# ZONING EXAMINER

## REPORT TO MAYOR AND COUNCIL

April 10, 2014

**C9-13-14 InSite – Grant Road**
**RX-2 to C-1**
**Public Hearing: March 6, 2014 and March 27, 2014**

**BACKGROUND**

This a request by Eric J. Uebelhor of InSite Real Estate, LLC, on behalf of property owners BNC National bank, to rezone approximately 0.39 of an acre from RX-2 to C-1 zoning. The rezoning site is located on the north side of Grant Road, approximately 700 feet west of the intersection of Grant Road and Tanque Verde Road. The preliminary development package (PDP) proposes the redevelopment of the site and two adjoining parcels currently zoned C-1 for a mixed use retail development. The rezoning site and the adjoining parcels are being reviewed concurrently as one integrated development package and conditions of the rezoning apply to all three parcels.

Land use policy direction for this area is provided by *Plan Tucson.*

**PUBLIC HEARING SUMMARY (Minutes Attached)**

Carolyn Laurie, Planning and Development Services Department, presented the staff report with a recommendation for approval. Ms. Laurie commented that two approvals were received and that one written protest had been received but withdrawn.

Eric Uebelhor, Frank Bangs, and Jeff Hunt presented the rezoning request and agreed to the recommended staff conditions of rezoning.

John McCaleb, a neighboring property owner, also testified. The public hearing was closed on March 27, 2014.

**FINDINGS OF FACT**

This a request by Eric J. Uebelhor of InSite Real Estate, LLC, on behalf of property owners BNC National bank, to rezone approximately 0.39 of an acre from RX-2 to C-1 zoning. The rezoning site is located on the north side of Grant Road, approximately 700 feet west of the intersection of Grant Road and Tanque Verde Road. The preliminary development package (PDP) proposes the redevelopment of the site and two adjoining parcels currently zoned C-1 for a mixed use retail development. The rezoning site and the adjoining parcels

are being reviewed concurrently as one integrated development package and conditions of the rezoning apply to all three parcels.

To the north of the proposed rezoning site is the Pantano Wash, a jurisdictionally regulated water way. The abutting portion of the Pantano Wash is zoned RX-2. Beyond that portion, the wash is zoned Pima County Zone CR-1 (County Residential). To the east and adjacent to the rezoning site along Grant Road are commercial uses zoned C-1. To the south across Grant Road is a shopping center and related retail and restaurant uses zoned C-2, as well as smaller parcels zoned C-1 and used for office and retail.

Access to the rezoning/development site is from the existing access points on Grant Road. No new deceleration lane is required. Cross-access between the integrated site and the adjacent commercial parcel to the east, located at 6565 E. Grant Road, will be maintained with a cross-access easement or other agreement running with the land providing for permanent, two-way vehicular access at least 20 feet wide. The Pima Association of Governments, Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 645 vehicle trips per day.

The rezoning site is adjacent to the Pantano River Park, a major regional recreational amenity of interconnected shared-use paths throughout the community, also known as "The Loop." The site is scheduled to be redeveloped prior to the completion of the The Loop in this area. Development of the site shall anticipate connectivity with The Loop as practicable and will integrate two access points to the park, with the first being located towards the eastern boundary and the second towards the western boundary.

Pima County Natural Resources, Parks and Recreation Department has accepted a 50 foot dedication of a triangular shaped portion of the rezoning parcel. Pima County Flood Control and Tucson Planning and Development Services have additionally requested dedications and improvements including a maintenance and emergency access point and additional setbacks and landscaping. These and other dedication requirements will be reflected in the preliminary development package.

A memorial commemorating the death of a motorist was located on the center parcel of the integrated site. The applicant has coordinated with the family of the deceased to provide alternative ways to preserve the memorial upon redevelopment of the site. Additionally, during the March 6th hearing, an adjoining property owner discussed the location of dumpsters on the project site. The applicant has agreed to ensure that no dumpster enclosure will be located less than 20 feet from the existing principal building located on the adjoining property at 6565 E. Grant Road

Proximity to the Pantano Wash requires that the proposed redevelopment comply with applicable stormwater requirements, erosion hazard setbacks, retention basin siting recommendations, and other requirements and recommendations. The site also contains important riparian areas as specified by the Pima County Conservation Land System. Sections of the riparian areas will be preserved and site grading shall be minimized.

Landscaping on the site should be integrated with the proposed landscaping for the linear park.

Land use policy direction for this area is provided by *Plan Tucson*.

The *Plan Tucson* future growth scenario map supports a mixed-use center at this location. The *Plan* supports a mix of local services including retail, office, and public gathering locations with access to open space systems and trails for pedestrians, bicyclists, and equestrians within urbanized areas. The *Plan* also supports activity nodes to increase transit use, reduce air pollution, improve delivery of public and private services, and support the retention and expansion of existing businesses.

## CONCLUSION

The proposed rezoning is consistent with, and supported by, the policy direction provided in *Plan Tucson*. Subject to compliance with the attached preliminary conditions, approval of the requested rezoning is appropriate.

## RECOMMENDATION

The Zoning Examiner recommends approval of C-1 zoning.

Respectfully Submitted,

Linus Kafka
Zoning Examiner

**ATTACHMENTS:**
Public Hearing Minutes
Rezoning Staff Report

ZONING MEMBERS PRESENT:
Linus Kafka, Zoning Examiner
Glenn Moyer, Planning & Development Services
Delma Sanchez, City Recording Clerk

ZONING EXAMINER: Thank you for bearing with us through the technical delay. Now is the time set for the Zoning Examiner's public hearing. My name is Linus Kafka, and I'm the Zoning Examiner for the City of Tucson. I conduct rezoning hearings on behalf of the Mayor and Council, and I make findings-of-fact which I put into a report, along with my recommendation, which I then send on to Mayor and Council.

My report will be based on the evidence submitted to me as part of the rezoning application, as well as on testimony taken tonight. Also rely on evidence or documents submitted to me up to this hearing, and I'll go through that in each individual case.

A tape recording is being made of tonight's testimony by the City Clerk's Office. They're behind this wall with their recording device. And if necessary, a transcript will be prepared.

I'll prepare a preliminary report and a final report. After I close the hearing, I'll prepare a preliminary report within five working days. I'll prepare a final report two weeks after the close to the public hearing.

For those of you who wish to receive a copy of my

preliminary report, and you're not already listed as a principal on the case, you'll be able to get a copy of that report if you fill out one of the orange cards that's on the podium.

A copy of the final report will be available from the Planning & Development Services Department, and I'll send that report along to the Mayor and Council. They may consider my recommendation, they may consider other factors, and they'll make their decision based on both my recommendation and the other factors.

A little bit about procedure. At the start of the hearing, I'd like to have Mr. Glenn Moyer of the Planning & Development Services Department, he's seated here to my right, give me a presentation on the case.

After that, I'll have the Applicant come up and present the case. And after the Applicant presents, those wishing to speak in favor of the case may be called up, followed by those who oppose the case. And then I'll call anyone who may not have a position, but who wishes to speak to some issue that's relevant to the case.

I also may call individuals back to the podium to address particular issues or to clarify things that I didn't understand. Since I cannot have any communication with parties involved in the case, now is the opportunity to speak.

