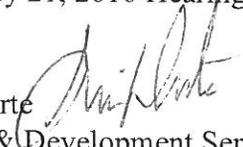




MEMORANDUM

DATE: January 6, 2010
For January 21, 2010 Hearing

TO: Peter M. Gavin
Zoning Examiner

FROM: Ernie Duarte 
Planning & Development Services
Director

SUBJECT: SPECIAL EXCEPTION LAND USE
PLANNING & DEVELOPMENT SERVICES REPORT
SE-09-55 AT&T – Martin Avenue, C-1 Zoning (Ward 5)

Issue – This is a request by Steve Olson, Bechtel Communications, Inc., on behalf of AT&T Mobility, and property owners, Pilgrim Rest Missionary Baptist Church, to allow a communications facility in the C-1 zone. The Special Exception Land Use site is located on the east side of Martin Avenue near the southwest intersection of Campbell Avenue and 34th Street (see Case Location Map). The applicant proposes to install a 65-foot-high wireless communications monopole and antennas disguised as a palm tree (monopalm) and associated ground equipment on a 2.09-acre site.

Planning & Development Services Recommendation – The Planning & Development Services Department recommends approval of the Special Exception subject to the attached preliminary conditions.

Background Information

Existing Land Use: Church

Surrounding Zones and Land Uses:

North: Zoned R-2; Vacant
South: Zoned C-1; Automotive Repair Business
East: Zoned C-1; Vacant
West: Zoned R-2; Vacant

Previous Cases on the Property: None

Related Cases: None

Applicant's Request – The applicant proposes to install a 65-foot-high wireless communications monopole and antennas disguised as a palm tree (monopalm) and associated ground equipment on a 2.09-acre site

Planning Considerations

Policy direction is provided by the *General Plan*. Land Use policies (Element 2) are to protect established residential neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses (Policy 3 and Supporting Policy 3.9). Community Character and Design policies (Element 4) specifically address telecommunications (telecom) facilities. If possible, telecom facilities are to be located, installed and maintained to minimize visual impacts and preserve views. Policies promote coordinating efforts between involved entities to improve the appearance of cell towers. Visual impacts of proposed cell towers will be a key consideration during the review process (Policies 3.7 and 4.6). To increase opportunities for all to have access to high-quality telecom services, providers are encouraged to install infrastructure in older as well as newer neighborhoods (Action 5.5A).

The proposed lease site is located within the southern, undeveloped portion of the church site. To the north, east and west is the remainder of the vacant parcel, zoned C-1 and R-2. To the northwest of the proposed lease site are a parking lot and the church building, also within C-1 and R-2 zoning. South of, and adjacent to, the proposed lease site is an automotive repair business in C-1 zoning. To the east of the entire church property, across Campbell, are a convenience market and a vacant lot to the north. To the southeast, across the Campbell/36th intersection is a charter school. To the south, across 36th Street, is the heavily vegetated 18th Street Wash, which is planned for open space uses, according to The Bridges PAD. The closest residences are over 450 feet to the north of the site, across 34th Street; over 450 feet to the west, across Martin Avenue; and over 420 feet to the east, across Campbell.

Vehicular access to the leased site is planned via a proposed 12-foot-wide ingress/egress access easement from Martin Avenue, a local street. The access location is about 175 feet north of the centerline of 36th Street, identified as an arterial street roadway with a future right-of-way of 100 feet on the *Major Streets and Routes Plan* map.

The *General Plan* supports new telecommunications facilities if they are, whenever possible, located, installed and maintained in a manner that minimizes visual impacts, preserves views, and are consistent with the adopted land use plans and policies. The project, as presented and stealth designed, is considered to be compatible with the adjacent surrounding land uses.

Design Considerations

Land Use Compatibility – The 65-foot-high monopalm and ground equipment will be located in a proposed 26.4-foot by 16.4-foot lease area that will be screened by 8-foot high concrete block walls. To help the facility fit into the surroundings, it is recommended that the walls be textured and/or painted to match nearby buildings. Any graffiti should be removed within five working days of discovery. The lease area is not highly visible to passing motorists, along 36th Street which is about 175 feet away to the south.

"Stealthing" – In terms of cellular communications facilities, a stealth application is one that disguises the appearance of the pole and/or antennas to look like an element of the built or natural landscape, which could typically occur at the chosen location. A stealth application should be as close as possible in scale and appearance to the object it is disguised as, with no obvious unnatural elements. The success of a stealth application is dependent on the ability of the design and construction of the cellular site to fit into its surroundings to such a degree that it is not noticeable. Scale and proportion, site design, color, and materials, are particularly important in stealth applications insofar as they contribute, or do not contribute, to the ability of the facility to be as unobtrusive as possible.

