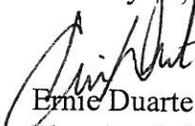




MEMORANDUM

DATE: May 1, 2012
For May 16, 2013 Hearing

TO: Linus Kafka
Zoning Examiner

FROM: 
Ernie Duarte
Planning & Development Services
Director

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES REPORT
C9-12-13 Wilson – Northway Avenue, R-2 (Medium Density Residential) to R-3
(High Density Residential) (Ward 6)

Issue – This is a request by Rob Longaker of The WLB Group, Inc., on behalf of the property owner, Alexander Wilson, to rezone approximately 0.48 acres from R-2 to R-3 zoning. The rezoning site is located on the west side of Northway Avenue, approximately 150 feet south of Grant Road (see Case Location Map). There are currently a total of eleven 11 units onsite, which calculates to a density of nearly 23 residences per acre (RAC). The maximum density allowed in R-2 zoning is 15 RAC. The applicant is requesting R-3 zoning, which allows up to 36 RAC. There were originally six single-family residential units on the site but five of the units were converted to duplexes without building permits, which has resulted in a zoning violation on the property. The applicant proposes to leave the existing eleven residential rental units in place as converted. Board of Adjustment variances will be required for the units to remain.

Planning & Development Services Recommendation – The Planning & Development Services Department recommends denial of R-3 zoning.

Background Information

Existing Land Use: The site contains residential rental units and storage sheds. The site originally had six single-family units. Five of these were converted to duplexes without permits, resulting in a total of eleven residential units and a zoning violation.

Surrounding Zones and Land Uses:

North: Zoned C-1; Commercial retail
South: Zoned R-2; Single-family Residential
East: Zoned R-2; Single-family Residential
West: Zoned R-2; Multi-family residential

Previous Cases on the Property:

T99VL02978 & T99VL03051 Byron-Wilson Residential Zoning Violation On December 9, 1999 an inspection of the property occurred as a result of a complaint. The inspector found a block wall over 6 feet high and a studio addition on the south side of unit F had been constructed without permits. In addition, the inspector found a block wall over 6 feet high had been constructed in front of unit #11, and that a 250 square foot room and bathroom addition had been constructed without permits. It was noted on the complaint form and stop work order that other units had additions done in the same way. A notice of violation was issued on December 16, 1999, and the property owner was given ten days to comply. A citation was issued on August 6, 2000 and a hearing was scheduled for January 4, 2001. An order to abate the violation was issued. The citation was dismissed on January 31, 2001 following issuance of building permit #T01CM00469 for the room additions and walls.

T10DV00525 Wilson Residential Zoning Violation On February 18, 2010 an inspection of the property occurred as a result of a complaint. The inspector found that new structural additions and sheds had been constructed, including storage structures within the perimeter yard setback area, without permits. In addition, new gas lines, electrical lines and plumbing lines had been installed without permits and excess yard debris and refuse was found behind storage sheds. A citation was issued on May 25, 2010 and a hearing was scheduled for December 12, 2011 and continued until February 2, 2012. The case has been in Tucson City Court since June 29, 2012.

T11DV03143 Wilson Residential Zoning Violation On May 2, 2011 an inspection of the property occurred. The inspector found that single family residential units had been converted to duplexes without permits. A citation was issued and a hearing was scheduled on June 16, 2011 and continued until February 2, 2012. The case has been in Tucson City Court since June 29, 2012.

Related Cases:

C9-07-13 Morganstone Group LLC – Bellevue Street, R-1 to R-2 This was a rezoning request for 1.50 acres located on the south side of Bellevue Street, approximately 250 feet east of Sonoita Avenue, to allow the development of twelve single-story attached residences. The Mayor and Council authorized the rezoning on October 9, 2007. On November 7, 2012, the Mayor approved a 5-year time extension.

Applicant's Request – The applicant requests a rezoning to R-3 to extinguish a zoning violation and to allow the existing eleven residential units and four sheds to remain on the 0.48-acre site, for a density of approximately 23 RAC.