And if you do wish to speak tonight, you'll be called

up, and just raise your hand and I'll call you up at the appropriate time. And when you do come up to the podium, I'll have you sign in and print your name and address. That way we can associate when we have a transcription made of tonight's proceedings, who's speaking on the podium with the person on the record.

At this time, I'd like to swear in anyone who's wishing to speaking this evening. Actually, I give this warning all the time. Even if you are just here to observe, you may wish to be sworn in as well because you might be inspired to speak by something somebody says. So it's no risk to you to stand up and be sworn in at this time, even if you're not currently thinking of speaking.

So if everybody would please rise and raise their right hands. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

(Affirmative.)

ZONING EXAMINER: All right. Thank you. We have two cases on the agenda this evening. The first one is Case No. C9-13-14 InSite-Grant Road, and I believe this is R- -- R-1, R-2 to C-1.

MR. MOYER: RX-2.

ZONING EXAMINER: RX-2 to C-1. All right. Mr. Moyer.

MR. MOYER: This is a request by Eric J. Uebelhor of

InSite Real Estate, LLC, on behalf of the property owners, B&C National Bank, to rezone approximately 0.39 acres from RX-2 to C-1 zoning. The rezoning site is located on the north side of Grant Road approximately 700 feet west of intersection of Grant and Tanque Verde on the south bank of the Pantano Wash.

The Preliminary Development Package proposes the redevelopment of the rezoning site, together with two adjoining parcels currently zoned C-1 for a mixed use retail development. The Applicant has requested that this rezoning case be concurrently reviewed with Development Package DP13-0236.

The development package covers the parcel being rezoned and the two adjacent C-1 zone parcels, as the rezoning site, and the adjacent C-1 zoned parcels will be reviewed and developed as one integrated project. Should the Applicant wish to continue to pursue the rezoning, the conditions of rezoning will apply to all three parcels.

Land use policy direction for this area is provided by Plan Tucson. Plan Tu- -- the Plan Tucson Future Growth Scenario Map support the request for a mixed use center at this location.

The rezoning site is adjacent to the Pantano River Park, part of the loop, a major regional recreational amenity. When completed, the loop will total 131 miles of interconnected shared use paths throughout the community.

The Pima Regional Trail System Master Plan calls for a

minimum corridor width of 100 feet for the Pantano River Park. Due to site constraints, the Pima County Natural Resources Parks & Recreation Department has accepted a 50-foot dedication limited to a triangular shape portion of the rezoning parcel.

Due to the location adjacent to the Pantano Wash, Staff requests that a drainage report, which addresses on-site and off-site drainage, be submitted. The report should also address the Pantano Wash erosion hazard setback line and how it can be reduced to allow the proposed improvements to be installed.

The site contains important riparian areas, as delineated by the Pima County Conservation Land System. The CL-- Conservation Land System categories and identifies locations of priority biological resources within Pima County and provides policy guidelines for the conservation of these resources. Site grading should be minimized to protect the riparian areas when possible.

Landscaping on the site should be integrated with proposed landscaping for the linear park. Mature native trees in fair to good health should be preserved in place. The proposed site will maintain the current curb cuts on Grant Road. An updated traffic impact study will be required prior to the final approval of the development package.

Cross access between the established commercial parcel to the east and a proposed redevelopment should be maintained.

Given the proposed development compliance with Plan Tucson and other associated plans and ordinances, the rezoning request is supported by Staff, subject to compliance with the attached Preliminary Conditions, approval of the requested C-1 zoning is appropriate.

As of today, the Planning & Development Services Department has received two written approvals, and one protest. The protest is outside of the 150-foot protest area, resulting in a protest by area in all four quadrants of zero percent. And mention that, it's significant because if the protest is greater than 20% in any one of the four directions around the site, a three-quarters majority vote of Mayor and Council is required to adopt a rezoning ordinance.

ZONING EXAMINER: Thank you, Mr. Moyer. Did you say there were no protests in any quadrant?

MR. MOYER: We received one protest. It was outside the 150- --

ZONING EXAMINER: Okay.

MR. MOYER: - foot protest area. So it is zero percent in all four quadrants.

ZONING EXAMINER: So I recollect a protest coming in from the adjacent property to the east. I'm, I'm trying to see if I have that.

MR. MOYER: Yeah. If you look at the approval protest

map, the notice area -

ZONING EXAMINER: Oh, I see. Yeah. It, it's outside the - it's adjacent to the development site, but not to the rezoning site.

MR. MOYER: Correct. (Inaudible)

ZONING EXAMINER: Okay. Thank you. Let me ask. How many of you here tonight are for the InSite case? And how many of you are for the Friends of the Pima County Library? Okay. I have a bride/groom situation here.

The - for those of you who are here for the Friends of the Library case, if any of you are parked under the El Presidio Park here in the El Presidio Garage, that closes at 8:00. So if we're here that late, and any of you are parked there, let me know a little bit in advance.

We'll take a break and allow you to move your vehicle. Anybody, anybody have that prob- -- okay. Good. All right. It's always bad to come out of a hearing and find people locked out of their garage.

All right. Mr. Hunt, are you presenting, or is Mr. Bangs presenting, or Mr. Uebelhor? Okay. Actually, let me - I'd like to discuss, before we get into the presentation, some issues that we've had with notice, and either Mr. Hunt or Mr. Bangs can respond to that.

When I went out to the site, I noticed that the posting

was in bad maintenance. I'd say it was actually not visible. And I was told that there had been some problems. So if either one of you could - what I'd like to do is get that on the record.

MR. UEBELHOR: My name's Eric Uebelhor with InSite Real Estate. It's my understanding that some weather had caused the posted sign to detach from the plywood board that it was mounted on.

When, when we were made aware of that, we went to the site immediately, repaired it, to my, to my knowledge, within a matter of a couple of hours to when we were made aware of it, if not, if not less than that. My counsel, Frank Bangs, would like to speak a little more on (inaudible)

ZONING EXAMINER: Okay. Thank you.

MR. BANGS: Mr. Kafka, Staff, my name is Frank Bangs. My business address is 4733 East Camplowell Drive. I'm serving as counsel for InSite, the Applicant in this case.

We believe that the notice provided of this hearing is adequate, both under the Uniform Development Code and relevant state, Arizona state decisions. What is the problem you, Mr. Kafka, articulated it.

We believe from the communications we've had from Staff, and our own observations on the site, that sometime on Saturday, as the result of the rain and, and wind that occurred on that day, and on Monday afternoon, the posted notice was

1 certainly partially, if not wholly illegible. As Mr. Uebelhor
2 said, that condition was promptly repaired.
3 And when the newly-fixed, repaired posted notice was
4 then discovered to have come undone, we repaired that again
5 promptly. So, you have, at most, a period of approximately two
6 days when that was - could not be read by interested members of
7 the public.
8 The, the standard, both in the UDC and in state law is
9 the adequacy of notice, and whether there is substantial
10 compliance with the required posting rules. In this instance, I
11 believe that we meet that standard.
12 There's been a good faith attempt to address what were
13 unforeseen impacts caused by the weather. And when subsequently
14 there were some problems with the, the repairs, we promptly
15 addressed that. So there's been a good faith effort to do that.
16 The, the Court decisions, when looking at similar kinds
17 of deviations from the notice rules, have said that the, the
18 issue is whether it's adequate. That's the term. Adequacy is
19 used in the UDC as well, and quoting from about four of the
20 decisions, notice of a hearing is adequate if it affords an
21 opportunity to any person by the exercise of reasonable diligence
22 to determine if his property would be affected and to what
23 extent.
24 Now during the period of the notification in excess of

15 days, anybody who was relying solely upon the posted notice would have had an opportunity by reasonable diligence, to at least find out what was occurring on that property, and would have had access to information where they could find out more about the rezoning other than it was from RX-2 to, to C-1.