The proposed monopalm design will conceal the tower and antennas, and is considered an acceptable means of mitigating visual impacts and preserving views. A Design Compatibility assessment and palm tree inventory were submitted with the application identifying 26 palm trees of varying heights in the vicinity; however, no data on the heights of the trees was provided. Therefore, to ensure the monopalm will not look out of place, the monopalm should be the same species and no more than 10 percent taller than the average of the two tallest palm trees in the vicinity. To preserve stealth characteristics, it is recommended that the monopalm components be maintained as needed.

The special exception site is within the Tucson International Airport public disclosure area and traffic pattern airspace. Therefore, the Tucson International Airport authority will require an Airport Disclosure Statement be recorded prior to the approval of the development plan or building permit issuance. The site is not within the City of Tucson Airport Environs Zone.

Performance Criteria – The proposal meets the basic requirements performance criteria in Section 3.5.4.20.G of the *Land Use Code (LUC)* as follows:

C. General

- C.7.b. AT&T is proposing to install a stealth wireless facility disguising its antennas within the branch canopy of a palm tree (monopalm). The site is located in a commercially zoned area at 2571 S. Martin Avenue. The proposed stealth design will mitigate potential impacts on the visual character of the area. The service area for this site will be within a two-mile radius as allowed by existing topographic constraints.
- C.7.c. The proposed facility shall comply with all FCC regulations including those protecting the public health. The facility is not located in a designated historic district.
- C.7.d.1 The search area for this site centered around the intersection of 36th Street and Kino Parkway. The current location was selected because it is located in a commercially zoned area, it will cure the existing coverage gap, and there is sufficient

environmental context and compatibility for the monopalm design. The facility is setback from residences to the west approximately 450 feet, to the north, 460 feet, to the east 420 feet, and to the south approximately 900 feet.

- C.7.d.2 The area has a line of utility poles running east/west along 36th Street. Commercial development is sparse with buildings in the area range in height from 20-25 feet.

- C.7.d.3 (A) AT&T reviewed co-location on an existing monopole at the Arizona National Guard facility, 1750 E. Silverlake Road. The monopole was not feasible for co-location, as it has an existing carrier and National Guard antennas attached. The height available for AT&T would not sufficiently cure the coverage gap that exists to the south of the proposed site. RF engineers determined this location is too close to a neighboring site to the north near Kino Parkway & 22nd Street.
(B) AT&T reviewed co-location on the TEP utility poles on 36th Street east of Kino Parkway. The poles carry high voltage lines, secondary transmission lines, and other utilities. A majority of the poles are primary feeds to adjacent development. TEP will not allow use of these poles. Sufficient ground space for AT&T’s equipment enclosure was also not available in the area.
(C) AT&T reviewed co-location on light poles at Quincie Douglas Park. In conducting due diligence on this property, it was discovered the property was obtained through a condemnation proceeding. AT&T was of the opinion there could be a cloud on the title. In addition, the City was likely to require an upfront payment of \$150,000 for use of the light poles. Under current economic conditions, AT&T felt the financial burden, combined with the condition of title, posed too much risk for the site to be feasible.

Drainage/Grading/Vegetation – The site is not located within a mapped floodplain. Drainage is from east to west toward the City-maintained Quincy Douglas Detention Basin Cell #1 located west of Martin Avenue. Detention/retention is not required.

Road Improvements/Vehicular Access/Circulation – A 12-foot-wide ingress/egress access easement is proposed from Martin Avenue with one technician parking space.

Conclusion – The proposal is consistent with the policy direction provided by the *General Plan*. The nearest homes are over 400 feet away, to the north, east and west, and no adverse impacts on established residential neighborhoods are expected. Also, there are 26 palm trees in the vicinity; therefore, the monopalm will not look out of place. Subject to compliance with the attached preliminary conditions, approval of the special exception request is appropriate.

Preliminary Conditions

PROCEDURAL

1. A development plan in substantial compliance with the preliminary development plan dated November 9, 2009, and the Design Compatibility Report, 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. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATABILITY

7. The monopalm and its components shall be maintained as needed to preserve the visual integrity and stealth characteristic of a palm tree.
8. The monopalm shall not exceed 65 feet in height.
9. CMU enclosure walls shall be textured and/or painted to match nearby buildings.
10. All walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
11. Six (6) inch wide masonry block or greater shall be used for enclosure walls.

