



MEMORANDUM

DATE: June 1, 2016
For June 16, 2016 Hearing

TO: Jim Mazzocco
Zoning Examiner

FROM: Nicole Ewing Gavin, Director
Planning & Development
Services

SUBJECT: REZONING – PLANNING & DEVELOPMENT SERVICES DEPARTMENT
REPORT
C9-16-01 Yerger – 39th Street, I-1 to O-3 (Ward 5)

Issue – This is a request by Frank Rendon, on behalf of the property owners, Patrick and Cynthia Yerger, to rezone approximately 0.37 of an acre from I-1 to O-3 zoning to accommodate the development of a residential garage on the southern half of the property, which is currently comprised of two parcels with split zoning. The north half of the property is zoned O-3 and the applicant is requesting O-3 zoning for the southern half of the property. The rezoning site is located approximately 100 feet south of 39th Street and approximately 155 feet west of Park Avenue (see Case Location Map). The preliminary development plan indicates a lot combination and reconfiguration to create two parcels from the three existing parcels. The existing single-family home and garage are to remain in place on the larger westernmost L-shaped parcel of approximately 24,000 square feet, and a new single-family home and garage to be constructed on the smaller 8,000 square foot lot located in the northeast corner of the property, which is currently zoned O-3. A new garage to serve the existing home on the larger L-shaped parcel, is also proposed in the southeastern portion of the rezoning site, and will be used for motor home parking.

Planning & Development Services Department Recommendation – The Planning & Development Services Department recommends approval of O-3 zoning, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Single family residential

Zoning Descriptions:

I-1: This zone provides for industrial uses that do not have offensive characteristics in addition to land uses permitted in more restrictive nonresidential zones. Select other agriculture, civic, commercial, industrial, retail, storage, utility, and wholesaling uses may also be permitted.

O-3: This zone provides for mid-rise, office, medical, civic, and select other uses, such as urban agriculture and renewable energy generation, that provide reasonable compatibility with adjoining residential uses.

Surrounding Zones and Land Uses:

North: Zoned O-3 & R-2; Single family residential

South: Zoned PAD-15; Vacant land

East: Zoned I-1; Vacant land

West: Zoned O-3; Single family residential

Previous Cases on the Property: None

Related Cases:

C9-06-23 Drachman Institute – 15th Street, I-1 to R-2 This was a rezoning request to downzone 0.71 of an acre located on the southwest corner of 15th Street and Star Avenue and on the north side of Barraza-Aviation Parkway, to allow a new five-lot subdivision and construct five, one-story single-family residences. Mayor and Council adopted Ordinance No. 10342, and on September 7, 2007 a lot split was recorded, effectuating the requested zoning.

C9-02-25 Deep Freeze Development – 17th Street, I-1 to C-3 This was a rezoning request to downzone 2.6 acres located on the east side of Mill Street, between Seventeenth Street and the railroad tracks, forty-five loft residences and 7,222 square feet of commercial uses in 61,400 square feet of new and existing rehabilitated buildings. Mayor and Council adopted Ordinance No. 9920, and on February 5, 2004, a lot split was recorded, effectuating the requested zoning.

Applicant's Request – The applicant requests rezoning from I-1 zone to O-3 zone in order to accommodate the construction of a residential garage for motor home parking.

Planning Considerations

Plan Policy – Land use policy direction for this area is provided by the *Greater South Park Area Plan (GSPAP)*, the *Kino Area Plan* and *Plan Tucson*. Both *Plans* support new residential development that is compatible with surrounding land uses, but more specific residential policy direction is provided by the *GSPAP*. The *GSPAP* supports and promotes residential uses in this subarea. Its overall residential policy supports preserving the integrity of established neighborhoods by requiring proposed changes and/or rezoning to be compatible with established neighborhoods. Additionally the *Plan* encourages the location of residential development of similar densities in the interior of established neighborhoods.

The proposed rezoning site is identified in the *Plan Tucson* as being within one of the Existing Neighborhoods category, which are primarily developed, and largely built-out residential

neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next several decades. The goal is to maintain the character of these neighborhoods, while accommodating some new development and redevelopment and encourage reinvestment and new services and amenities that contribute further to neighborhood stability.

To the east of the site are six vacant lots zoned I-1 light industrial zone and further east across Park Avenue is the Bridges a Plan Area Development (PAD-15) a regional mix land use center with commercial and residential development supported; to the south abutting the rezoning site is an approved fifty foot wide public trail right-of-way dedicated to Pima County to accommodate a future El Paso and Southwestern Greenway regional trail and further south across the future trail is vacant land and part of PAD-15, a mixed land use which includes residential; to the north across 39th Street are single-family single story residential units zoned R-2; and to the west across Tyndall Avenue are single-family single story residential units developed in the O-3 office zone.

The Pima Association of Governments - Transportation Planning Division commented that 10 additional vehicle trips will be generated at this time as typical trip generation for a single family residence is approximately 10 vehicle trips per day.

