



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

September 26, 2013

**SUBJECT: C9-13-05 Price Street – Friedman, I-1 to I-2
Public Hearing September 12, 2013**

BACKGROUND

This is a request by Jim Portner of Projects International, Inc., on behalf of the property owners, Garold C. Brown Family, LP, to rezone approximately 6.45 acres from I-1 to I-2 zoning and for approval of a special exception.

Land use policy direction for this rezoning site is provided within the *General Plan*.

PUBLIC HEARING SUMMARY (Minutes Attached)

Carolyn Laurie, Planning and Development Services Department, presented the staff report with a recommendation for approval. At the January 17, 2013 hearing, Ms. Laurie also commented that one written approval and one written protests were received.

Jim Portner, the applicant's agent, presented the rezoning request and agreed to the recommended staff conditions of rezoning.

With no one else wishing to be heard, the public hearing was closed.

FINDINGS OF FACT

This is a request by Jim Portner of Projects International, Inc., on behalf of the property owners, Garold C. Brown Family, LP, to rezone approximately 6.45 acres from I-1 to I-2 zoning and for approval of a special exception. The rezoning site is located on the south side of Price Street approximately 270 feet west of Romero Road. The preliminary development plan proposes to bring an existing materials recycling facility into compliance with the Land Use Code (LUC). The proposal for the rezoning and special exception includes a 4,000 square foot building addition to the existing recycling facility along its northern façade, a new parking area, a pedestrian connection to the Price Street sidewalk system, and a redefined 35,500 square foot area designated as outdoor storage of finished/packaged recycled material. The site is the subject of a zoning violation. The rezoning request, if approved, would establish conditions for the continued operation of the facility.

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Rezoning: I-1 to I-2**

A salvaging and recycling use of this type in the I-2 zone is subject to Section 3.5.5.1 of the LUC and approval of a special exception through the Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3., the same process as required for the rezoning. The two processes have been combined in this case.

All properties to the east, south and west and to north across Price Street are developed with industrial uses in the I-1 Light Industrial zone including self-storage facilities, manufacturing and commercial uses, and a Sun Tran bus facility. Across Romero Road to the east are residential neighborhoods zoned MH-1 Mobile Home and R-1 Single Family.

The site will continue to access West Price Street which serves an existing industrial area. West Price Street provides access to Romero Road which is designated as a collector street on the *Major Streets and Routes Plan* map. Curb and sidewalk improvements have been installed along the southern side of Price Street from Suntran Boulevard to the proposed rezoning site.

Land use policy direction for this area is provided by the *General Plan*. Element 2 (Land Use) Supporting Policy 8.1 supports opportunities for industrial development in locations served by existing infrastructure when appropriate design elements and/or land use transitions can be utilized to mitigate incompatible impacts on adjacent less intensive land uses.

New industrial proposals will be evaluated on a case-by-case basis according to the following criteria:

- 1.) Convenient access to highway, rail, or air services and routes;
- 2.) Nearby public transit to serve employees, especially for proposed large industrial facilities with high numbers of employees;
- 3.) Pedestrian access and facilities between bus stops and employment centers;
- 4.) Parking, loading, and maneuvering requirements are met on-site; and,
- 5.) Architectural detailing is provided on all sides of structures and the landscaped setbacks from the front and the rear property lines.

Element 4 (Community Character and Design), Policy 5 promotes neighborhood identity and visual character. Supporting Policy 5.3 supports redevelopment projects that reflect sensitivity to site and neighborhood conditions. Policy 6 promotes quality in design for all development. Supporting Policy 6.1 promotes an 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 original site plan and was approved in December of 1995. Over time the site plan and parcel have been altered and parcel splits have occurred. However, the major design elements of site have remained intact including the 49,500 square foot main structure,

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Rezoning: I-1 to I-2**

modular office building, paving, access points from Price Street, and front yard setbacks. The main facility structure is rectangular in shape with an approximate length of 285 feet, and width of 160 feet. Along the western façade of the building is an attached three sided structure approximately 150 feet long by 55 feet wide. The western portion of the parcel currently contains a detention basin and illegal storage of baled materials. The parcel is split by a six (6) foot block wall to a self-storage facility.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 345 vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site. The existing sign is non-conforming. Element 4 (Community Character and Design), Policy Action 4.8.C requires nonconforming signs to be removed or brought into conformance as a condition of rezoning.