Preliminary Conditions

12. Any graffiti shall be removed within five working days of discovery
13. The applicant/property owner shall record an airport disclosure statement that recognizes the existence and operational characteristics of Tucson International Airport. A copy of the recorded disclosure statement shall be submitted as part of the development plan. The applicant shall provide a copy of the disclosure statement to the Tucson Airport Authority, Director of Planning.

s/rezoning/SE9-2009/SE09-55 preliminary conditions.doc

CITY OF TUCSON PUBLIC HEARING NOTICE

County Assessor records indicate that you are an owner of property located within 300 feet of a parcel(s) that is being considered for a rezoning.

The Zoning Examiner, on behalf of the Mayor and Council, conducts a public hearing and considers testimony for each rezoning in the City of Tucson. Persons attending the hearing are to observe rules of propriety, decorum, and good conduct and are to refrain from rude or slanderous remarks. The Zoning Examiner may impose reasonable limitations on the number of speakers and the length of the testimony.

After the Public Hearing, the Zoning Examiner issues written reports with findings of fact and a recommendation. A preliminary report is issued five working days after the close of the public hearing. A final report is issued 14 days after the close of the public hearing and transmitted to the Mayor and Council. Any person may request a public hearing before Mayor and Council provided the written appeal is filed with the City Clerk within 14 days after the close of the Zoning Examiner's public hearing. The Mayor and Council make the final decision on all rezoning requests.

You may speak in favor or in opposition to the rezoning during the public hearing. You may also submit a written approval or protest. A form is attached for your convenience.

PUBLIC HEARING INFORMATION

Date: Thursday, January 21, 2010

Time: 7:30 p.m.

Location: Mayor and Council Chambers* First Floor, City Hall, 255 West Alameda, Tucson, Arizona

APPLICANT

Steve Olson

Clearwire

10641 N. Camino Rosas Nuevas

Oro Valley, AZ 85737

PROPOSED SPECIAL EXCEPTION

Case: SE-09-55 AT&T – Martin Avenue, C-1 Zoning

Requested Zoning Change: Special Exception request to allow a 65 foot tall cell tower and associated ground equipment in the C-1 zone.

Location: East side of Martin Avenue near the southwest intersection of Campbell Avenue and 34th Street

Proposed Development: Install a 65-foot-high wireless communications monopole and antennas disguised as a palm tree (monopalm) and associated ground equipment on a 2.09-acre site.

Notificación de Audiencia Pública del Examinador de Zonificación

Para oír y tomar en consideración el siguiente caso: SE-09-55 AT&T – Martin Avenue

Cambio de Zonificación Solicitada: Petición de Excepción Especial para permitir una torre de celular de 65 pies de altura y el asociado equipo de tierra en la zona C-1.

Ubicación: Lado este de la Avenida Martin cerca de la intersección sudoeste de la Avenida Campbell y Calle 34.

Desarrollo Propuesto: Instalación de una torre para servicio de comunicaciones inalámbricas de 65 pies de altura. El monopole y las antenas serán disfrazadas como una palmera (monopalmerma) y el asociado equipo de tierra sobre 2.09 acres.

Si usted desea este documento escrito en Español, por favor llame al número de teléfono: 791-5550

For further information, please call Michael Wyneken, Deborah Corral or Peter McLaughlin at 791-5550 or write to Planning & Development Services Department – Rezoning Section, P.O. Box 27210, Tucson, AZ 85726

*To better serve everyone in the community, the Mayor and Council Chambers is wheelchair accessible. An assistive listening system for the hearing impaired is in place. A request for reasonable accommodation for persons with disabilities must be made in the City Clerk's Office at least two working days prior to the meeting and can be made by calling 791-4213 or 791-2639 (TDD). If you require accommodation or materials in accessible format, or require a foreign language interpreter, or materials in a language other than English for this event, call 791-4213 at least five (5) business days in advance.