Planning Considerations – The *Grant-Alvernon Area Plan (GAAP)* and the *General Plan* provide land use policy direction for this area. The general goal of the *GAAP* is to preserve, protect and enhance the integrity of established neighborhoods. *GAAP* policies support development on the perimeter of residential areas which serves to protect and enhance the quality

of life for neighborhood residents, and that demonstrates sensitivity to surrounding uses through the use of design, location, orientation, landscaping, and screening. Policies also support primary access for nonresidential and high-density (over 15 units per acre) residential uses, to arterial streets or to a collector street within 300 feet of an arterial street, with vehicular traffic directed away from the interior of lower density residential areas. The *GAAP* promotes on-site recreational areas in high-density residential development and encourages a well-defined pedestrian system linked to public sidewalks. *GAAP* guidelines encourage all parking, loading, and vehicle maneuvering requirements to be on-site, and that evenly dispersed canopy trees be planted and maintained within parking areas to provide shade and reduce "heat island" effects.

General Plan policies support a mix of housing types and opportunities throughout the city to meet the diverse needs of residents, and promote increased housing density and compatible residential infill in a range of prices to accommodate changing family arrangements, market conditions, and demographics. *General Plan* policies promote neighborhood identity and visual character and upgrades to neighborhood infrastructure, including sidewalks and street lighting, and the use of safe, innovative design that integrates design elements, such as connectivity, open space, pedestrian networks, and landscaped streetscapes. The planting and long-term management and maintenance of attractive urban vegetation is encouraged to maximize environmental and aesthetic benefits to the community.

The request to rezone to the R-3 zone is allowed by the *GAAP* and *General Plan* subject to development on the site meeting policy direction. However, the preliminary development plan indicates full Code compliance will not be achieved and approval of a number of variances will be necessary. The proposal fails to meet Plan policy direction for design, vehicle parking and maneuvering, and does not demonstrate an enhancement or sensitivity to the neighborhood.

Surrounding uses to the east across Northway Avenue and to the south include single family detached homes, zoned R-2. To the west is a multi-family complex, zoned R-2. To the north are C-1 neighborhood commercial zone uses, which front on Grant Road. Vehicular access to the rezoning site is from Northway Avenue, a local street. Grant Road, identified as an arterial roadway with a future right-of-way of 120 feet on the *Major Streets and Routes Plan* map, is approximately 150 feet north of the site.

The rezoning site was originally developed with six single-family detached dwelling units constructed prior to 1967. Of the six single-family dwelling units, five have been converted to duplexes without permits so that there are now a total of eleven dwelling units. Planning and Development Services Department records indicate the site is currently under Code violation, as it relates to these conversions and the construction of sheds within the setback area along the west property line. Based on the property size of 21,025 square feet (0.48 acres), the current R-2 zone could support up to seven (7) dwelling units. Therefore, a rezoning to R-3, high density residential zoning, is required to allow the existing build out on the site. If the rezoning is successful, the site would be required to meet all current Code requirements, including but not limited to, building codes, parking, landscaping, setbacks, and safe pedestrian paths to the public sidewalk system, unless Board of Adjustment variances to these requirements are approved.

The applicant attended a rezoning presubmittal conference on October 19, 2011. At this meeting staff discussed a significant number of *Land Use Code* and *Building Code* issues in addition to satisfactory follow-up with Tucson Fire and Pima County Wastewater, noting that all of these concerns must be addressed to complete the rezoning. Based on the information provided at the meeting, many Board of Adjustment variances will be required to bring this site, as developed, into Code compliance. PAAL widths for access to each of the units may need to be widened to provide sufficient vehicular access to each of the units, and to accommodate pedestrian refuge areas within the PAAL cross-section. The development package must show continuous pedestrian connections throughout the site and to public sidewalks.

The required neighborhood meeting was held on December 12, 2011 at the development site, in one of the existing units. The sign-in sheet shows one representative for the rezoning request was present at the meeting. None of the contacted neighbors attended the meeting. Six days prior to the neighborhood meeting, the applicant's representative spoke to one of the commercial property owners to the north, who did not have any issues with the proposed rezoning. A representative from the Palo Verde Neighborhood Association has since expressed concerns regarding various issues, including short term tenancy of the units, criminal activity on the site resulting in calls to the police, lack of an on-site property manager, location of the unscreened dumpster near the site entrance, debris piled around the dumpster, overgrown weeds, and graffiti on the walls and dumpster.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates the development generates 88 vehicle trips per day. Field inspection by staff indicates there are no billboards on the site. Signage exists in the form of painted lettering on the exterior wall in front of the complex along Northway Avenue. If this sign is to remain, a sign permit application must be submitted and approved.

