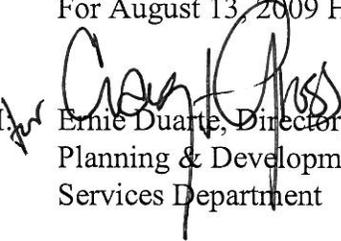




MEMORANDUM

DATE: July 27, 2009
For August 13, 2009 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: 
Ernie Duarte, Director,
Planning & Development
Services Department

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT
C9-09-06 Temperature Control – West Lester Street, C-1 to C-2 (Ward 3)

Issue – This is a request by Vance MacLeod, as the property and business owner of Temperature Control, Inc., to rezone approximately 0.37 acres from C-1 to C-2 zoning to correct several zoning violations. The rezoning site is located on the south side of Lester Street, west of Tenth Street (see Case Location Map). The proposed zoning is requested to allow a construction service use, which requires C-2 zoning. The existing business occupies two lots with buildings and parking area. The applicant does not propose any additional structural development on the site. Full *Land Use Code* compliance will be required at the time of development plan submittal.

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

Background Information

Existing Land Use: Construction Services Use - Office and HVAC Equipment Storage.

Surrounding Zones and Land Uses:

North: Zoned C-2; Commercial and residential.
South: Zoned C-1; MCI Communications and Qwest office buildings.
East: Zoned C-1; Office
West: Zoned C-1; Multifamily residential duplexes

Previous Cases on the Property:

T07DV12947 – On July 7, 2008, a City inspector reported a zoning violation. According to City records, the violations include: 1) a certificate of occupancy had not been issued for the existing buildings; 2) the property was not addressed; and, 3) there was no development plan on record with Development Services. Development Services staff also informed the inspector and applicant that a certificate of occupancy would not be issued for the business because the use was

not allowed in the C-1 zone. The applicant was granted an extension to allow sufficient time to pursue rezoning the property.

Related Cases:

C9-00-12 Kea – Grant Road, C-1 to C-2. This was a request to rezone approximately 0.55 acres from C-1 to C-2 zoning to allow a used car lot utilizing the existing 500 square foot building and canopy of the former service station. The rezoning site is located on the northwest corner of Grant Road and Geronimo Avenue. On August 6, 2001, the Mayor and Council adopted Ordinance 9592 amending the original Ordinance 9510. Ordinance 9592 also granted the applicant a time extension to April 9, 2002. Building Permit Number T010T00132 was issued and the case closed on April 10, 2002.

C9-02-05 Sarnoff Automotive – Bowline Road, C-1 to C-2. This was a request to rezone approximately .47 acres from C-1 to C-2 zoning to allow the development of an automotive repair facility, 4,608 square feet in size. The rezoning site is located on the northwest corner of Bowline Road and Sarnoff Drive. On January 4, 2005, the Mayor and Council adopted Ordinance 10103. Building Permit Number T04CH05006 was issued on February 4, 2004 and the case was closed.

RGA Properties - 22nd Street, C-1 to C-2. This was a request to rezone approximately 0.51 acres from C-1 to C-2 zoning to allow the use of an existing vacant building and to make site improvements for commercial storage, business supply and equipment wholesaling and food and beverage wholesaling. The rezoning site is located at the northwest corner of 22nd Street and Sherwood Village Drive. The Mayor and Council authorized the rezoning on October 18, 2004 and the case will expire on October 18, 2009.

Applicant’s Request – The applicant is requesting C-2 zoning to allow continued operation of the construction services use, and to correct several zoning violations on the property.

Planning Considerations

The *General Plan (GP)* policies apply to the rezoning site and address relevant issues that effect areas undergoing transition, such as this. The area is a mix of zoning, which permits both commercial and residential uses and therefore, the immediate area surrounding the rezoning site, has developed with a mix of uses. *GP* Element 2, Policy 3, emphasizes the protection of residential neighborhoods when considering new development. *GP* Element 4, supporting policy 5.3 supports projects that reflect sensitivity to neighborhood conditions. *GP* Element 4, policy 6 supports commercial development while responding to adjacent residential uses and improving streetscapes.

The rezoning site is located within an area that was annexed into the City in the 1920’s and is bounded by Grant Road on the north, Oracle Road on the west, Stone Avenue on the east, and

Drachman Street on the south. The area has clusters of industrial, commercial and residential zoned areas. North of the rezoning site, across Lester Street is a C-2 zoned area developed with a mix of commercial and residential uses. Properties adjacent to the site are zoned C-1 and include a one-story office building to the east; Qwest and MCI office buildings across a public alley to the south, residential multifamily duplexes to the west; and a commercial zoned mobile home park to the north. Primary access to the site is from Lester Street. Lester Street is a local street with a right-of-way, 70 feet in width, and 36 feet of pavement with vertical curb. The alley to the south appears to be used as a secondary access.

