



**CITY OF  
TUCSON**  
ZONING  
EXAMINER'S  
OFFICE

## Preliminary Report

September 24, 2015

Ryan Egan  
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6179 East Broadway Boulevard  
Tucson, AZ 85711

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Tucson, AZ 85749

**SUBJECT: C9-14-04 Popeye's Chicken – Broadway Boulevard R-3 to C-1  
Public Hearing: September 17, 2015**

Dear Mr. Egan,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case C9-14-04 Popeye's Chicken – Broadway Boulevard. At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If you or any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

## **SUMMARY OF FINDINGS**

This is a request by Ryan Egan, on behalf of the property owners, Heights Properties, LLP, to rezone approximately 0.28 of an acre, from R-3 and C-1 zoning to create one consistent C-1 zoning designation on the subject parcel. The rezoning site is located on the north side of Broadway Boulevard, south of 10th Street, approximately 375 feet east of Leonora Avenue and 585 feet west of Chantilly Drive. The preliminary develop plan (PDP) proposes development of a drive through restaurant.

Residential properties to the north of this site, across 10<sup>th</sup> Street, are developed as single story single-family residences and located in an R-1 zone. The property to the east of the site is developed with a sit-down restaurant, zoned C-1. Those to the south and west are developed as a variety commercial uses, also zoned C-1.

The proposed drive through restaurant will front onto Broadway Boulevard, a six-lane, city maintained, gateway arterial, with a shared multi use bike and tum lane adjacent to the redevelopment site. There is a raised median with eastbound left tum lanes into the restaurant to the east and to the alley adjacent to the west edge of the site. The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 1,984 vehicle trips per day and 135 at PM peak.

Land use policy direction for this area is provided by the *General Plan* and the *Sewell-Hudlow Neighborhood Plan (SHNP)*.

The overall *SHNP* goals are to preserve and protect the integrity of established low-density neighborhoods; identify appropriate locations for new development and provide safe and efficient circulation systems for all modes of transportation including pedestrian. The *SHNP* supports efficiently designed, nonresidential developments that minimize the number of vehicular access points and integrate vehicular and pedestrian circulation systems and other common amenities such as landscaping and walls. Commercial development is supported along on Broadway Boulevard, including the subject parcel, as shown on the Land Use Development Maps.

Broadway Boulevard at this location is identified on the *Plan Tucson* "Future Growth Scenario Map" as a mixed-use corridor, which allows for a higher intensity mix of jobs, services, and housing along major streets. *Plan Tucson* also supports a mix of high frequency transit options, as well as pedestrian and bicycle facilities. Plan policies protect residential neighborhoods by supporting compatible development (Policy LT4). Non-residential uses are supported, where the scale and intensity of use will be compatible with adjacent uses (Policy LT1). Appropriate locations for commercial uses are supported, with priority for development in the existing urbanized area and promote the use and improvement of existing infrastructure, increase pedestrian activity and transit use. Guideline

(LT28. 1.7) supports developments that preserve and strengthen the distinctive physical character and identity of individual neighborhoods and commercial districts in the community.

**CONCLUSION**

The proposed land use is consistent with the *Plan Tucson* and the *Sewell-Hudlow Neighborhood Area Plan* and in keeping with the character of the area. With impact mitigation and proper site design, the C-1 zone is compatible with land use in the area. Subject to compliance with the preliminary conditions, C-1 zoning is appropriate.

**RECOMMENDATION**

The Zoning Examiner recommends approval of C-1 zoning.

Sincerely,  
  
Linus Kafka  
Zoning Examiner

**ATTACHMENTS:**

Case Location Map

Rezoning Case Map

cc: City of Tucson Mayor and Council

### PROCEDURAL

1. A development package in general compliance with the preliminary development package dated 9/17/15 and required reports dated 9/1/15, covering the rezoning site is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
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 (l) 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. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

### LAND USE COMPATABILITY

7. Buildings and all structures shall be setback no less than fifty feet (50) from the residential properties along the north property line as indicated on the PDP dated 9/17/15.
8. Building facades shall consist of four sided architectural character and detail comparable to the front façade, including but not limited to color palette, non-glare roof material/lines, and exterior materials and to complement residential development in the area. A color palette and dimensioned elevation drawings on 11"x17" shall be submitted as part of the development plan submittal to demonstrate compliance with this condition.
9. The dumpster enclosures shall be screened with a masonry wall a minimum of six (6) feet in height. Colors and materials shall be complimentary to the buildings and/or perimeter walls.