We think that that - those facts, coupled with the rules that have been articulated in those cases, point to the adequacy of the, of the notice.

Mr. Kafka, I realize that the standard format is that we would conduct this hearing. It's, it's closed and your record becomes closed, and then as you described earlier, you go forward.

If you would wish tonight, and we would so note on the record, to have any supplemental legal support for that argument, we would be happy to provide it. Would have provided it this evening had I, had I known a little earlier than this afternoon that we would be dealing with this question.

So if that, if that's something that you would feel comfortable receiving, we would be happy to provide that to you and to anybody else who's a party to this hearing this evening or in the past.

ZONING EXAMINER: Thank you, Mr. Bangs. I, I don't need that, and I'll, I'll tell you why, Mr. Uebelhor and Mr. Hunt. One of the things you get when you hire Frank Bangs is

that if he asserts a legal principle, I can be pretty sure that that's credible, 'cause you get one of the finest land use attorneys in the state, if not the country.

And I think when you get Mr. Hunt, you get a good engineer who's able to really present a case very well, and especially has been good to me in terms of explaining engineering things, that I'm not an engineer, that I wouldn't understand.

I think one of the values that I try to add is the integrity of the process and make sure that everything is unassailable, so that when I write my report, whatever you want to say about it, if you agree or disagree, the process was watertight and fair. And so the, the concern I have when, when we get into an issue like this is, is this a blemish on the process? I take that maybe too seriously.

So I do want to give you an opportunity to put on the record exactly what happened with the posting. I understand - I, I take you at your word about the standard. I think that the substantial compliance standard is, is correct. But that's really more about what do you do after a challenge? And my concern is, how do I go forward without that being a problem? And I'm sure that's not something you want either.

So I think the, the solution for me right now is we're gonna keep going. But I want to make sure that we have your timeline on the record, and I think it's pretty clear. I know

that by the time - when I went out on Wednesday, the sign was obscured. And on Saturday, there was a problem. So there's sometime where it's, where it's problematic for me. It may not be problematic on a substantial compliance basis.

The next case that I have, they had their notice up in Coraplast (ph.) and we had the same weather, but that notice was unaffected. So what I would ask is that in the future, Coraplast be used so that you don't have this problem with that being - 'cause you had two incidents where the weather affected the notice, the posting.

I'm still not sure whether the, the cure would be to, to hear everything tonight. And, and I respect the fact that you, you've come from Chicago tonight. So I respect that fact, and that's why, again, why I think we need to go forward tonight, because I don't want to have to say, "Let's stop, get the notice, and then come back."

But I'm contemplating that a cure would be, let's get it all done tonight, have you post, continue, and if nobody shows up at the next hearing, close at that time. I, I don't know. You may want to think about that, too, and address that. But why don't we go into the substantive stuff now, unless you think it's a problem to talk about the substantive issue if we actually then re-post the notice.

MR. BANGS: No, I don't.

ZONING EXAMINER: Okay.

MR. BANGS: As I said before, we're comfortable about the efficacy of the, the notice from a legal standpoint. And, and we're willing to take that risk.

ZONING EXAMINER: Okay.

MR. BANGS: Which we believe to be minimum.

ZONING EXAMINER: All right. So let's, let's go into the presentation.

MR. UEBELHOR: All right. Again, I'm with InSite Real Estate. Eric Uebelhor. My business address, since I didn't announce it before, is 1400 16th Street, Suite 300, and it's in Oak Brook, Illinois, 60523.

A little bit about InSite. We're a national build-to-suit developer. We do retail business and industrial. Obviously, this is a retail project, a multi-tenant building. We typically build our spec. space and then lease it to either single tenants or multi. This building, we're projecting five tenants.

The current site is an acre and a half site. It's three parcels that we're looking to consolidate into one parcel, but one, the western portion is currently zoned RX-2. So the other two parcels are C-1, which would allow our use. But in order to park and have a trash enclosure and monument sign, we need to go to C-1.

My team, as you've met, Frank Bangs is here to speak on legal issues. And then Jeff Hunt can answer any engineering questions that are over my head.

It's kind of cut off at the top, but the project location, the address is - well, there's currently three addresses associated with it, 6535, 6515 and 6501, but 6501 East Grant Road is the address, about seven to eight hundred feet northwest of the intersection of Tanque Verde Road and Grant Road.

Existing zoning map. As you can see, the majority of the surrounding area within the city of Tucson limits is either C-1 or C-2. There's a portion of RX-2 associated with the Pantano Wash. And then the corner of our site that clips, that is still RX-2 kind of follows the wash, but it also clips across our property.

ZONING EXAMINER: Is that other RX-2 the post office?

MR. UEBELHOR: Is that right?

MALE SPEAKER: (Inaudible)

MR. UEBELHOR: Yeah.

ZONING EXAMINER: Okay. All right. Thank you.

MR. UEBELHOR: Again, here's a blown-up map just showing the outline of the RX-2 parcel that we're seeking to rezone to C-1. Compatibility with our surrounding uses, these are - it's kind of a map of some of the other retailers in the

area.

Got Costco, Target directly across the street, Taco Bell, McDonald's, a variety of fast food restaurants. There's a Mattress Firm southeast, Mercedes Benz dealership across the corner from Costco. So it's a highly commercial area.

You've also got a lot of office use in the area that we feel could really benefit from this commercial retail restaurant development. The existing site has a vacant office building that it's been vacant for some time now. There's a parking deck northwest of the building.

The building itself is too small to really maximize the area of the site, and use any real retail use. Clearly, it, it hasn't been working as an office use either. It's currently a somewhat undesirable piece of property. There's transients that often reside there. A lot of garbage on-site.

I was by there today. I visited it several times. So it could benefit from some cleanup. And obviously, bordering to the north you've got the Pantano Wash. Here's just a couple of photos of the existing building, not very tall. Obviously you've got existing asphalt.

There's a portion of the site that is currently just open space, and then - but the building itself, I'm not - I think it's roughly 13 to 14 feet tall, not - it's not suitable for, for retail use.

Here's our proposed site plan as of yesterday. And I'll go into a couple of modifications that we made. But as for the site plan itself in a whole, got a 9200-square-foot multi-tenant retail building. We're still in the process of finalizing all of our leases, but we are anticipating five tenants.

So those will be, those will be split amongst the space. We are - we have a 750-foot outdoor patio on this eastern tenant, which will be for restaurant use. And that patio is also included in our parking calculations.

