verde Road on the southern perimeter of the site, a 30-foot scenic route landscape border will be established, comprised of containerized landscape materials, and transplanted mesquite and acacia trees taken from the developed areas of the property.

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The project proposes one- and two-story units with building heights of a maximum 24-feet. The maximum building height meets the City of Tucson's *Scenic Corridor Zone* requirements. The residences will be production homes, with several home models with options and variations. The Applicant believes that the transition in building heights from this site into the existing neighborhood would be mitigated by the natural buffer on the north and west sides of the site.

In terms of density, the proposed project proposes to use the Flexible Lot Development (FLD), which allows a maximum density in R-1 of 6 units per acre. The project is proposing 33 units on 11.62 acres and would have an overall density of 2.9 residences per acre.

Drainage/Grading/Vegetation – The rezoning site is in an area protected by a levee for the Aqua Caliente Wash and is designated as an Important Riparian Area. The natural area set-back (45-feet to 130-feet) on the north and west sides receives significant natural drainage flows. The tributary wash that crosses the property must be evaluated and Riparian resources must be identified and protected. The Design Compatibility Report (DCR) states that the proposed drainage scheme will direct incoming off-site flows around the proposed development, while all on-site generated run-off from the proposed development footprint will drain to a new detention basin. The DCR also states that post-development discharge from the site will be no different than that which exits on the site under existing conditions given the proposed detention basin.

The City of Tucson's Planning and Development Services – Engineering Division reviewed the PDP and DCR and provided two recommendations: 1) the proposed project must provide detention one and a half times the first-flush retention volume required by the retention/detention manual with amendments as adopted by the City of Tucson; and 2) a complete drainage report showing compliance with these requirements must be submitted to the City and approved along with the Development Package.

The Preliminary Development Plan and the Proposed Landscape Plan show landscaping and vegetation via preserved natural areas and man-made landscape buffers along the perimeter of the property. Sparse areas within the natural buffer will be supplement with transplanted mesquite and acacia trees from the project's developed areas. The man-made landscape buffers along the east and south perimeter of the site would feature containerized landscape materials and transplanted mesquite and acacia trees from the developed areas of the site. The City of Tucson's Planning and Development Services - Landscape Division included a provision that existing preserved vegetation shall have mistletoe removed and buffelgrass eradicated.

Pima County Natural Resources, Parks, and Recreation (PCNRPR) indicated that the rezoning site is very close to the Houghton Road Trail (Trial #HO18). PCNRPR request the developer to construct the section (8-foot wide) of the Houghton Road Trail that corresponds to the rezoning site, approximately 300-feet in length.

Pima County Regional Flood Control District (District) - The District has reviewed the Preliminary Development Plan and the Design Compatibility Report and noted that the rezoning site is located within

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a Federal Emergency Management Area (FEMA) Special Flood Hazard Area Zone X-Shaded Subzone Area protected by levees from 100-year flood. A small portion of the northwest corner of the rezoning site is in a Zone X-shaded 500-year floodplain. The rezoning site also includes areas classified as *Important Riparian Area* with an Underlying Classification of Hydromesoriparian. The City of Tucson does not regulate this habitat, but the habitat is critical to the stability and function of the floodplain. The District has no objections to the rezoning but requests, to the extent practicable, disturbance or encroachment into regulatory floodplains and regulated riparian habitat should be avoided. The District also asked that when the development is reviewed for platting, District review and approval be required in order to ensure adjacent parcels are not adversely impacted. The District requests the delineation of riparian areas be compatible with riparian corridors within unincorporated Pima County. First flush retention, retaining the first inch of runoff from a site, should be distributed throughout the development and be used to support landscape vegetation.

Pima County Wastewater - The rezoning area is within Pima County Regional Wastewater Reclamation Department (PCRWRD) service area. Sewer service is available in the existing 8" public sewer G-97-017. Extension of the public sewer within the Tanque Verde Road right-of-way is required to serve this development. Since the proposed on-site sewer is public, it will need to be designed to accommodate flow-through from the property adjacent and up-gradient to the rezoning site that does not have adequate access to public sewer. PCRWRD has no objection to the proposed rezoning. PCRWRD but requested a condition that the owner(s)/developer(s) obtain written documentation from the PCRWRD that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review.