10. Six foot (6) high masonry wall shall be constructed along the entire north residential edges, as identified on preliminary development plan dated 7/8/15.
11. A minimum ten foot (10) wide landscape border, to be maintained by the developer, shall be provided along the entire north property line as indicated on the PDP dated 9/17/15.
12. All screen walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, rustic metal, tile, stone, or brick; a visually interesting design on the wall surface. Metal portions should be painted to match the existing screen wall color, if a natural rustic color is preferred or used, a sealant over the material shall be used.
13. The owners/developers shall ensure that graffiti is removed within 72 hours of discovery.
14. The existing 24' tall nonconforming pole sign on the site must be removed during the re-development of the property.
15. An integrated outdoor lighting plan, in compliance with the Outdoor Lighting Code (OLC), shall be included in the development plan package. The plan shall show even lighting distribution over the entire proposed site, and shall minimize spill-over light to the north.
16. All pedestrian paths required to cross or occur within PAALS shall be identified clearly and distinguished from vehicular areas by materials such as but not limited to; brick, concrete pavers, scored or patterned colored concrete, textured and raised surfaces, or other materials as may be approved by the Department of Planning and Development Services staff.

#### DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

17. A Drainage Statement shall be submitted, including details of onsite and offsite drainage, flow stability, and the provision of water harvesting and/or runoff retention.
18. Tree root zone have a minimum of 300 cubic feet (no deeper than 3') of uncompacted soil (less than 90% compaction); if utilizing structured/engineered soil where 95% or greater compaction permitted, then 600 cubic feet of soil (no deeper than 3') shall be required. Owner/applicant is responsible for providing a special inspection and delivering results to City for the following condition: Provide materials with building permit application and reference rezoning case number C9-15-04.
19. Owner/applicant is responsible for providing a special inspection and delivering results to City for the following condition. Provide materials with building permit

application and reference rezoning case number C9-15-04. New or 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.