Design Considerations

Land Use Compatibility - The overarching goal of the General Plan as it applies to this site, is to provide site design that incorporates strategies that promote appropriate design elements to minimize conflict and enhance compatibility with the residential areas to the west and north. Due to the small site size and existing configuration of the rezoning site, there are limited options for locating commercial vehicle parking, dumpsters and the loading zone. Because the rezoning site is within the interior of a mixed residential/commercial neighborhood, and to mitigate noise impacts, staff recommends limited hours of operation for loading, trash collection, delivery vehicles, and related outdoor activities. Outdoor lighting, that is low in elevation, directed downward, and away from adjacent residential areas, is also recommended.

Landscaping will further mitigate the commercial activities by providing a buffer between the rezoning site and less intense adjacent uses. The applicant proposes a street landscape buffer, ten feet in width, north of the loading zone, which will provide screening along Lester Street. The applicant has stated that a five-foot high masonry wall along the perimeter would cause a security concern because it is not tall enough. An eight-foot-high chain link fence currently exists along the north and west property lines, where screening is of most concern. To address the security and screening issues, staff recommends the existing chain link fence along the north property line should remain, however, a dense planting of shrubs and a tree should be installed between the fence and the street. This “green screen,” which should mature typically within two growing seasons, will eventually block the view of the chain link and maintain site security. However, if the “green screen” fails to mature within the two growing seasons, the chain link fence along the north should be augmented with slats.

The existing chain link fence along the west property line is eight feet in height. To provide adequate screening for the residential property to the west, staff recommends the installation of full-length slats in the existing chain link fence, eight feet in height. Staff also recommends planting trees twenty-five feet on center along the full length of the west property line, to ultimately provide mature canopies that will screen and buffer the adjacent residential property.

The Tucson Fire Department has indicated that the office building does not meet the fire or building codes. Fire personnel reported that the office building will require a fire wall and will not be allowed to have openings near the property line. Staff recommends that the applicant

meet with Fire personnel to determine all existing fire and building code violations and the improvements necessary for compliance before applying for building permits.

Drainage/Grading/Vegetation – The site does not lie within a mapped floodplain. Since it is smaller than 1 acre and is not within a balanced/critical basin, detention/retention is not required.

Road Improvements/Vehicular Access/Circulation – The rezoning site is located along the south side of Lester Street, between 10th Avenue and 11th Avenue. Lester Street is a local street with a right-of-way, 70 feet in width, and 36 feet of pavement with vertical curb. Intermittent sidewalk exists along Lester Street, but there is no sidewalk along the rezoning site. A sidewalk will be required along the north side of the property. Insufficient information is provided on the preliminary development plan to determine if on-site maneuverability is sufficient for the loading area and solid waste service. These items must be addressed by the applicant at the time of development plan submittal.

Conclusion – The rezoning proposal is consistent with the policy direction in the *General Plan*. The *General Plan* provides policy direction in Element 2, and Element 3 which address the issue of protecting existing residential uses in areas when commercial uses are being proposed. The rezoning site can be designed to be compatible with surrounding land uses, to improve the visual quality of the Lester streetscape and to mitigate more intense C-2 commercial uses. Subject to compliance with the attached preliminary conditions, approval of the requested C-2 zoning is appropriate.

PROCEDURAL

1. A development plan in substantial compliance with the preliminary development plan dated June 5, 2009, is to be submitted and approved in accordance with Section 5.3.8 of the *Land Use Code*.
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”.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. 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. “Safe by Design” concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. Owner/developer shall enter into a Sewer Service Agreement with Pima County that specifies the improvements to be made to Pima County's public sewerage system, and the timing of said improvements.
7. Two years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning, including issuance of a permanent certificate of occupancy.

LAND USE COMPATABILITY

8. The property owner shall install slats the full height of the existing chain link fence, located along the complete length of western perimeter.
9. To create a “green screen,” dense planting of shrubs and a tree shall be installed between the north chain link fence and the street. If the “green screen” fails to mature within two growing seasons, the chain link fence along the north will be augmented with slats.
10. Hours of operation including delivery and loading, trash pick-up, and outdoor activities shall be limited to 7:00 a.m. to 9:00 p.m.
11. All wall-mounted and pole-mounted outdoor lighting shall be full cut-off directed down and shielded away from area residential uses. Pole lights shall not exceed the height of on-site buildings.

9. Building colors shall be neutral desert hues with low reflectivity.
16. The property owner/developer shall meet with Tucson Fire Department staff to determine all existing fire and building code violations and the improvements necessary for compliance before obtaining building permits.