CONCLUSION

The proposed rezoning and Special Exception Land Use are in general conformance with the applicable *General Plan* policies. The overall appearance and functionality of the facility will be improved as an aspect of the rezoning, and will continue to provide service to the local community. The open zoning violations will also be corrected and closed during the Development Plan review. Therefore, subject to compliance with the attached preliminary conditions, approval of the requested I-2 zoning and special exception land use request are appropriate.

RECOMMENDATION

The Zoning Examiner recommends approval of I-2 zoning, subject to staff recommended conditions.

Respectfully Submitted,



Linus Kafka
Zoning Examiner

ATTACHMENTS:

Public Hearing Minutes
Rezoning Staff Report



MEMORANDUM

DATE: August 22, 2013
For September 13, 2013 Hearing

TO: Linus Kafka
Zoning Examiner

FROM: Ernie Duarte *Ernie Duarte*
Planning & Development Services
Director

SUBJECT: REZONING & SPECIAL EXCEPTION LAND USE REQUEST
PLANNING & DEVELOPMENT SERVICES REPORT
C9-13-05 Price Street – Friedman, I- 1 to I-2 (Ward 3)

Issue – This is a request by Jim Portner of Projects International, Inc., on behalf of the property owners, Garold C. Brown Family, LP, to rezone approximately 6.45 acres from I-1 to I-2 zoning and for approval of a special exception. The rezoning site is located on the south side of Price Street approximately 270 feet west of Romero Road (see Case Location Map). The preliminary development plan proposes to bring an existing materials recycling facility into compliance with the *Land Use Code (LUC)*. The proposal for the rezoning and special exception includes a 4,000 square foot building addition to the existing recycling facility along its northern façade, new parking area, pedestrian connection to the Price Street sidewalk system, and a redefined 35,500 square foot area designated as outdoor storage of finished/packaged recycled material. The site is the subject of zoning violation case T09DV05364. The rezoning request, if approved, would establish conditions for the continued operation of the facility.

Per Section 5.3.2 of the LUC, rezoning requests are considered by the Zoning Examiner at a public hearing for a recommendation to the Mayor and Council. Mayor and Council make the final decision. Rezoning requests are processed in accordance with the Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3.

A salvaging and recycling use of this type in the I-2 zone is subject to Section 3.5.5.1 of the LUC and approval of a special exception through the Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3., the same process as required for the rezoning. The two processes have been combined in this case.

Planning & Development Services Recommendation -- The Planning & Development Services Department recommends approval of I-2 zoning and the special exception, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Salvage and recycling processing center.

Surrounding Zones and Land Uses:

North: Zoned I-1 Light Industrial zone; industrial, manufacturing, and commercial uses
South: Zoned I-1 Light Industrial zone; self-storage
East: Zoned I-1 Light Industrial zone; self-storage
West: Zoned I-1 Light Industrial zone; City of Tucson Sun Tran bus facility

Previous Cases on the Property:

C10-10-04 Friedman Recycling Company/Friedman Recycling, I-1 zone The appellant appealed the Zoning Administrator’s determination dated November 20, 2009, that the outside storage associated with the “Salvaging and Recycling” use was not an allowed use. The appellant’s request to the Board of Adjustment was denied and the Zoning Administrator’s determination was upheld.

Land Use Code Violation Case: T09DV05364 On September 16, 2009 a Land Use Code complaint was investigated by City inspectors. The complaint stated that the facility was not completing recycling activities in an enclosed building and that the recycling materials were causing a nuisance on public and private properties. On June 27, 2011, the case was closed after the Friedman Recycling agreed to relocate the operations to an alternative location.

Related Cases: None

Applicant’s Request – To allow and legitimize the existing outdoor storage of finished packed recycling materials and to bring the site and the use into *Land Use Code (LUC)* compliance.

Planning Considerations – Land use policy direction for this area is provided by the *General Plan*. Element 2 (Land Use) Supporting Policy 8.1 supports opportunities for industrial development in locations served by existing infrastructure when appropriate design elements and/or land use transitions can be utilized to mitigate incompatible impacts on adjacent less intensive land uses. New industrial proposals will be evaluated on a case-by-case basis according to the following criteria: 1.) Convenient access to highway, rail, or air services and routes; 2.) Nearby public transit to serve employees, especially for proposed large industrial facilities with high numbers of employees; 3.) Pedestrian access and facilities between bus stops and employment centers; 4.) Parking, loading, and maneuvering requirements are met on-site; and, 5.) Architectural detailing are provided on all sides of structures and the landscaped setbacks from the front and the rear property lines.