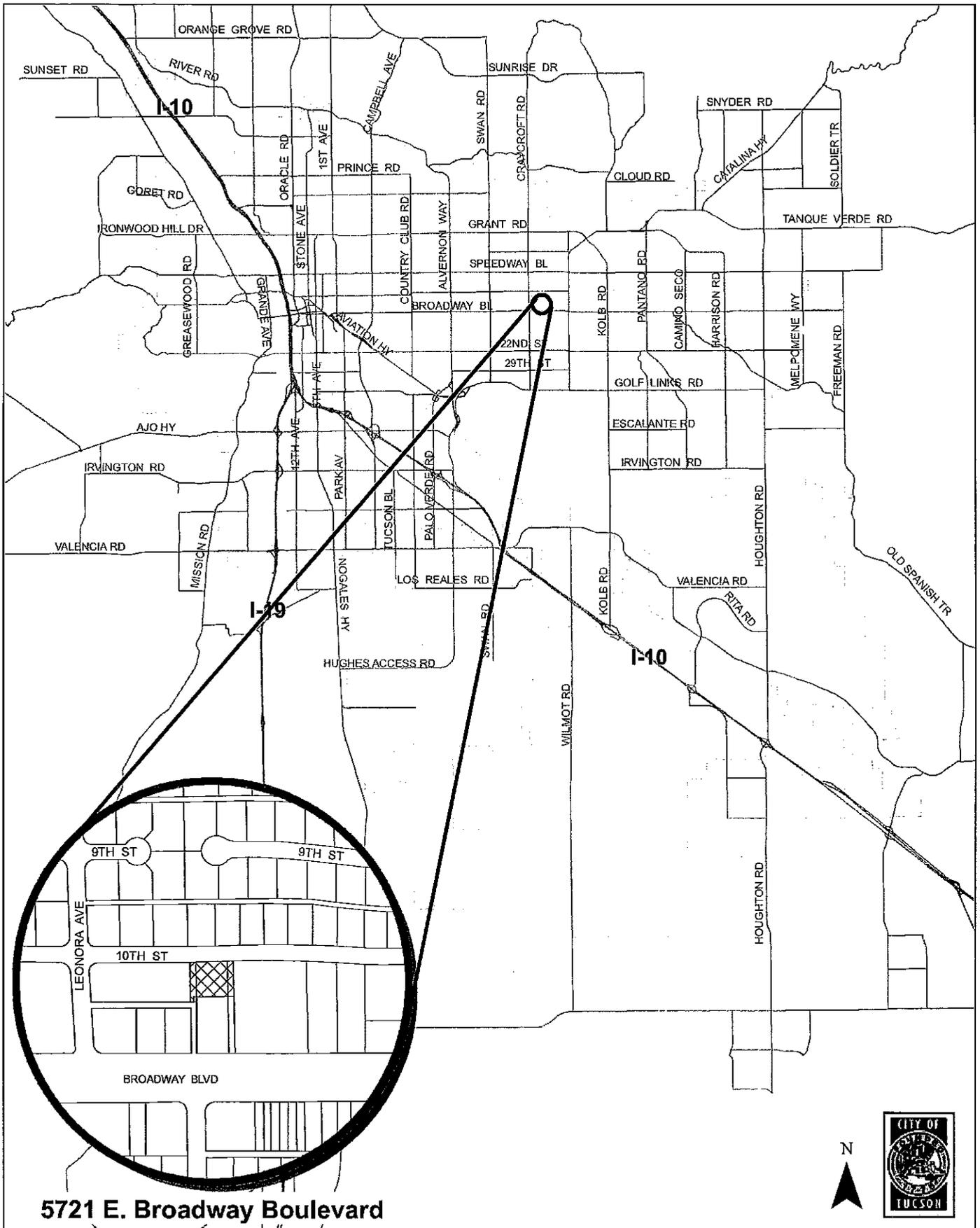
20. There shall be no greater than a ten percent (10%) surplus over the number of vehicle parking spaces required by the *UDC* for the proposed use. Additional spaces may be mitigated on a one to one basis with the planting of additional native canopy trees.