Historic Preservation – The Applicant included a Class III Cultural Resource Survey for the property, prepared by SWCA Consultants, that was conducted in January 2022. No evidence of buried archaeological deposits was found. The City of Tucson's Historic Staff is satisfied with the survey and no further archaeological studies are recommended.

Road Improvements/Vehicular Access/Circulation – The rezoning site is to be accessed from Tanque Verde Road. Tanque Verde Road and Houghton Road are designated as Arterial Scenic routes by the City of Tucson and are designated scenic routes in Pima County (prior to the City's annexation of this area). The proposed project will follow the City of Tucson's Scenic Corridor Zone provisions in the *Unified Development Code*.

The existing dirt driveway into the property will be closed and only used as emergency-only access. One new entry driveway will be created for this project. The existing driveway at the far east end of the property will not be impacted. No access will occur from Houghton Road. Based on the Traffic Impact Analysis (TIA), the proposed project is expected to generate approximately 27 morning peak-hour trips, 37 evening peak-hour trips, and 349 daily weekday trips. Based on the estimated total of new daily trips, The City of Tucson's Department of Transportation and Mobility (DTM) – Traffic Engineering does not have any concerns with the project's effects on the surrounding roadway network. Based on the analysis,

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an eastbound left-turn lane on Tanque Verde Road is required for the access point/driveway. The analysis also shows that no right-turn lanes are required at the access point/driveway from the proposed project onto Tanque Verde Road. DTM also notes that as a part of the future RTA-funded Houghton Road, Speedway Boulevard to Tanque Verde Road Project, intersection improvements at the Houghton/Tanque Verde intersection will be implemented but the timeframe has yet to be determined.

The streets in the proposed project will include five-foot wide concrete sidewalks that will be provided on both sides of the streets to ensure continuous pedestrian circulation. There are no sidewalks outside of the proposed project to connect to.

Neighborhood Engagement Prior to the Zoning Examiner Hearings – The proposed project was originally initiated in the fall of 2019 with a proposal for 86 townhomes. A fully noticed neighborhood meeting was held in October 2019. The 86- townhome proposal was met with substantial public opposition and was dismissed by the Applicant. The project resumed in the fall of 2021, with a revised concept of 40 single-family detached residences. A neighborhood meeting was held virtually on November 3, 2021, with 30 neighbors and representatives from neighborhood associations in attendance. Concerns from this meeting included the validity the Applicant’s traffic study and drainage analysis, proposed building heights, density, and incompatibility of the proposed development with the existing neighborhoods.

After the first neighborhood meeting, the proposed project was revised to 37 single-family detached residences. A second virtual neighborhood meeting with the revised proposal was held on March 29, 2022, with 10 neighbors and representatives from neighborhood associations in attendance. Concerns from this meeting focused again on the validity of the Applicant’s traffic study and drainage analysis, building heights, and density. A third in-person neighborhood meeting was held on April 28, 2022, after requests from neighbors for an in-person meeting. The meeting included 57 attendees from the neighborhoods. Discussion focused once again on the validity of the Applicant’s traffic study and drainage analysis, as well as the proposed project’s density and incompatibility with the existing neighborhoods.

Conclusion

The proposed rezoning is not consistent with the policy direction provided in *Plan Tucson*. The property is surrounded on three sides by neighborhoods with existing, low density residential development. To the south, across Tanque Verde Road, is a large parcel owned by the Pima County, which is, and will likely remain, undeveloped flood plain.

Under *Plan Tucson*, the policy goal for development within an existing neighborhood is to maintain the character of the existing neighborhood, and to promote environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community. The proposed development does not meet these policy goals. In fact, it would do the opposite.



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The Applicant sought annexation into the City in 2016. At that time, the Applicant stated its intention to rezone the property to RX-1, a zoning classification that would be in keeping with the character of the existing neighborhoods. Nothing has changed between the time the property was annexed into the City and the present, and there is no basis to approve the more intensive land use requested in this rezoning.

The requested R-1 zoning should not be approved.

Recommendation

The Zoning Examiner recommends that the requested rezoning be denied.