Design Considerations

Land Use Compatibility – The applicant proposes to leave in place all existing structures, including the single residential unit and the five unpermitted duplex conversions, as well as four sheds located near the west property line. The four sheds, constructed without permits, do not meet the minimum perimeter yard setback of 6 feet or 2/3 structure height. The floor areas of the residential duplex units range from approximately 250 square feet to 400 square feet. The single family unit is approximately 450 square feet. The PDP indicates the units will share the unpaved common driveway and that the site layout will be typical of a motor court design. Based on the surrounding residential uses and densities, the project's density is greater than adjacent residential densities. If the rezoning is approved, augmented landscaping and screening should be provided along the southern and western boundaries of the property adjacent to residential R-2 zoned properties to assure the privacy of the immediate neighbors.

The proposed R-3 zoning will potentially introduce a residential density that is inappropriate for a property without adequate site area or vehicular use area to provide required parking, landscaping, and safe maneuvering of vehicles and pedestrian circulation. Given the many

variances needed, and the violations cited, staff cannot support the proposed rezoning. With neighborhood preservation, protection, and enhancement being primary goals of the *GAAP*, a rezoning to R-3 to allow the current density of 23 RAC to remain, would be supported only if presented with a proposal for full site redevelopment.

While staff does not recommend approval of the rezoning, it is understood that the Zoning Examiner may support the rezoning request. For this reason, the following analysis is provided to support conditions that could be made part of a positive recommendation for the rezoning.

Road Improvements, Parking, Access and Circulation – No road improvements or surfacing of vehicle use area are proposed with this project. Access to the rezoning site is provided by a gravel driveway off of Northway Avenue. Parking area access lanes (PAALs) that provide access to more than two units must be a minimum of 24 feet wide. PAAL and parking areas must be paved and the PAAL width widened to provide 24-foot wide vehicular access to each of the eleven units, or Board of Adjustment variances must be approved to allow the unpaved access drive to remain as is. PAAL widths must also include pedestrian refuge areas within the cross-section. The development package submitted for review must show continuous pedestrian connections throughout the site and to the public sidewalks on Northway Avenue and Grant Road, or variances must be obtained. If the rezoning is approved, to buffer the residences to the south and to keep traffic out of the interior of the neighborhood, the exit to Northway should be restricted to left turn only to direct traffic north towards Grant Road.

Public sidewalks are required along Northway Avenue. The PDP indicates that a 4-foot wide sidewalk will be constructed along both sides of the vehicle access drive and along the front of the property. On-site accessible pedestrian connections are required between residential units and all other activity areas on-site, such as dumpster locations, vehicle use area, bicycle parking spaces. The common driveway shown on the PDP does not meet required PAAL width. In addition, two trees and a dumpster located within the PAAL are shown on the PDP as remaining in place on the site. Parking for the development must be provided entirely on-site. Vehicle parking for multi-family residential uses is required in amounts ranging from 1.5 spaces per dwelling unit for studios and one-bedroom units to 2.5 spaces per dwelling unit for four or more bedrooms. Bicycle parking is required. Parking calculations, floor plans and/or information regarding the number of bedrooms in each unit are not provided on the PDP or in the accompanying written material.

Conclusion – Staff recommends denial of the requested R-3 zoning. Given the inability to meet policy direction provided by the *Grant-Alvernon Area Plan* and the *General Plan*, or to achieve full Code compliance, and due to the number of Board of Adjustment variances needed, staff can not support the requested rezoning. However, should the Zoning Examiner decide to support the request, staff recommends the attached preliminary conditions of rezoning, which include making the rezoning subject to final inspections on the five (5) structures that have been converted to duplexes without Planning & Development Services Department approval, and successful final processing of all building permits.

Preliminary Conditions

PROCEDURAL

1. A development package in substantial compliance with the revised preliminary development plan dated October 18, 2012, 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. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for development within the rezoning area, no more than 90 days before submitting any development package, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
6. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
7. One year is allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning. The R-3 zoning shall be effectuated upon successful final inspections on all structures and successful final processing of all building permits in substantial compliance with the PDP and these conditions.
8. The development package shall comply with *Land Use Code* requirements or all needed Board of Adjustment variances shall be successfully processed.
9. The development package shall not be approved until documentation is provided that all building permits and final inspections have been successfully processed for all structures on the site.
10. All easements within or impacting the project site shall be reviewed for conflicts. Obtain authorization from vested interest to easement(s) if buildings are located in easement(s). Abandonment of easement(s) is required prior to development package approval. A title report is are required with submittal.