So based on the parking provided and the split of retail restaurant use, we'll always be limited as to the amount of restaurant use we can have just because if, if we exceed with the patio - I believe we have 5950 as our total square footage for restaurant. And then with the remaining 4,000 retail, we're right at the 72 parking spaces provided.

The site itself, we've - we have three existing curb cuts onto Grant Road which we intend to keep all three of those. We've kind of split the parking fields evenly to help split up your, your uses. So the intent would be to have retail at this end. Restaurant, restaurant, retail, restaurant.

So that your - maybe your higher demand restaurant uses are split between the two sides so you don't have too much congestion on-site. And then we have a two-way access aisle in the front of the building connecting the two parking fields.

We've also split the trash enclosures, provided ample turnaround for emergency vehicles. We have a loading zone at the north end of the building. Since we will exceed 5,000 square feet of restaurant, that's a requirement.

We have some unique site constraints in that at the north end of the property, there's a 50-foot Tucson Electric Power easement for the overhead power transmission lines that run across the back of the site and down into the wash.

So our structure's located a couple of feet outside of that easement. And then with my talks with them, we weren't allowed to have any structures located in the easement, including trash enclosures, basically anything with a below grade foundation. So they'll allow parking, landscape, which is similar to what's there now. The existing building is obviously outside of that as well.

As for, you know, the site as it sits in this image, we had provided a 12-foot egress lane to our neighbor, McCaleb Construction. Currently, there's unimpeded access between both sides. There was never a formally recorded cross-access agreement. We'd originally spoken and looked at just providing, keeping an access open, and that is in the conditions now.

Upon closer look at our site plan, there were, and I believe this is associated with the protest that was raised, there were two major concerns. One being maintaining two-way

ingress/egress to Mr. McCaleb's property. And then also our second trash enclosure was located right against his building, seven feet off approximately. So there was a concern with odors.

And we've, from, from early on, we've kind of just always had it there. But at - it kind of gave us an opportunity to look at it again, and in the last two days, we've come up with this solution where we couldn't have our trash enclosure located within that easement that runs kind of along where I dragging the cursor for - because of TEP requirements.

But by rotating the enclosure, we can still get the required vehicle maneuverability for the garbage truck in front of the enclosure. And this pushes it almost the entire length, or width of the building away from the building. And then just relocating those parking spaces, we're actually able to gain a parking space.

And then we've - this is kind of rough, just for the sake of getting something shown tonight. But we'll absolutely be able to accommodate at a, at a minimum at the pinch point, a 20-foot clear space, and then flare out at the bottom to match existing.

And this takes into account the existing sidewalk in front of the building as well. So we think by addressing these two - and there's still a couple of tweaks that need to be made to the site plan, but at our glance, we will still be able to

meet our parking, and then provide that full access to Mr. McCaleb, which we hope satisfies his needs, as well as our needs, which it, it does.

Also attached to the landscape plan, due to our proximity to the wash, we weren't required to do storm water detention, or retention, but do the rain water harvesting ordinance. We are. So we've got multiple landscape areas where we have (inaudible) rain water harvesting basins, landscapes.

The landscaping is under review, intended to meet City code, providing our, our landscape buffers along the perimeter of the property. Full irrigation system which those plans are also included in the package.

As for the structure itself, we have our frontage somewhat split up. These are obviously just generic signage, but we are looking at having stucco material at the top. We're looking at some banding along the bottom for some architectural enhancements which our elevations obviously aren't finalized yet. One of the conditions is to include these in the development package.

We've got a raised elevation for the southeastern tenant, the four-foot increase in the parapet which already has a four-foot parapet, but still below the 30-foot maximum height requirement for the zoning district.

And then around the back of the building, we will

continue our architectural band, which we're looking at offsetting to create a projection as well as different color, material variations throughout the building. Typically use a textured, split-face block along the rear of the building.

So hopefully we can address the linear park architecture requirement. So it's not just a bare, plain wall, back of building facing the future linear park, which I'll get into in a little bit.

We also have some conditions for our dumpster enclosures, that they match. Especially the one at the west end of the property is, is within the 20-foot setback from the future right-of-way line, due to the wash. So with that came a condition of matching the building architecture on that so it's more appealing, which, which we can do and will do.

So this is the, the elevation that faces the wash. And while it's not finalized, it does at least show the variation along the back of the building. And it's not colored, but the variation in color will occur as well. This is a (inaudible)

ZONING EXAMINER: And that's without any of the landscape between the -

MR. UEBELHOR: Correct.

ZONING EXAMINER: (Inaudible)

MR. UEBELHOR: Correct. Yeah. And there's full landscaping in that back area. That area behind the building,

I believe Jeff can attest, is also used for rain water harvesting as well, so -

This, this isn't a finalized floor plan by any means, but it shows, you know, how, how the spaces will be divided up. Again, this, this restaurant that was originally located next to the end restaurant will be located at Tenant B spot, to kind of split the restaurant use to help maximize the parking efficiency.

Next few slides are just some pretty pictures. Obviously, we're not gonna be sodding it, but that's what you get with my Illinois rendering expert, so -

This is a view looking northwest kind of along Grant Road where the mountains in the background, but you know, there's a significant amount of open space still on the site. This is another view looking northeast, and here's a view looking southeast.

ZONING EXAMINER: You got it on a fantastic traffic day.

MR. UEBELHOR: Exactly. Thank you, Google Earth. And we're looking southwest here. And then just another zoomed-out version. Kind of shows some more of the businesses in the area, and then obviously across the wash you've got the Country Club Estates.

So now that I've kind of gone over our site itself, I wanted to get into some of the more unique challenges that we've

faced with this site. One of the biggest areas of coordination that we've had has, has been with the Pantano Wash and the, the linear park expansion.

This is an image from a, a draft phase as, as Pima County's not complete with their plans yet. I'm sure you're familiar with the project, but their expansion previously terminated at Mr. McCaleb's property. And the next phase is scheduled to begin in August 2015.

Now how they phase it, I, I don't know, but it would make sense that they would begin it right at our property and then continue. But either way, Jeff has been coordinating non-stop throughout this process with them as far as getting their line work, overlaying it with our line work, and making sure everything still fits.

As you can see, they'll, they'll continue the bank protection. They're, they're doing all the Army Corps permitting. It's all, it's all funded, but you know, how that ties in with our site was a concern from the beginning because we obviously don't have that bank protection now.

But we've also had a building there for about 40 years that hasn't washed in, and there's Pima County methodology for a erosion hazard setback line. So that was one of the first things that came up in our reviews. Jeff's calculated that based on the configuration of the wash because it sort of curves back away

from our property, that there's an erosion hazard line that our building is well - I believe it's about 45 feet outside of that setback line.

So that's all, that's all been accounted for, and in the interim we feel, and I believe it's part of the development package review that, that, that's been satisfied. And knowing that in a year and a half, this nice soil cement mixture will be continued along the whole back of the property.

So here's a picture of kind of where it terminates at Mr. McCaleb's. And again, here's another picture where they've just kind of continued the path down to the bottom of the existing wash. So this runs along the, the back of our property.

This is an exhibit showing the right-of-way dedication that's been coordinated, So Somas (ph.), who's the engineer for the County on this project, and Jeff, have been working hand-in-hand to get this line work satisfied to figure out, to make sure everything on our side fits, their trail still fits, and this is the agreement that they've come to.