Sincerely,

John Iurino
Zoning Examiner

ATTACHMENTS:

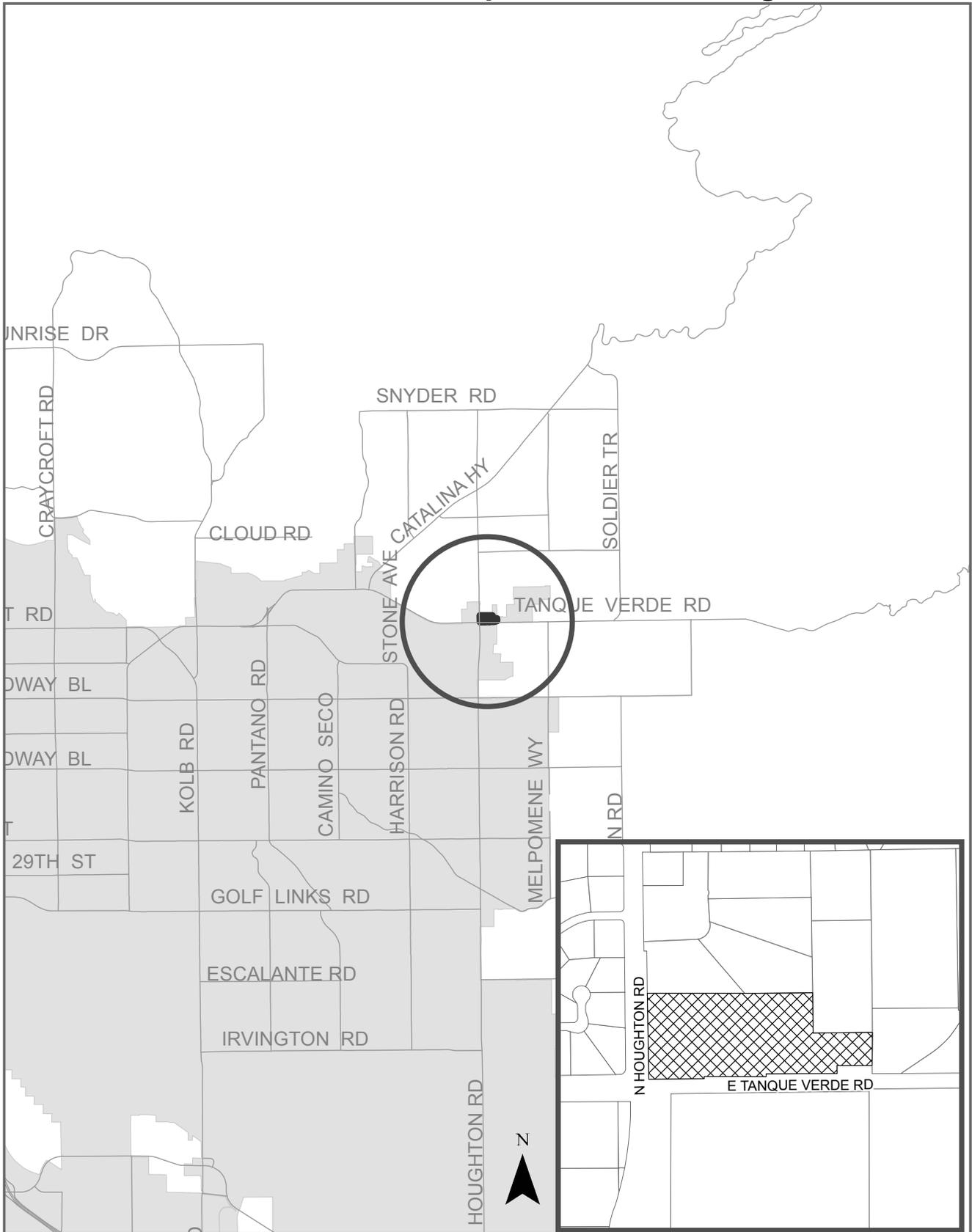
- Case Location Map
- Rezoning Case Map
- Public Hearing Minutes