Preliminary Conditions

LAND USE COMPATIBILITY

11. All exterior mechanical equipment shall be screened from view from surrounding roadways and properties.
12. The dumpster shall be screened from surrounding roadways and properties.
13. Buildings are limited to single-story.
14. There shall be no more than eleven (11) residential units on the site.
15. Building color(s) shall be compatible with surrounding residential land uses.
16. 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.
17. Graffiti shall be removed within five (5) working days of discovery.
18. Six (6) inch wide masonry block or greater shall be used for perimeter walls.

VEHICULAR ACCESS/CIRCULATION

19. The access drive shall be restricted to left-turn exit only and signed with appropriate directional signage directing traffic to exit northward towards Grant Road and away from the residential neighborhood to the south.
20. The entrance drive shall be designed to meet access road requirements, along with other private street standards. Otherwise, Board of Adjustment variance approval is required.
21. A vehicle turn-around area shall be provided. Otherwise, a Board of Adjustment variance approval is required.
22. Four (4) foot wide continuous pedestrian sidewalk shall be constructed to connect all residential units on site to the public sidewalk proposed along Northway Avenue.

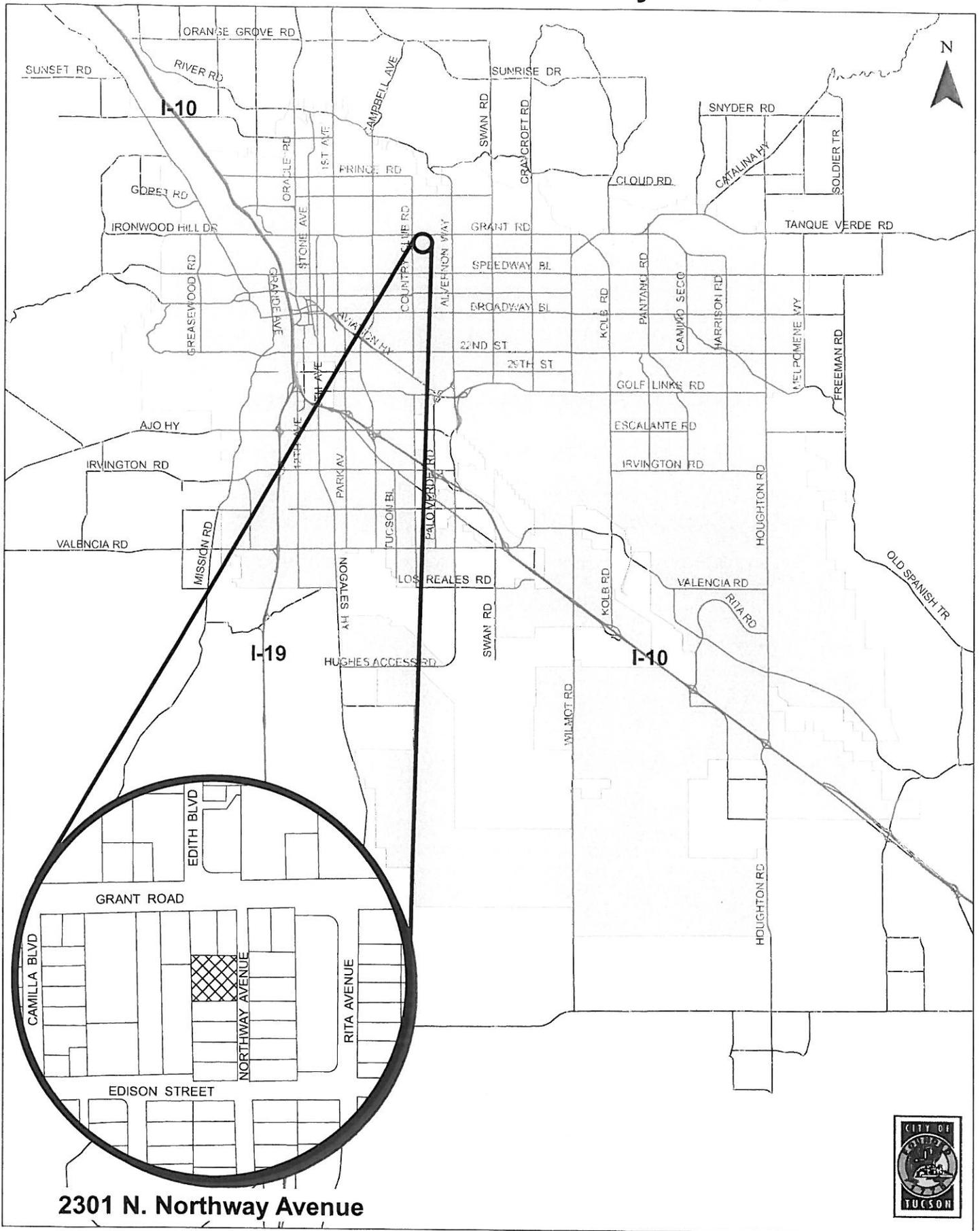
DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