Design Considerations

Land Use Compatibility – The Grand View Addition Subdivision is located southwest of the Park Avenue and 36th Street arterial intersection. The interior of the subdivision is mostly R-2 residential development. The southern border of the subdivision where the applicant’s property is located has R-3 high density residential, O-3 office, and I-1 light industrial. More specifically, the I-1 light industrial zoned properties are located at the southeast corner of the Grand View Addition Subdivision, adjacent to Park Avenue, an arterial street. The applicant owns two parcels which have been combined from previously recorded Grand View Addition Subdivision lots. The southern half of the applicant’s parcels are zoned I-1 light industrial and the northern on-half are zoned O-3 office zone.

Drainage/Grading/Vegetation – The site does not lie within a FEMA mapped floodplain, however it is within a City of Tucson Flood Hazard Area. The western half of the site is located within the Mission View Wash Watershed, which is a balanced watershed. Runoff detention will be required for any development within the balanced watershed area. Runoff retention will be required for future improvements. Staff recommends that a drainage report be submitted to the City for review.

Road Improvements/Vehicular Access/Circulation – Vehicular access to the rezoning site is from Tyndall Avenue and 39th Street, both local streets. Park Avenue, identified as an arterial roadway with a future right-of-way of 120 feet on the *Major Streets and Routes Plan* map, is located approximately 160 feet to the east of the rezoning site. Road improvements are not proposed as part of the rezoning request.

Conclusion – This proposal is generally consistent with the policy direction provided by the *Keno Area Plan*, the *Greater South Park Area Plan* and the *General Plan*. Subject to compliance with the attached preliminary conditions, approval of the requested O-3 zoning is appropriate.

PROCEDURAL

1. A development package in general compliance with the preliminary development package dated April 14, 2016 and required reports, 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 (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. Provide recordation information for required lot reconfiguration with the submitted development package.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATABILITY

8. All buildings shall be no taller than two-stories and are not to exceed twenty-five (25) feet in height.
9. There shall be no more than one dwelling unit allowed on each parcel.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

10. 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 C9-16-01. 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.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

11. Access to proposed freestanding garage in the southeast corner of the L-shaped parcel shall be provided from Tyndall Avenue only.

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 C9-16-01 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.

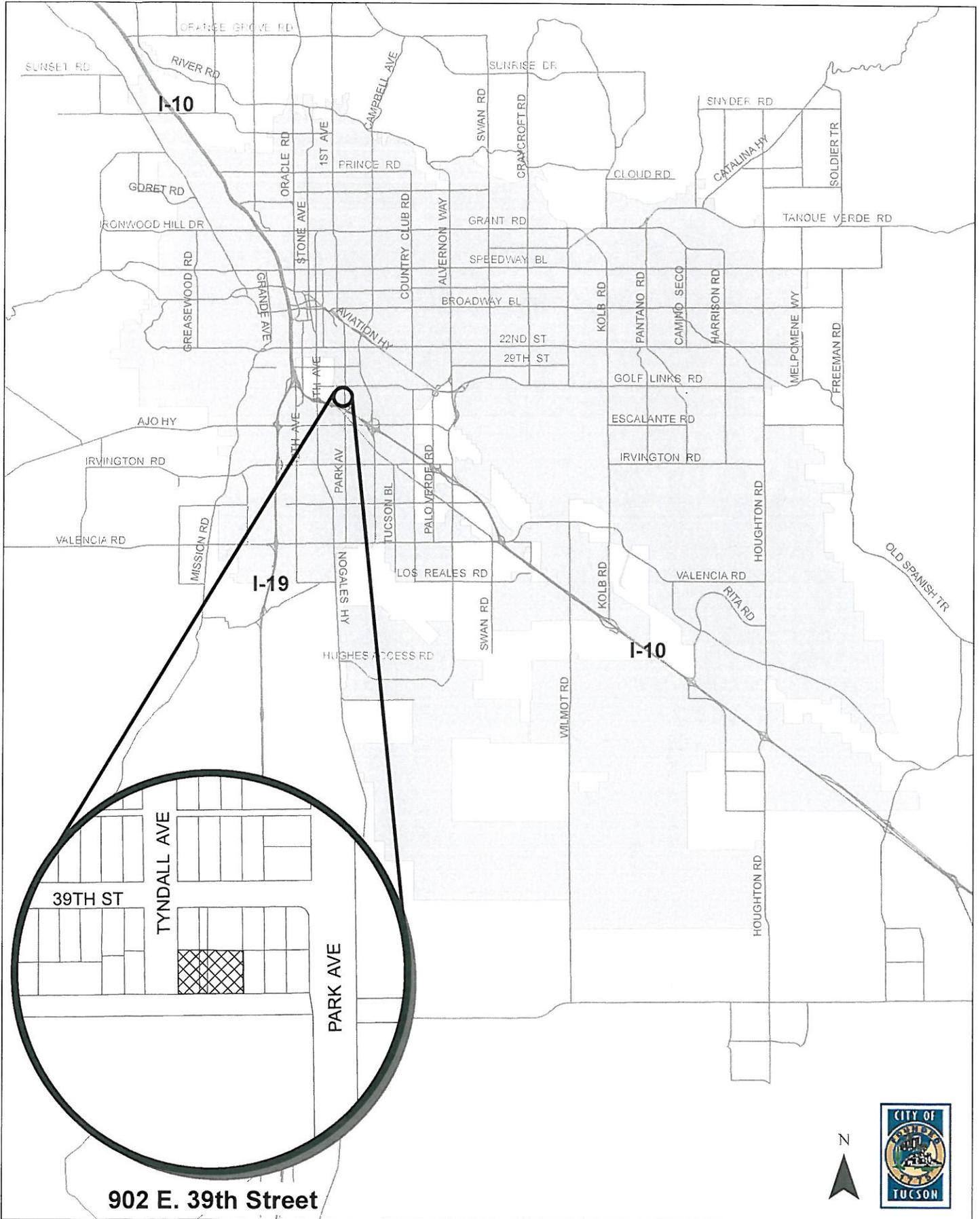
By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-16-01.