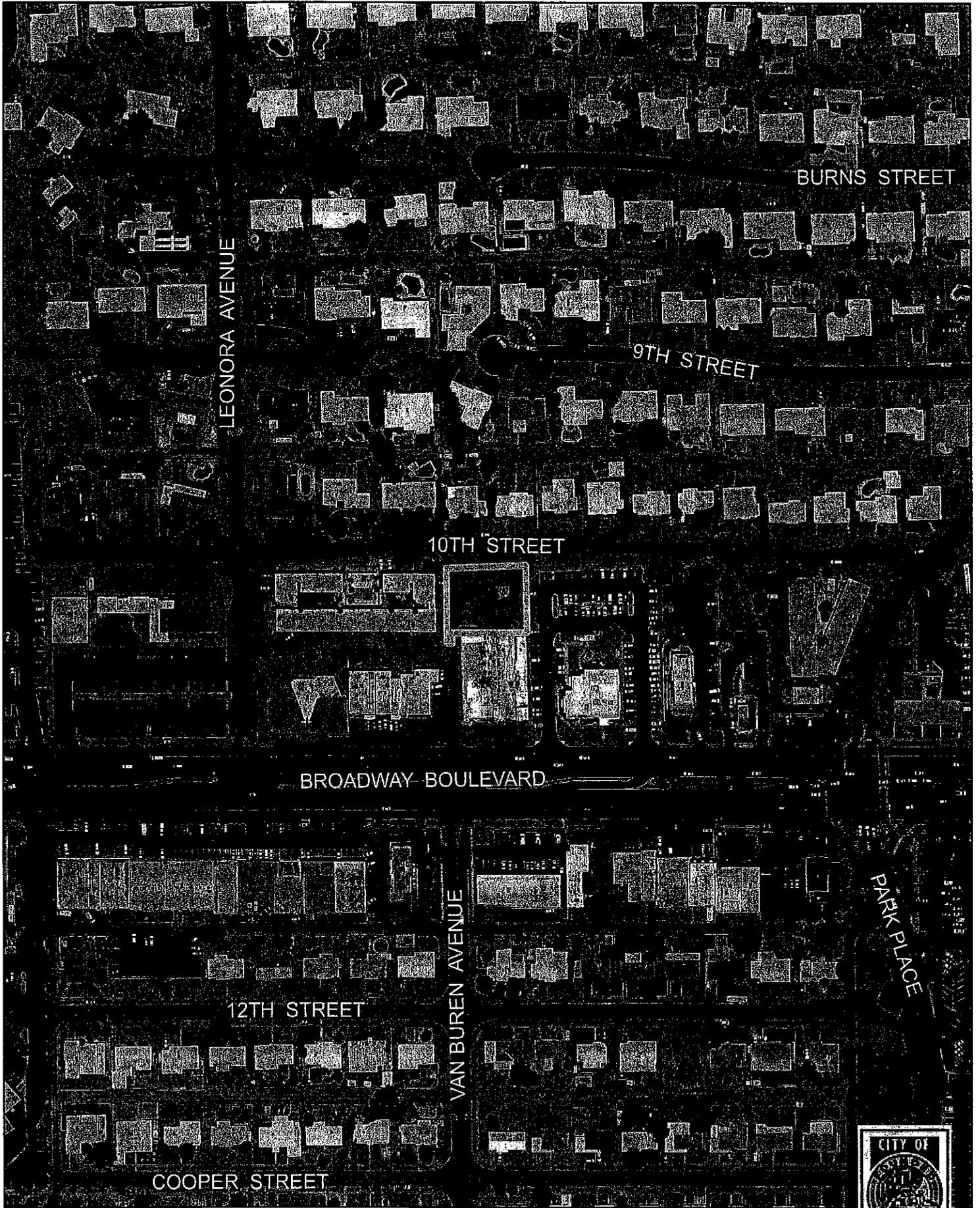
#### ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

21. A right of way permit or a Private Improvement Agreement (PIA) with the City of Tucson Department of Transportation will be required for any work completed in the right of way, including any possible utility updates.
22. Improvements of entire alleyway along western edge shall be the responsibility of the applicant.
23. Continued future maintenance of the alleyway shall be the responsibility of the applicant.
24. Future cross access to the site shall be provided to neighboring property owners upon future redevelopment.
25. Design of pork-chop island at northwest corner of north-south alley and east-west alley to be coordinated with the Department of Transportation to limit access to Lenora Avenue.
26. Minimum of 24 foot PAAL shall be provided for all parking, including parking for existing multi-family housing at northwest corner of rezoning site. Verification of agreement to be submitted with Development Package.
27. Dedication or verification of existence, of right-of-way, per the Major Streets and Routes Plan, along Broadway Boulevard site frontage is required.
28. A Traffic Impact Study shall be submitted during the review process providing an analysis for potential off-site improvements.
29. No direct vehicular access permitted from rezoning site onto Tenth Street.
30. Applicant shall coordinate with City of Tucson Environmental Services to ensure proper access for on-site trash pickup and for neighboring properties and businesses trash pickup. Verification of agreement with Environmental Services to be submitted with Development Package.

31. All offsite improvements required with this development such as the driveway, alley improvements, curb, sidewalk, and ADA ramps shall be coordinated with the City of Tucson's Department of Transportation to establish proper location(s) of the offsite improvements.
32. A new six (6) foot wide ADA accessible sidewalk shall be constructed where necessary along the adjacent Broadway Boulevard street frontages and extending across alleyway at no cost to the City of Tucson to provide continuous pedestrian circulation. Standard width transition, wheelchair access ramps and site access points shall be provided when connecting to existing sidewalks.
33. Trash enclosures shall be setback no less than fifty feet (50) from the residential properties along the north property line as indicated on the PDP dated 9/17/15.

# C9-15-04 Popeye's Chicken - Broadway Boulevard





**C9-15-04 Popeye's Chicken - Broadway Boulevard**  
2014 Aerial

0 50 100 200  
Feet  
1 inch = 200 feet