So we're actually dedicating this, and part of the requirement is that it's free of charge to the County, that they come in and when they're ready to do their work, or I mean, we'll be dedicating this right-of-way. But then when they come in and do their work, it won't conflict with our property.

There's also two temporary construction easements that

are being worked on, as well as a permanent maintenance and access easement that we'll be granting to them. They currently have one, but it's not utilized. They're utilizing a dirt road at the end, at the west end of our property. So we're gonna abandoned the existing one and then grant the new one at a location that actually makes sense. And then we'll keep the curb depressed at that end so they can always just access that maintenance path at any time.

Another item that came up that's certainly unique to my career, and everyone I've met, is a existing roadside memorial that's located on the - not on our rezoning parcel, but on the easternmost parcel. It was a traffic accident almost ten years ago where a young girl was killed on, on our site. These two boulders were involved in the accident. There's a tree that was planted right next to it.

This came up in the original rezoning application and both, you know, Staff, myself, my team, we've all struggled with how to come up with a plan on how to handle it. But I ended up reaching out to the mother of the daughter, Ms. Kates, Vicky Kates is her name. She's been very pleasant to work with on something so sensitive.

As you can see, the, the cross itself has already been damaged at some point. We didn't - neither of us really knew our, our plan at first on, on how to go about either removing it,

relocating it. It was her wish that it would be relocated.

So we've come up with an agreement that we will have our construction equipment relocate these boulders. 'Cause right now where it's at falls under where our proposed building would lie. And actually, I met with Ms. Kates on the site today. Although we've already come to a written agreement, I met with her and her parents.

So her, her father wants to come remove the cross itself at the time of construction starting, which I'm gonna keep her fully aware when that schedule is. And he actually wants to make a new cross.

And then our plan is, since these boulders area obviously too heavy to carry, our construction equipment will move them to the west end of our property where there's a patch of existing trees that'll, that'll remain right along the right-of-way line.

And then the intention is for her father to make a new cross, place it in the right-of-way, but right up along the property line. And then we've agreed to provide a, a small memorial plaque that she and I will decide what her - she'll decide what it, what it needs to say as far as the memorial to her daughter. And that'll just be place at grade, so it won't be any sort of visual obstruction that TDOT should have an issue with.

The tree, we had looked at relocating it to our property, which was a wish that she'd had. I've spoke with a local tree contractor. They said it's too big too move, but she would like it at least chopped into firewood and delivered to her house, which we've agreed to.

And, and I wasn't able to tell when I was on-site, but the company is Mr. Tree that, that looked. He said that he thought there was a smaller tree that might have spawned from this mesquite tree that, when I talked with her, I thought if we could locate that tree, and it's actually movable, that we could get that one relocated to our property as well.

So for a difficult situation, we've, you know, we've come to a written agreement on the relocation. She actually included a personalized thank you card to me for how we've handled it, which actually meant a lot.

And just meeting with her on-site today, and the parents, they're all very grateful for how, you know, we've handled it, how the City's handled it, because realistically someone maybe could have come in and just wiped it out, and they might have never known. So they're all, they all expressed their gratitude to everyone.

So I guess to kind of wrap up my presentation, we, we feel that securing this rezoning will allow us to fully utilize a currently undesirable piece of property, bring back some life to

this area, and kind of complete the corridor along Grant Road.

Benefits include job creation, tax revenue, new commercial restaurant development. We, we met with Paul Cunningham of Ward 2 early on to kind of talk with him about the project. And just, you know, he, he thought that our use would, would fall in line with the area as well.

As you could see from that existing zoning map, most everything else around here is commercial. I think by, by maintaining our, our cross access and relocation of the, the trash enclosure, I think we're keeping our concerned neighbors satisfied.

And then I think also working with the, the family of the memorial has shown a lot of good faith on our part, and to, to actually have this be a development that helps everyone. Aside from that, just maintaining the existing and future pedestrian use. Hope to connect the, the trail into the site. We hope that you'll find our project favorable.

ZONING EXAMINER: All right. Thank you. And let me acknowledge you for the sensitive way that the memorial's been handled. I'm sure that could have been difficult.

I had some, I did see some of the communications that you referred to. I want to - all this has been added to the record, all the things that I received today? Okay.

There's a little bit of confusion as to whether a

deceleration lane, at least confusion on my part, whether a deceleration lane would be required. And I see some of the e-mails regarding that, and I don't know if that's a settled issue or not. And maybe you can address that for me.

MR. UEBELHOR: Well, I know we provided a traffic statement. And I'll have to, I'll have to let Jeff talk about the, the methodology of calculating that. But we, we looked at the site and, and the anticipated loads based on our methodology of calculating it, and determined that we don't even come close to generating enough trips for a decel. lane.

My understanding of a six-lane highway is we've got three lanes in each direction. And if you look across along the entire Grant Road corridor, even the signalized intersection at Costco doesn't have a decel. lane. The, the far right lane almost acts as a decel. lane, and you have two additional lanes to pass anyone slowing down.

I didn't see any other retail developments along Grant Road that, that have that. And I feel that that's due to it a six-lane highway. You know, whether we need to provide some additional calculations to confirm all that, that's certainly something we can do. So I guess -

ZONING EXAMINER: Yeah. I mean I, I have the statement from TDOT saying that - speculating that it might be warranted if the - plugging in the numbers it looks like it would be

warranted. So actually, if you could address what it would look like, if it is warranted, and maybe (inaudible) any concerns I'd have about how that would impact the development.

MR. HUNT: Mr. Kafka, my name is Jeff Hunt with Cypress Civil Development. My business address is 2102 North Country Club Road, 85716.

So specifically addressing the right turn movement I think Eric was alluding to, that far right lane being essentially your acceleration and deceleration lane as it works effectively - the City of Tucson Access Management Handbook does not address a six-lane roadway. It addresses both two-lane and four-lane. So the tables available only address situations that are not our current situation. We have a third outside lane on both sides of the road.

So based on the amount of traffic that's in Grant Road and based on the amount of traffic we generate, if we were a four-lane roadway, we would, in fact, warrant the right turn lane, deceleration lane.

In this case, you don't have that. And if you do look at the remainder of the properties adjacent to Grant Road on the north side, you'll see that they don't have it.

It's not necessarily fair to say just 'cause someone else doesn't, that we don't need it, and I, I understand that. But that's sort of what, what the result of that third outside

lane is. I can pull up one of these, probably if I can go back. Bear with me one sec. Essentially, I'll just use this image here for -

ZONING EXAMINER: If it's easier, and you want, you can come up here and use the laptop to get to the image. It might be more helpful -

MR. HUNT: Yes.

ZONING EXAMINER: - than for me to have the larger image.

MR. HUNT: So as you can see, you have the third outside lane that I was alluding to. If you were to put a right-turn bay, typically, it's a 12-foot wide right-turn lane for the acceleration, or excuse me, deceleration lane. You would choose one of the three entrances to install that lane. The issue being the depth of the parcel would then squeeze, and make it almost impossible for you then to access the site on top of that.