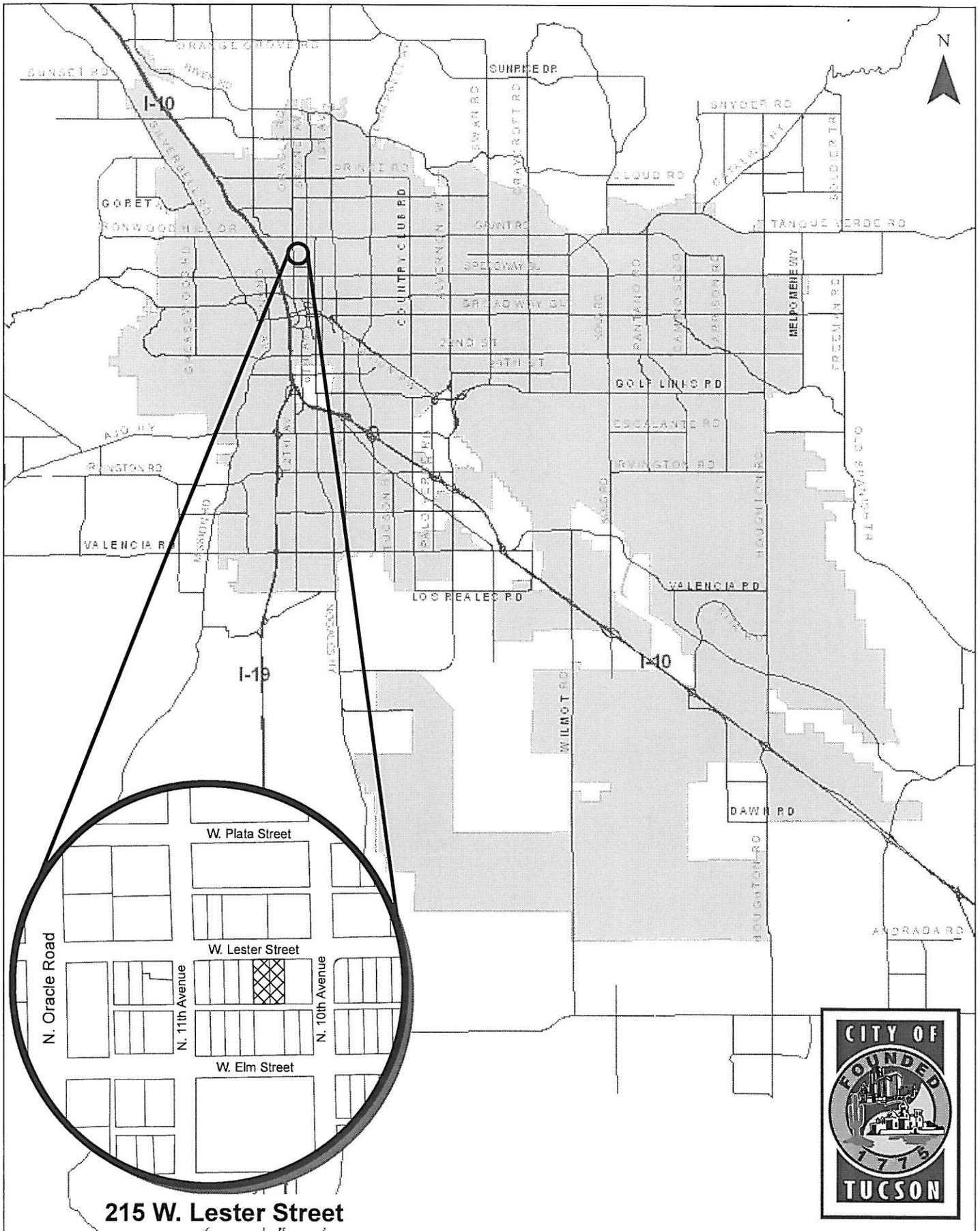
DRAINAGE/GRADING/VEGETATION

17. The property owner shall plant native thornless canopy trees, twenty-five feet on center, along the full length of the western perimeter, south of the proposed loading zone.
18. Property owner shall provide enhanced landscaping in the Lester Street landscaping border, so that it grows into a “green screen” for the chain link fence within three (3) years.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

19. The property owner shall install sidewalks to connect with the existing sidewalks east and west of the site.
20. The property owner shall close all unnecessary existing curb cuts.

C9-09-06 Temperature Control - Lester Street



215 W. Lester Street

C9-09-06 Temperature Control - Lester Street

Rezoning Request: from C-1 to C-2



0 100 200 Feet

1 inch = 200 feet



Area of Rezoning Request



Protest Area (150 foot radius)



Notification Area (300 foot radius)



Zone Boundaries

Neighborhood, Area Plan(s): Tucson General Plan
 Address: 215 W. Lester Street
 Base Maps: Sec.01 T.14 R.13
 Ward: 3





C9-09-06 Temperature Control - Lester Street
July 2009 Aerial