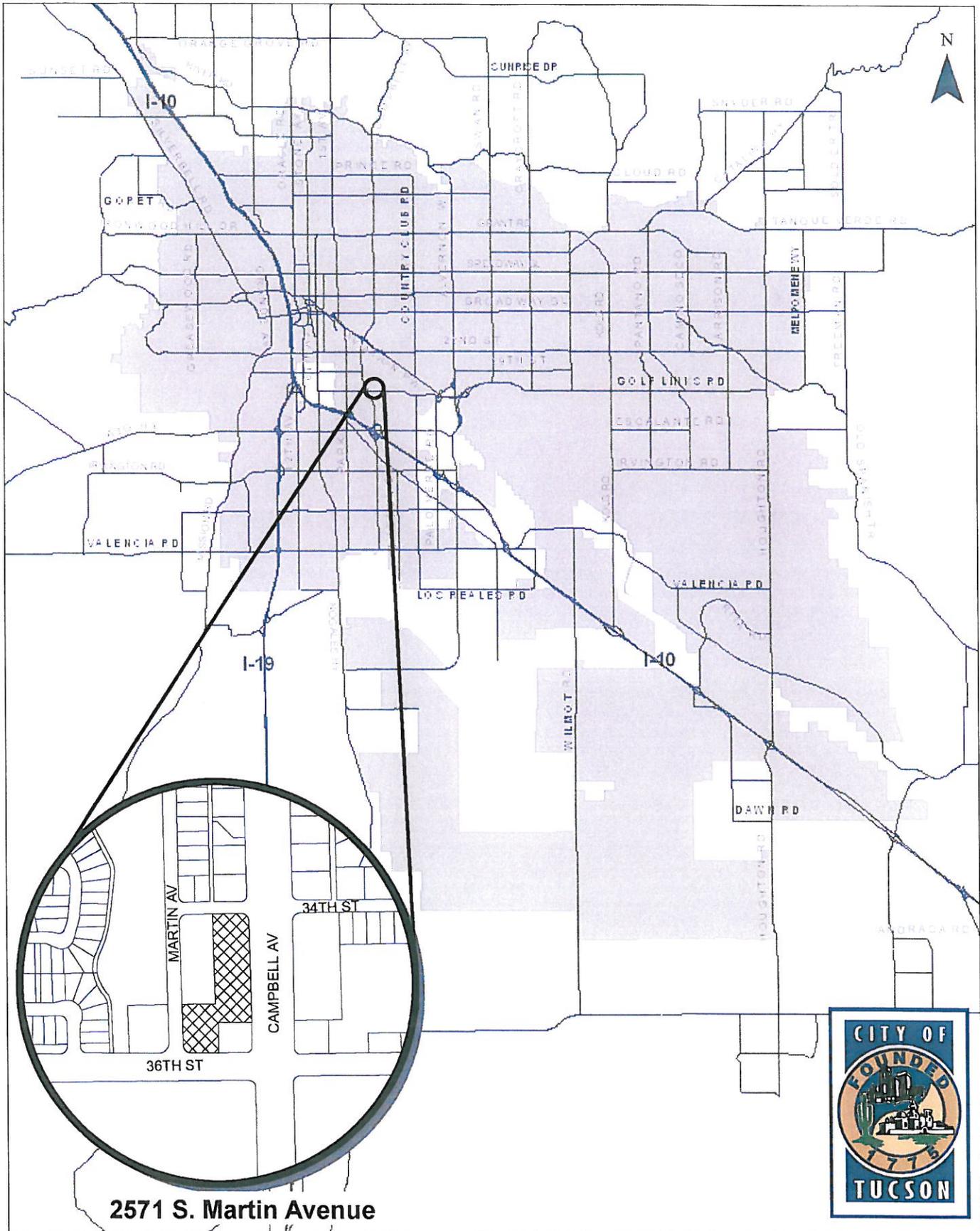
ZONING DISTRICT NARRATIVE SUMMARIES

(For a complete description, refer to Land Use Code, Chapter 23, Tucson Code, which can be found at <http://www.ci.tucson.az.us>)

Current Zoning:

C-1 *LOCAL COMMERCIAL* – A restrictive commercial zone, limited to retail sales with no outside display/storage. Office and residential development permitted. Restaurants permitted.