It would wipe out all of the landscaped area in front of the building, and you would essentially not have any sort of throat length to enter into the development, and actually get out of the way of traffic that may also be in the right-turn lane with you.

So, aside from the fact that I think we've made the argument and the traffic statement that a right-turn lane is not

warranted, I think should you install that right-turn lane, it would be problematic and potentially lead to more traffic incidences which I think is what we're trying to avoid by the right-turn lane in the first place.

ZONING EXAMINER: If it turns out that it is required, could it be handled?

MR. HUNT: Could you qualify your question?

ZONING EXAMINER: If it turns out that TDOT's calculations require a deceleration lane, would you be able to develop the site as - let's assume it goes forward, the recommendation for approval, Mayor and Council approve it. And then there's a requirement for a deceleration lane. What happens to this proposal?

MR. HUNT: Sure. So the site, on-site would be able to remain essentially the same. You would then have to work with the right-of-way and, and choose, like I said, which one of those three entrances you would like to use. There is room to do that, it's just not ideal as (inaudible)

ZONING EXAMINER: All right. And Mr. Uebelhor didn't go into it, but perhaps you can clarify for me what - and you've been working with Pima County about what kinds of access to the linear park there'd be from this site.

MR. HUNT: Sure. So there's a condition requiring that we do provide access to the loop or, or the river park. And that

would happen at the northwest corner of the new building. So there's gonna be a new path that will be essentially at grade, based on Somas' plan, it's fairly close to the grade of our developed site. So we could very simply provide a path that would lead to the sidewalk that surrounds the new building. And that would really be the main location to do that.

ZONING EXAMINER: So that part with the patio would be farthest actually from the access point?

MR. HUNT: Sure. So the issue with the patio is the way the site sets up, there's a existing grade that's pretty dramatic. Until they build the linear park, there's a good part of our property that is not real usable.

And so what that does is it forces us, since we're gonna be done before the linear park, to make some tough decision. Our loading zone is now in the area that's widest, and that happens to be on the far east side. Unfortunately, that's also the appropriate area for our patio, so I think I understand what you're alluding to.

However, I think that the traffic conflicts with the loading zone and other things like that make it more appropriate to bring someone safely into the, into the commercial development at the northwest corner. You're gonna be out of the way of traffic.

ZONING EXAMINER: And will the current access point,

which is, I think, basically where, where the slope begins at the property line, will that be closed off?

MR. HUNT: It'll be (inaudible) Or, excuse me, sorry.

ZONING EXAMINER: Go ahead.

MR. HUNT: It not be fenced. We'd have to provide egress - ingress and egress for the public like they would be accessing it from the, from the right-of-way. So similar to how we would not fence off our access from the sidewalk along Grant, in the same vein, we would not block off access from the river park.

ZONING EXAMINER: Okay. Anything else you'd like to add?

MR. HUNT: Not unless you have a specific question, sir.

ZONING EXAMINER: Not at this time. Anything, Mr. Uebelhor, that you'd like to - am I pronouncing your name correctly? Okay. Anything you'd like to add?

MR. UEBELHOR: I think Jeff pretty much, I think Jeff pretty much handled the, the traffic implications. You know, I think if, if we - I know one of the conditions is to provide an updated traffic study. So if our statement isn't sufficient, I feel confident that a, a traffic engineer could provide more formalized calculations to address that concern.

So if that, you know, if that condition requires a

little more effort on our end, I can kick that off right away. Yeah, I think - yeah. The, the practicality of a decel. lane would be difficult. I think we just need to maybe document that a little better to satisfy them.

ZONING EXAMINER: Okay. Thank you. Mr. Bangs? Okay. Anybody else wishing to speak in favor of the application? Anybody wishing to speak opposing the application? Sir.

MR. McCALEB: My name is John McCaleb. My business address is 6565 East Grant Road. And I think Eric described the issues that he and I have talked about pretty, pretty accurately.

I'm curious, though, that, that the report was that there were zero protests within 150 feet. And yet I think I also heard that this was asked that the piece being zoned be connected with the other two lots. So that puts me contiguous. So how can there be a zero protest?

ZONING EXAMINER: I'm gonna let Mr. Moyer explain that.

MR. MOYER: The protest is measured around the rezoning site. The notice is around the entire properties under the same ownership. So the 150-foot protest area is contained within the already zoned C-1 parcels that are to the west of you.

MR. McCALEB: So essentially, if I was gonna get a rezoning and I owned enough property around it, there would always be a zero.

MR. MOYER: The, the thing that matters here is we

1 don't -

2 MR. McCALEB: It really doesn't matter. It was just

3 kind of a point of, you know, that, that made me curious.

4 ZONING EXAMINER: Well, and, and I'll, I'll address

5 part of that. The, the protest letter that you write, that you

6 wrote, comes to me. I look at it. I take it seriously and

7 consider what your concerns are because it is an integrated site,

8 although the rezoning parcel is farther away from you. Your

9 protest doesn't trigger the technical necessity for Mayor and

10 Council to have a -

11 MR. McCALEB: I see.

12 ZONING EXAMINER: - a different voting ratio.

13 MR. McCALEB: Uh-huh.

14 ZONING EXAMINER: But it does weigh in here. You're

15 essentially an adjacent property owner affected by the

16 development, so you get - I mean I will take into consideration

17 what you have to say.

18 MR. McCALEB: And so just to reiterate, the, the two,

19 the two primary issues that I had with the development plan.

20 The first was the location of the trash enclosure dumpster which

21 was six or seven feet off the front corner of our building. Six

22 feet high, and right under the three, the three operating windows

23 in my employees' offices.

24 That, I think that they've come up with a, with a very

reasonable and acceptable solution to that, which, which Mr. Uebelhor forwarded to me last night. And then we talked about it today, and I agreed that that was - had, had merit.

My primary, and my, my probably most pressing concern, however, was the fact that it was gonna limit the access in and out to my property to a one-way situation. And it's not really a one-way egress-only on that north side - would, would put a huge strain on, on the way I operate my business, and the way my clients and my vendors and, and associate contractors would come in and out of there.

And so we, we, we met today. We talked about what might be done. And I think Eric expressed that by moving the dumpster and the trash location, they, they actually picked up a parking spot.

And so my concern about that 12-foot egress could be further enhanced such that I'd have ingress and egress on that, I guess with the cross property agreement, or whatever that, that was mentioned. And as I noted, reading the - some of the Staff recommendations, it said that that should be a part of, of the development.

So, so with those two changes being made in an acceptable manner, I would, I would then be able to be in support of this development as opposed to being in a position of protest.