Element 4 (Community Character and Design), Policy 5 promotes neighborhood identity and visual character. Supporting Policy 5.3 supports redevelopment projects that reflect sensitivity to site and neighborhood conditions. Policy 6 promotes quality in design for all development. Supporting Policy 6.1 promotes an 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 original site plan and was approved in December of 1995. Over time the site plan and parcel have been altered and parcel splits have occurred. However, the major design elements of site have remained intact including the 49,500 square foot main structure, modular office building, paving, access points from Price Street, and front yard setbacks. The main facility structure is rectangular in shape with an approximate length of 285 feet, and width of 160 feet. Along the western façade, of the build is an attached three sided structure with an approximate length of 150 feet by 55 foot. The western 280 foot portion of the parcel currently contains the facilities existing detention basin and illegal storage of baled materials. The parcel is split by a six (6) foot block wall to a self-storage facility. All properties to the east, south and west and to north across Price Street are developed with industrial uses in the I-1 Light Industrial zone. East across Romero Road in the city are residential neighborhoods zoned MH-1 Mobile Home and R-1 Single Family.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 345 vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site. The existing sign is non-conforming. Element 4 (Community Character and Design), Policy Action 4.8.C requires nonconforming signs to be removed or brought into conformance as a condition of rezoning.

Design Considerations

Land Use Compatibility – The site has an existing salvage and recycling processing center and has a 49,500 square foot building, including a drop-off area for unloading of raw material, loading zones, large vehicle weigh-in scale, parking area, and unauthorized outdoor open storage of finished/packaged recycled materials. Given the location within a large well established area and the proposed use is appropriate.

Materials Storage – The PDP proposes storage of up to approximately 35,500 cubic feet of baled material on the site. Section 5205.1 of the Fire Code states, “Baled combustible fibers shall be limited to single blocks or piled not more than 25,000 cubic feet (700m³) in volume...” The Tucson Fire Department is a review agency for the development package approval process. The development package submittal must be consistent with the Fire Code. Staff will accept alternatives approved by TFD.

Drainage/Grading/Vegetation – No significant changes to the current grading and paving plans are being introduced with the request. The established western slope towards the existing drainage basin is not proposed to be altered at this time, however during code compliance review staff shall require additional maintenance and/or updates to the basin. The addition of curbs and updated paving is proposed for the designated outdoor storage area and changes of elevations may occur per code considerations. The PDP proposes an updated landscape buffer along Price Street including native trees, shrubs, and groundcover, with water harvesting.

Road Improvements/Vehicular Access/Circulation – The site will continue to access West Price Street which serves an existing industrial area. West Price Street does provide access to Romero Road one parcel to the east which is part of the larger Major Streets and Routes system. Major Streets and Routes Plan map, Romero Road is designated as a collector street. Curb and sidewalk improvements have been installed along the southern side of Price Street from Suntran Boulevard to the proposed rezoning site.

Conclusion – The proposed rezoning and Special Exception Land Use are in general conformance with the applicable *General Plan* policies. The overall appearance and functionality of the facility will be improved as an aspect of the rezoning, and will continue to provide service to the local community. The open zoning violations will also be corrected and closed during the Development Plan review. Therefore, subject to compliance with the attached preliminary conditions, approval of the requested I-2 zoning and special exception land use request are appropriate.

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PROCEDURAL

1. The development package shall be in substantial compliance with the Preliminary Development Plan submitted on 6/3/13 and the Design Compatibility dated June, 2013 which clearly illustrates compliance with all conditions through the use of details, diagrams and/or notes and in accordance with Section 4.1.1 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". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. 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. One year rezoning authorization is allowed from the date of initial authorization for properties with open violations to implement and effectuate all Code requirements, corrections for zoning violations, and conditions of rezoning.