Cc: Mayor and Council

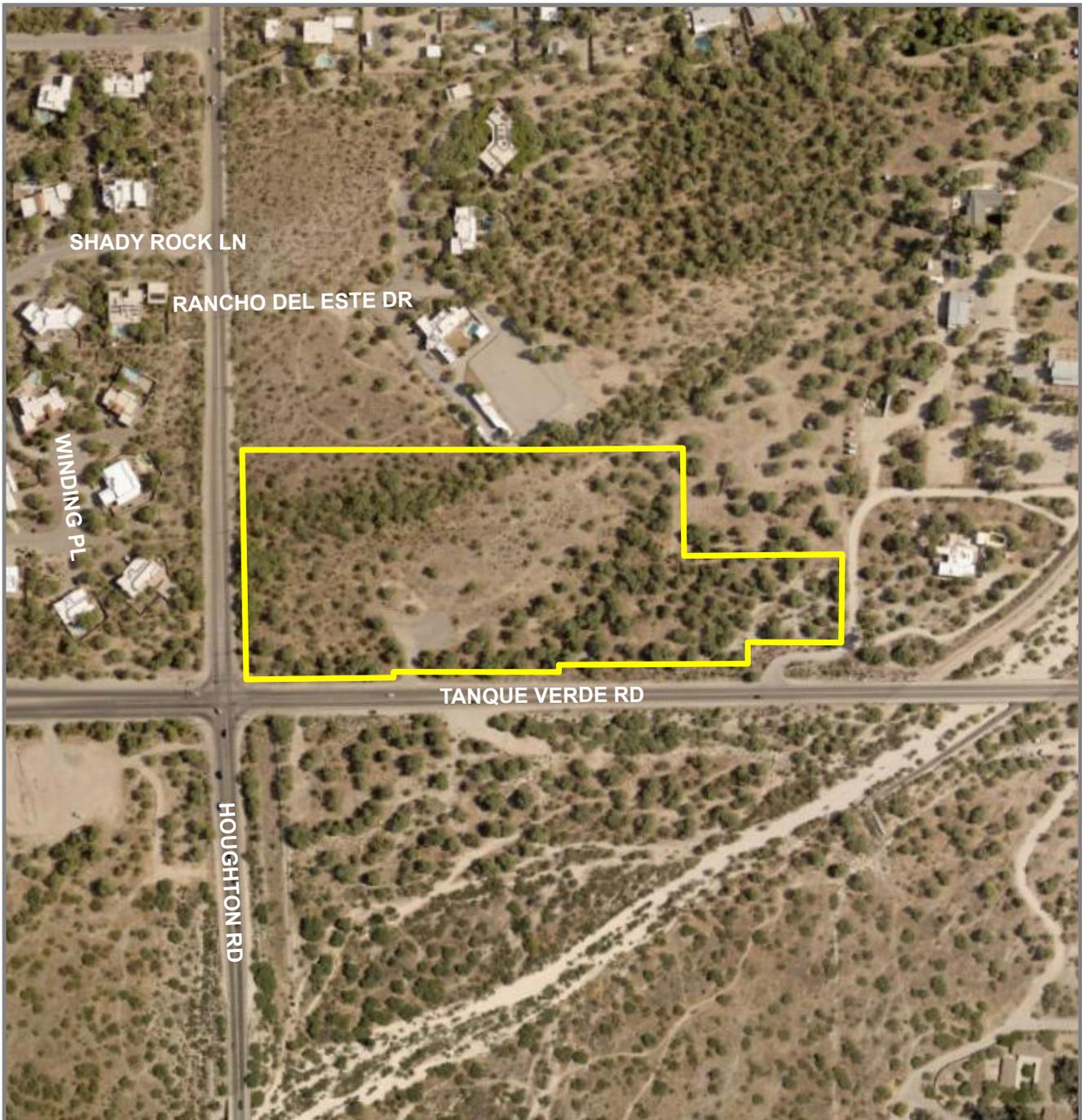
PUBLIC HEARING MINUTES ARE NOT YET TRANSCRIBED

THEY WILL BE CIRCULATED WHEN COMPLETED

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Area of Rezoning (SR to R-1)