ZONING EXAMINER: Let me ask Mr. Hunt, or Mr. Bangs, if

1 those are added conditions, or amended conditions, such that the,
2 the dumpster location is appropriately distant from Mr. McCaleb's
3 office and the ingress/egress cross access is preserved, you
4 agree to those as changes to the conditions?
5 MR. BANGS: Mr. Kafka, Staff, yes, we would. We only
6 have one comment or caveat on that because Mr. McCaleb only
7 raised the issue of the dumpster (inaudible) And we, although we
8 solve that through a quick design exercise, these are not changes
9 that have yet to be vetted (sic) by Staff in the formal review of
10 our development plan.
11 So, while it works for us, and we believe that it meets
12 the standards of, of the code, that's something that, that's part
13 of the review process that we don't have any control over. But,
14 Mr. Examiner, we would accept those - the, the 20-foot-wide
15 access to Mr. McCaleb's property and the location that was shown
16 on the drawing prepared by Eric's - or Jeff's firm.
17 ZONING EXAMINER: Well, let me ask Mr. Moyer and Ms.
18 Laurie if they have any initial reaction to those proposals.
19 MR. MOYER: Mr. Kafka, just looking at the, the photo
20 or the design that was up for a little while, there might be a
21 tight spot in front of the dumpster, in the PAL, the parking area
22 access lane.
23 They're showing the dumpster enclosure's corner. Looks
24 like it's touching the property line, and it may not be able to,

so it might get pushed out into the PAL a little bit. So that could make it tough there. It's up there now. You can see the corner touching the property line, that may not work. And the - it would, it would push the dumpster into the parking access lane, the PAL, that, that serves the parking spaces. That would be my, you know -

ZONING EXAMINER: If Mr. McCaleb granted an easement, would that - if necessary, would that be acceptable?

MR. MOYER: I assume it would, but - and you mean to push it a little further east?

ZONING EXAMINER: Yes.

MR. MOYER: I think that could alleviate.

ZONING EXAMINER: Okay. This is just speculative.

MR. MOYER: Yeah.

ZONING EXAMINER: I'm not asking you to do that.

MR. HUNT: Would you like me to address that?

ZONING EXAMINER: Sure.

MR. HUNT: Okay. So we, we don't have a setback requirement, but we would have to have our foundation and our wall located on our own property. I've evaluated both of those items along the property and made sure that we were clearly within our property.

I've also rotated it, specific angle, to make sure that the outside edge does not encroach into the PAL. So I do know

that the layout works. It also provides the 14 by 40-foot required entrance area for the trash pickup. And that's a requirement. So you can see that that stretches up and does not touch those spaces to the north.

We've also addressed any of the setback issues from the adjacent parking spaces, since it's a vertical component right next to a parking space, there's a certain distance required.

ZONING EXAMINER: And, and, Mr. McCaleb - I'm sorry. Mr. Moyer.

MR. MOYER: And, and, you know, since I've had a little longer to look at it now -

ZONING EXAMINER: Yeah.

MR. MOYER: - you also need to be able to get your pedestrian access to the dumpster there. And I, I don't know how it would work. I don't know that it wouldn't, but it just - it's not shown, so (inaudible)

MR. HUNT: Sure. If it's required to be striped, we could actually shift a portion of that parking. As a result of everything that was kind of coming together at the last minute, there is more room between those spaces on the, the lower lefthand corner of the page. That's larger than a 24-foot PAL.

So we do have some room to stretch those spaces out and provide more striped access, if that's a requirement requested by the City of Tucson. So I do feel confident that we can get

pedestrian access out to the trash enclosure. I would like to point to other precedents for projects where access was important, but direct, striped access to the trash enclosure -

ZONING EXAMINER: Oh, don't, don't do that.

MR. HUNT: Yeah. Anyway.

ZONING EXAMINER: I'm sorry.

MR. HUNT: That's okay.

ZONING EXAMINER: Mr. McCaleb, this is - this backs up to your parking area, is that correct? And you're satisfied that that -

MR. McCALEB: I am.

ZONING EXAMINER: - would - okay. All right. Any, anything - if those were conditioned, you'd be amenable to this?

MR. McCALEB: If, if those (inaudible)

ZONING EXAMINER: Okay. All right. Anybody else wishing to speak on this case? So I have a opportunity to perhaps kill two birds with one stone, although I'm gonna give Mr. Bangs an opportunity to convince me otherwise, which would be to allow Staff an opportunity to review this. I'm assuming it would be okay, but it would at least put to rest any concerns about the two amended conditions.

And then in the meantime, put up a notice on Coraplast for a continued hearing which would at least settle my mind on any blemish on the notice issue. Come back in a - as brief a

time period as possible for the notice, which would either be the 21st or 27th. And if there's nothing to worry about and, and, Mr. Uebelhor, I don't think you'd need to come back on, on that very limited issue. Then we can just close it. Do you want to address that?

MR. UEBELHOR: Mr. Kafka, as Staff is aware, we're processing this as a combined development package. Is, in your concept of the additional notification, reopening of the hearing, is there anything that you believe that would prevent continue the resubmittal of - once Staff has had a chance to look at and define the, the wording of the condition, a resubmittal of our development package so that could be proceeding in this intervening two-to-three-week period?

ZONING EXAMINER: I don't see a problem with it proceeding simultaneously. I don't think Staff would have a problem with that either, yeah.

MR. UEBELHOR: Okay.

ZONING EXAMINER: And I think since, you know, the package would have to be submitted anyway. This is insurance, I think.

MR. UEBELHOR: Right.

ZONING EXAMINER: Yeah. So you -

MR. UEBELHOR: May I have a moment?

ZONING EXAMINER: Okay. Sure. Sure.

MR. HUNT: I, I guess - I, I just wanted to add that, you know, a continuance, while this isn't your problem, does affect our schedule, our, our delivery dates to our tenants. And we've, we've had a hard time getting onto a Zoning Examiner hearing in a timely manner due to some of these bigger challenges that have come up.

And, and I would just ask that our, our good faith efforts and some of the unique circumstances that have been met would show that we're trying to bring a good project here to satisfy all parties. And we did attempt, you know, to post our notice. We felt the affidavit showed that the notice was sufficient.

I can't control all circumstances, but what we can do is react in an efficient and a quick manner. And I feel that we've, again, made every good faith effort that we have. And, and we just hope that that would, would be recognized and that the process can continue.

ZONING EXAMINER: I, I do recognize that, and I appreciate it. It's - one of the things that troubles me is that it was twice in that period. So this could just be weighing on me. And I, I don't - I know you have a schedule and that time is money. I think if, if the development package can proceed simultaneously with this, the burden shouldn't be too (inaudible) And I'm, I'm not asking for actually a full re-posting, just the

physical site posting. Does that - okay.

MR. UEBELHOR: Just to clarify. That will be only the posting would also be required, re-noticing by mail or anything of that nature?

ZONING EXAMINER: Yeah. I mean I've been debating that internally. But I think that anybody who would have been mailed for today would have showed up for today -

MR. UEBELHOR: Okay.

ZONING EXAMINER: - you know. That probably Mr. Bangs agrees with me.

MR. UEBELHOR: Is this the appropriate time to ask if we were able to get the posting up tomorrow if the appropriate amount of time would be in place for the hearing dates that you had mentioned earlier?

ZONING EXAMINER: Fifteen days would take us to the 27th. Do we have a hearing on the 27th or the 21st?

MR. MOYER: 20th.

ZONING EXAMINER: 20th. Sorry. Yeah, that would make sense. Well, the 27th would be the earliest, and I'm willing to hold it that day. So -

MR. UEBELHOR: 27th?

ZONING EXAMINER: 27th, yeah.

MR. UEBELHOR: Okay. And that would be contingent upon the sign being placed no later than tomorrow.