LAND USE COMPATIBILITY

7. The removal of the nonconforming sign that exists at the facilities entrance and obtain proper permits for the replacement sign.
8. A twelve foot (12') high screen fence and associated access gates shall be built along the Price Street frontage. As shown in the June 13, 2013 Design Compatibility Report, the screen shall be comprised of cyclone fencing, with the bottom six feet (6') of same being slatted and the top six feet (6') of same being covered with canvas sheeting.
9. The existing six foot (6') high cyclone fencing along the south and western perimeter lot lines shall be modified to provide slatted screening.
10. All the material presently stored outside of the proposed designated outdoor storage area shall be removed as described in the June 3, 2013 Design Compatibility Report. All on-site areas outside of the new designated storage area shall thenceforth be kept in a neat and tidy fashion.
11. Initial dumping, processing, and sorting of incoming raw recyclable materials shall be completed and contained within the proposed three-sided building structure as shown on

the PDP. This materials processing area shall be clearly labeled and reflected on the future Development Plan Package.

12. No off site migration or scatter (wind-blown items) of recycling material shall take place.
13. A Materials Mitigation Plan (The Plan) shall be completed and posted in the facilities office at all times. The Plan shall address site materials management, cleanliness, gathering and clearing of blowing materials on and off site, and daily schedule. All exterior, site access points, landscape bufferyards; parking areas, vehicle and pedestrian circulation areas; and materials storage areas shall be addressed in the plan.
14. The Materials Mitigation Plan shall be submitted for review to Planning and Development Services during the Development Plan Package review. The Plan shall be subject to periodic reviews and site inspections.
15. Updates to the plan shall be completed as deem necessary by City staff.
16. Material stored within the outdoor storage area shall be: stacked, dated, and covered with a canvas or similar tarp material; in order to minimize the presence of blowing materials on the property. The new designated outdoor storage area shall be used for the bales containing cardboard, metal cans, and plastic products. Baled paper materials, including shredded papers, shall be stored indoors.
17. The designated outdoor storage area is intended as a place for the ongoing flow of incoming and outgoing bales. As such, no individual bales shall be stored for more than nine (9) months. This timeframe is viewed as sufficient to recognize and accommodate changing market conditions for recycled materials.
18. Materials bales shall not be stacked more than four (4) high in the designated outdoor storage area. Bales shall be stacked in an organized fashion and meet Fire Code Standards
19. Material storage shall not be visible from Price Street when the access gates are closed.
20. Materials storage shall not be located along the eastern perimeter of the site.
21. Twenty foot (20') minimum graveled and/or paved buffer/setback areas shall be located on the southern and western site perimeters and shall be kept clear of all materials.

DRAINAGE/GRADING/VEGETATION

22. A drainage report that addresses on and offsite drainage impacts of the proposed improvements shall be provided with the Development Package. The drainage report shall take into account the regulatory floodplain conditions of the parcel and determine the required buildings finished floor elevation and how high materials shall be stored (at least two feet above highest adjacent grade).
23. Discuss and address any needs to tie down or anchor the outside stored material to prevent flotation. Detention/retention basin floors shall be graded to drain either toward the existing outlet structure or other logical point. Basin floors shall not be flat.

24. Address the provision of runoff detention/retention basins in accordance with the requirements and recommendations of the Stormwater Detention/Retention Manual. Should the existing detention basin is not sufficient, it shall be modified to meet current standards and requirements.
25. A floodplain Use Permit will be required for any proposed work within the regulatory floodplain.
26. Vegetation shall be used as screening and/or security barrier for a minimum of ten percent of the basin perimeter. All security barriers and screening for detention/retention basins shall meet Safe By Design guidelines.
27. Owner/applicant is responsible for providing a special inspection and delivering results to City for the following condition. Provide materials with building permit application for acceptance and intake addition of 4,000 square foot enclosed structure for and reference rezoning case number C9-13-05. New and replacement roofing material shall be Energy Star rated, or cool roof rated with Initial Solar Reflectance Greater than or equal to 0.65, and minimum infrared emittance to be 85% or more. Placement of and utilization of energy from solar panels on roofs is an acceptable alternative.
28. Ten foot of upgraded landscaping along Price Road as proposed in the 6/3/13 Design Compatibility Report.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

29. A pedestrian walkway with a suitable means of physically protecting the pedestrian traffic along the rezoning frontage of Price Street shall be installed. The final design of these features shall be subject to staff review and approval at the time of Development Package.
30. All required circulation and parking to take place onsite as shown on Preliminary Development Plan submitted on June 13, 2013.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-13-05 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-13-05.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify