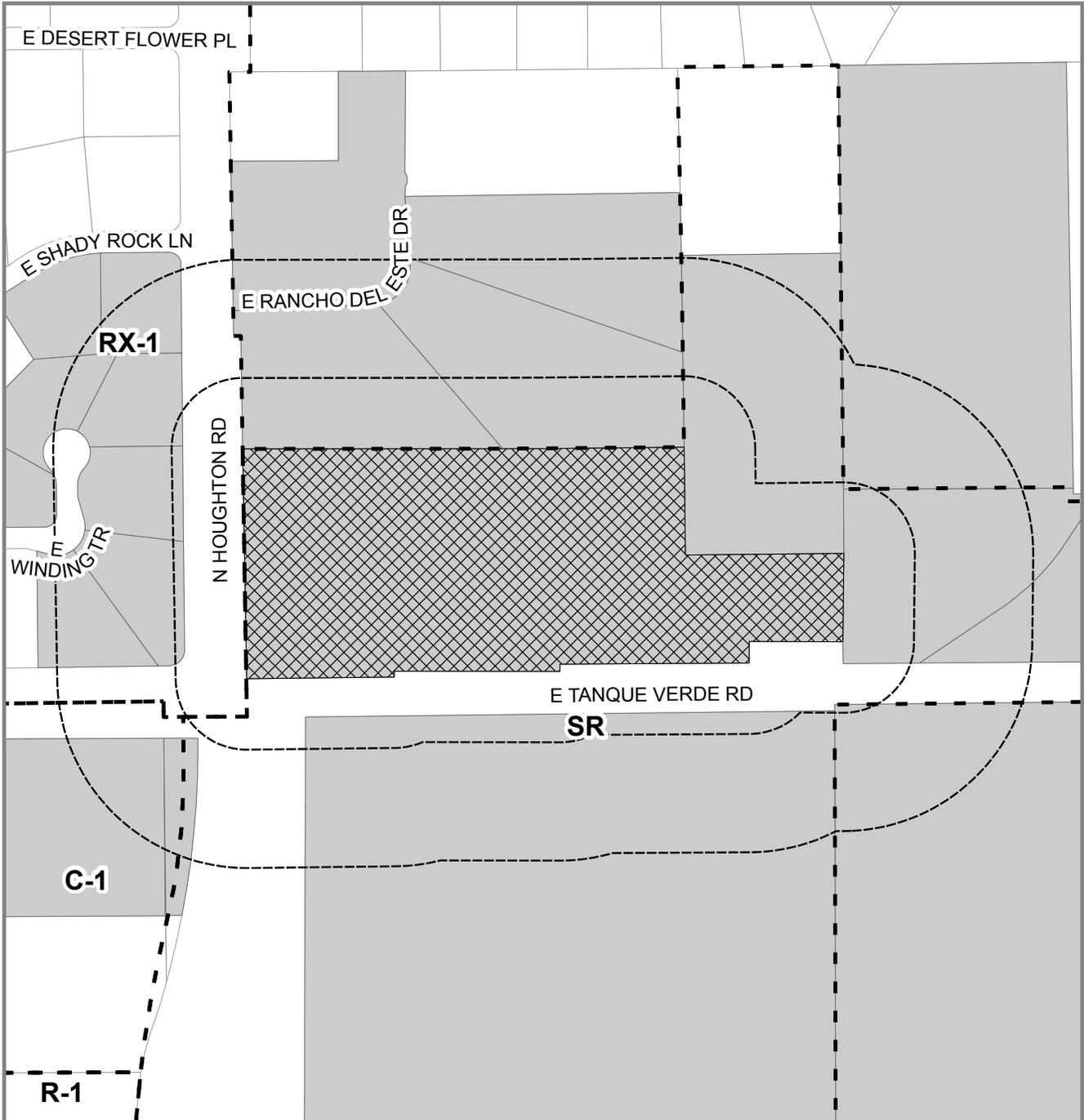
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Base Maps: Twp. 1303 Range 1502 Sec. 36
Ward(s): 2

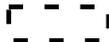
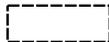
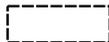
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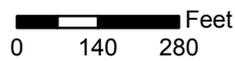


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-  Area of Rezoning
-  Zone Boundaries
-  Properties Notified
-  400' Notification Area
-  Protest Area (150 ft. Radius)

Address: 10375 E TANQUE VERDE RD
 Base Maps: Twp. 1303 Range 1502 Sec. 36
 Ward(s): 2



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