23. As-built grading information shall be submitted to show existing (or proposed) elevations of building pads, and grades along perimeter and access areas. Finished Floor Elevations of residential structures shall be labeled on the plans.
24. Offsite and onsite drainage shall be addressed with a hydrology report for floodplain compliance. Report shall detail how drainage is accommodated and shall address the floodplain area at west side of project. Topographic conditions and the Christmas Wash watershed indicate that a jurisdictional floodplain may impact the project. Drainage design and cross sections shall be submitted for side yards, front, and rear property boundary areas, as well as between buildings, showing walls, parking areas, and proposed interceptor swales.

Preliminary Conditions

25. This watershed is classified as a non-designated basin watershed management area (within neither a balanced basin nor critical basin watershed management area). Threshold retention of the difference in 5-year flow volume is typically required, however, it appears that there would be a conflict with IBC code if a basin was added in such close proximity to building structures, therefore a request for retention waiver may be sought, and subsequently granted with the appropriate documentation. If no waiver is requested, any basins, shall have bleed pipes, be graded with positive slopes, and designed to minimize ponding. In addition, any waterharvesting areas and swales shall have a positive gradient and be designed to minimize ponding.
26. Existing trees located in the vehicular access area shall be removed or relocated. Otherwise, Board of Adjustment variance approval is required.
27. Enhanced landscaping, including canopy trees, and screening shall be provided along the southern and western boundaries of the property adjacent to residential R-2 zoned properties.