ZONING EXAMINER: If, if it gets in tomorrow, I guess -

MR. MOYER: Well, the 27th is 21 days from now, so in the next four days or so. You'd need to post it per the posting policy.

MR. UEBELHOR: Is there any option for covering what would be just the remaining days that we've considered that sign to be insufficient?

ZONING EXAMINER: I, I would just redo the -

MR. UEBELHOR: Okay.

ZONING EXAMINER: - the whole time period.

MR. UEBELHOR: Understood.

ZONING EXAMINER: Forgot what I was gonna say.

MR. MOYER: Well, what I was gonna say is it may rain again.

ZONING EXAMINER: Yeah. So I would, I would suggest the Coraplast.

MR. UEBELHOR: Understood.

ZONING EXAMINER: Not that I have any stake in the company that makes those things or anything, but they do withstand these I think better than the paper. Oh, it would also give us time to get conditional language out that everybody could agree to at the next hearing so that that's hammered out.

MR. UEBELHOR: Okay. So then, I guess, is there any other questions that need to be addressed?

ZONING EXAMINER: I don't think so.

MR. UEBELHOR: Okay. And the expectation for re-presentation at the next -

ZONING EXAMINER: No expectation for re-presentation I would say, unless somebody shows up who found out about it through that new posting. And then we'd want probably to -

MR. UEBELHOR: Questions and answers.

ZONING EXAMINER: Yeah.

MR. UEBELHOR: Okay.

ZONING EXAMINER: So -

MR. UEBELHOR: Thank you. All of them are going back up.

ZONING EXAMINER: All right. Thank you. Anybody else wish to speak on, on this case? Mr. McCaleb, you have nothing else to add?

MR. McCALEB: Just, just for the record, you know, I'm, I'm, I'm really sympathetic to the fact that that posting got blown away. And what I can tell you is that on, on that, I think it was the Saturday storm, that's the first time my roof, which is, you know, what, 300 feet or something -

ZONING EXAMINER: Uh-huh.

MR. McCALEB: - has ever leaked. And, and, you know, and I'm, I'm in a similar business, and time is money and, and, and it was, it was repaired and re-posted pretty darn quickly.

And just as a neighbor, and somebody who's obviously concerned with this thing, I would say that, that I would support, support anything that could happen to move it along as quickly as possible without having to cost them more delay.

ZONING EXAMINER: I appreciate that, and I think that that's a very valuable insight. I'm sure they appreciate it as well. I, I, I'm trying to balance the, you know, my, my over-protection of this process, I'm sure, with your interest for an expeditious report.

MR. UEBELHOR: Let me just further add that the site reconfigurations and the conditions that we're referring to, I think those are things we're comfortable with as far as the analysis of the site. I don't believe we're gonna have any issue meeting Mr. McCaleb's needs with the relocated trash enclosure and the two-way access.

The 20-foot access is - it does satisfy two-way access when you don't have parking on either side per City of Tucson Code. So I think we would be comfortable allowing those things should the decision be made not to continue the case. I think we're comfortable with the relocated information. And I don't think we'll have any issue meeting the needs of Mr. McCaleb for (inaudible)

ZONING EXAMINER: I, I, I appreciate that. You've come up against one of my stubborn streaks, and - but - and it is the

thing, one of the things that I am very passionate about is making sure that everything, in terms of public process, is - the T's are crossed, the I's are dotted. I know in the abstract that Mr. Bangs probably agrees with me in terms of making sure everything is, is clean and - only in the abstract.

All right. Let's continue this case until March 27th. At that time, we'll have proposed additional, or amended, conditional language regarding the cross access and ingress/egress and the width of that lane, as well as an amended site plan indicating the location of the dumpster enclosure, and pedestrian access to that, and the additional posting between now and then.

With that, Case No. C9-13-14 is hereby continued. Thank you for coming out. Thank you for appearing, and I know it's difficult to leave Illinois in winter and come to Tucson. I almost gave you another chance to come out. All right.

MR. HUNT: Mr. Kafka, may I retrieve my -

ZONING EXAMINER: Yes. Why don't we take a, a three-minute break? We'll allow Mr. Hunt to collect his things, and then reconvene in three or four minutes.

(Case No. C9-13-14 was continued.)

I hereby certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: 03/16/14

Kathleen R. Krassow

KATHLEEN R. KRASSOW - Owner
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ZONING MEMBERS PRESENT:
Linus Kafka, Zoning Examiner
Carolyn Laurie, Planning & Development Services
Delma Sanchez, City Recording Clerk

ZONING EXAMINER: Next case on the agenda is Case No. C9-13-14. I'm in receipt of a memo from Carolyn Laurie with attached updated protests and modifications to conditions. Ms. Laurie, if you want to give me a little bit of brief background on that.

MS. LAURIE: Yes. As of today, we have two approvals and zero protests. We received a phone call and an e-mail from Mr. McCaleb, the property owner to the east. And he stated that he had been working with the Applicant and he felt comfortable with the changes to the development plan, and that he wished to, to withdraw his protest. So we now have two approvals and zero protests for the case.

ZONING EXAMINER: All right. Thank you. And the record now includes a e-mail from Mr. McCaleb to that effect. All right. Who would like to present - or first, I guess you all, you all stood up when I asked if you wanted to testify. So I assume that all of you wish to speak.

MR. UEBELHOR: Yes. Eric Uebelhor with InSite Real Estate. Business address 1400 16th Street, Suite 300, Oak Brook, Illinois, 60523. As, as Carolyn said in, in the memo, states John McCaleb, the neighbor, has reviewed the changes made after

the last hearing. Kind of, as of the couple days leading up to it, has reviewed the conditions that we've updated to make sure the dumpster on our side is at least 20 feet from his building. Believe the plan right now shows 22.2 feet. And then also showing the two-way access which were his two major concerns.

Also, since the last hearing, the public notice sign was re-posted on a more sturdy material. Been checking it regularly. It's my understanding that there've been no more issues with it, so we hope that the, the notice requirements have been met as well.

Beyond that, I don't have any major additional testimony to add to the previous presentation. We did get - I know one of the questions that you'd had, had to do with the, the right turn into the site from Grant Road. And Jeff Hunt, my engineer, cleared that up with the Staff and I guess the County DOT, or is it Tucson DOT? Yeah.

That being a six-lane highway, they have been looking at it as over a four-lane, so there is no, there's no requirement for that turn lane. And then just been working to address the comments, the development package.

ZONING EXAMINER: And you're agreeable to all the conditions of the - including the modified conditions?

MR. UEBELHOR: Yes.

ZONING EXAMINER: All right.

MR. UEBELHOR: Yes.

ZONING EXAMINER: Okay. Thank you.

MR. UEBELHOR: Thank you.

ZONING EXAMINER: Mr. Bangs or Mr. Hunt? No? Okay. All right. I'm in receipt of the conditions as modified and agreed to by the Applicant, specifically modifications to Condition One, just specifies the date.

Condition Eight, regarding the 20-foot access, vehicular access, Condition 10 regarding the dumpsters, and I believe that's it. Okay. All right. Anything else you'd like to add?

All right. Seeing no one else on Case No. C9-13-14, the case is hereby closed. Thank you.

(Case No. C9-13-14 was closed.)

I hereby certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: 03/31/14

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