SE-09-55 Clearwire - Martin Avenue

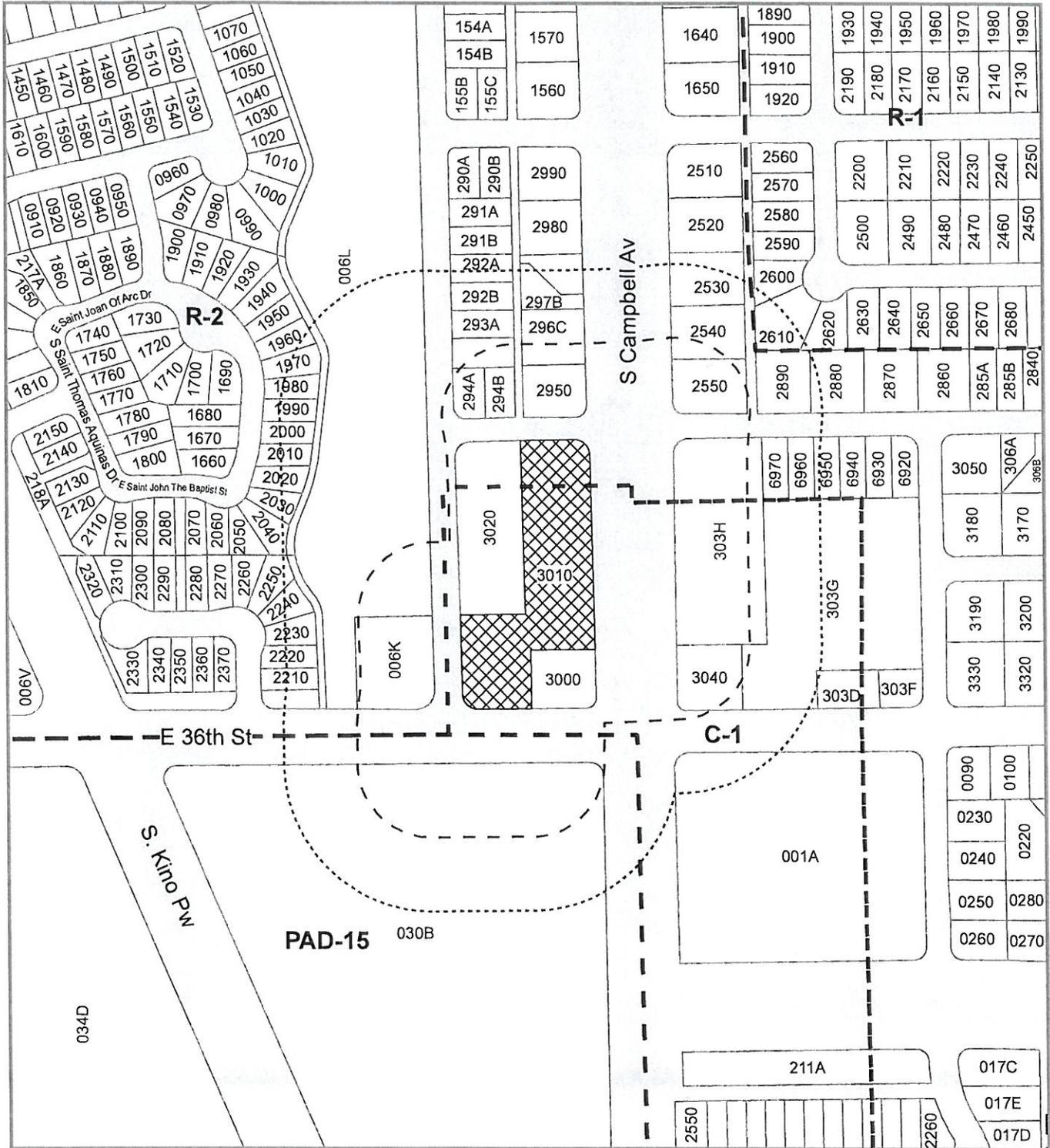


2571 S. Martin Avenue



SE-09-55 Clearwire - Martin Avenue

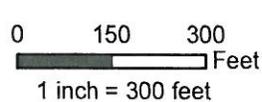
Special Exception - Legislative Procedure



- Area of Special Exception Request
- C-1** Zoning of Requested Area
- Protest Area (150 foot radius)
- Notification Area (300 foot radius)
- Zone Boundaries



Address: 2571 S. Martin Avenue
 Base Maps: Sec.19 T.14 R.14
 Ward: 5





SE-09-55 Clearwire - Martin Avenue
December 2009 Aerial





Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning and Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner’s public hearing.

Approvals and protests must have an owner’s signature to be recorded.

If protests are filed from property owners representing 20% or more by area in any quadrant of the area located within a 150 foot radius of the parcel(s) on which the rezoning is proposed, an affirmative vote of ¾ of the Mayor and Council will be required to approve the rezoning ordinance.

Case: **SE-09-55 Clearwire – Martin Avenue, C-1 Zoning (Ward 5)**

_____ APPROVE the proposed rezoning.
 I/We the undersigned property owners, wish to PROTEST the proposed rezoning.

Reason:

PLEASE PRINT YOUR NAME	PLEASE PRINT MAILING ADDRESS	PLEASE PRINT LEGAL PROPERTY DESCRIPTION		
		Subdivision	Block	Lot

Owner’s Signature: _____ Date _____

Place
Stamp
Here

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

SE-09-55

Expose this flap - Affix stamp and return



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

SE-09-55

IMPORTANT REZONING NOTICE ENCLOSED