C9-12-13 Wilson - Northway Avenue



2301 N. Northway Avenue



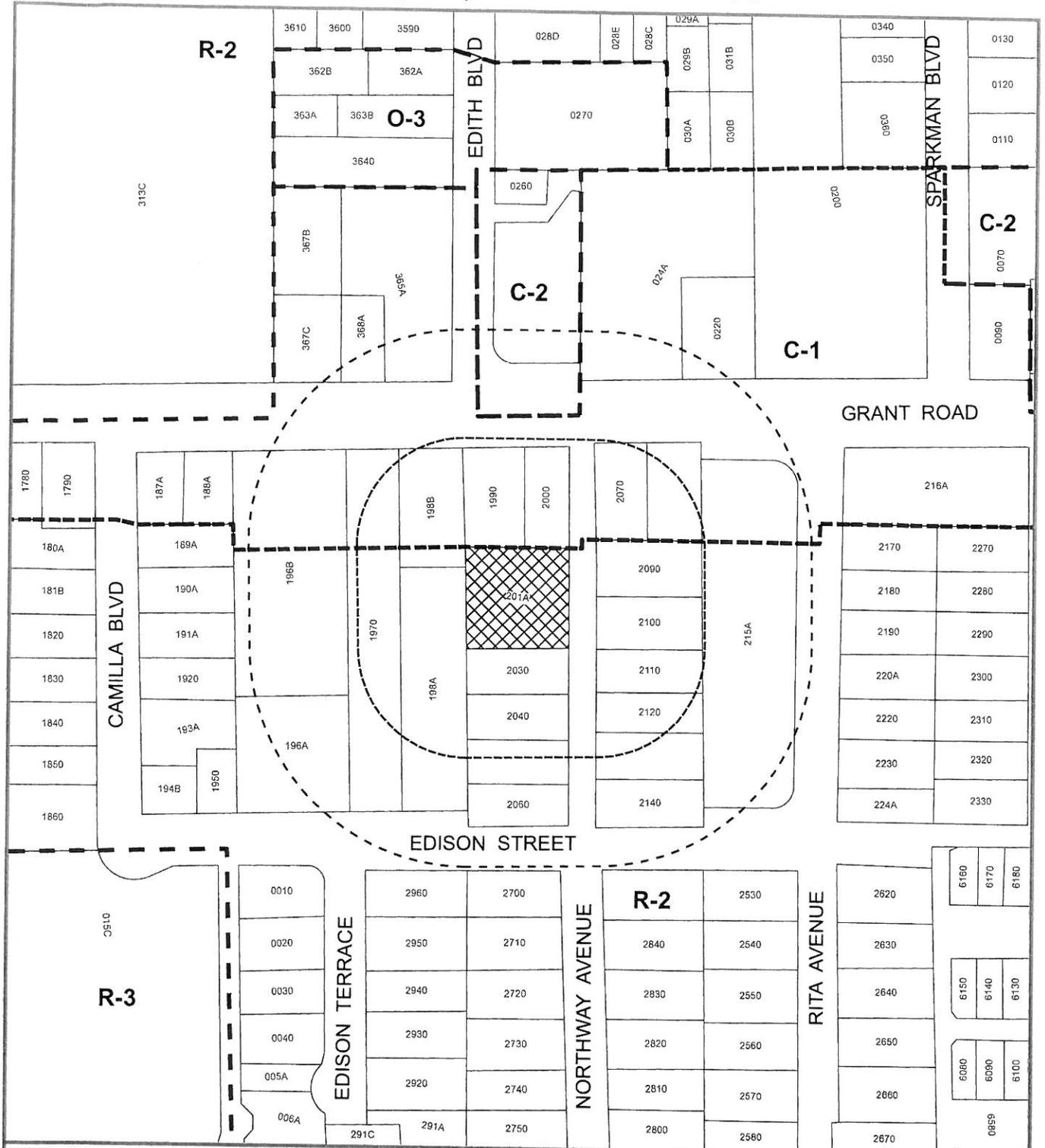


C9-12-13 Wilson - Northway Avenue
2010 Aerial



C9-12-13 Wilson - Northway Avenue

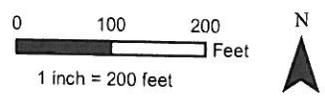
Rezoning Request: from R-2 to R-3



-  Area of Rezoning Request
-  150' Protest Area
-  300' Notification Area
-  Zone Boundaries



Address: 2301 N. Northway Avenue
 Base Maps: Sec.4 T.14 R.14
 Ward: 6



PUBLIC FACILITIES AND SERVICES REPORT FOR May 16, 2013
(as of April 25, 2013)

C9-12-13 Wilson – Northway Avenue, R-2 to R-3

CITY AGENCIES

Planning & Development Services – Zoning Review: See attached comments dated 11/01/12.
Planning & Development Services – Engineering: See attached comments dated 11/13/12.
Planning & Development Services – Sign Code: See attached comments dated 11/13/12.
Planning & Development Services – Community Design: See attached comments dated 11/13/12.

No Objections Noted

Transportation – Engineering
Transportation – Traffic Engineering
Planning & Development Services – Zoning Enforcement
Tucson Fire Department
Tucson Water Department
Community Services – Historic Preservation Officer
Environmental Services
Tucson Parks and Recreation
Tucson Police Department
Planning & Development Services – Landscape
Office of Conservation & Sustainable Development

NON-CITY AGENCIES

PAG-TPD: Estimated traffic generation of proposed development: 88 vehicle trips per day.

No Objections Noted

Tucson Unified School District
Pima County Wastewater
Arizona Department of Transportation
Pima County Transportation and Flood Control
Pima County Parks and Recreation
Davis-Monthan Air Force Base
Tucson Electric Power

Additional information about this project, including the staff report to the Zoning Examiner and the Preliminary Development Plan, will be posted on the web by 5:00 PM, May 1, 2013 at
http://cms3.tucsonaz.gov/planning/prog_proj/projects/rezoning/index.html



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: C9-12-13 Wilson – Northway Avenue, R-2 to R-3
Ward # 6**

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

C9-12-13

Expose this flap - Affix stamp and return



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

C9-12-13
IMPORTANT REZONING NOTICE ENCLOSED