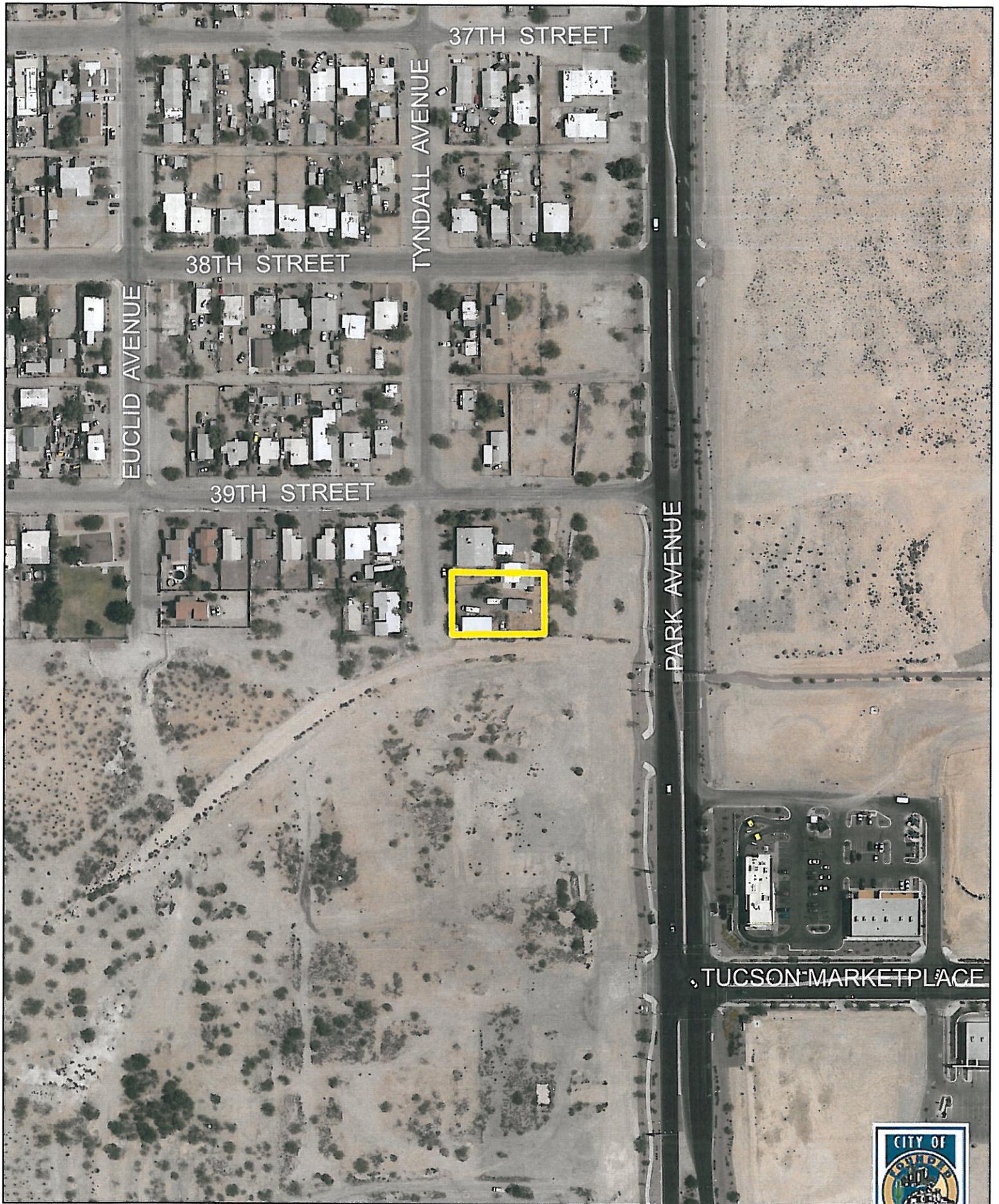
The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative 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.

C9-16-01 Yerger - 39th Street





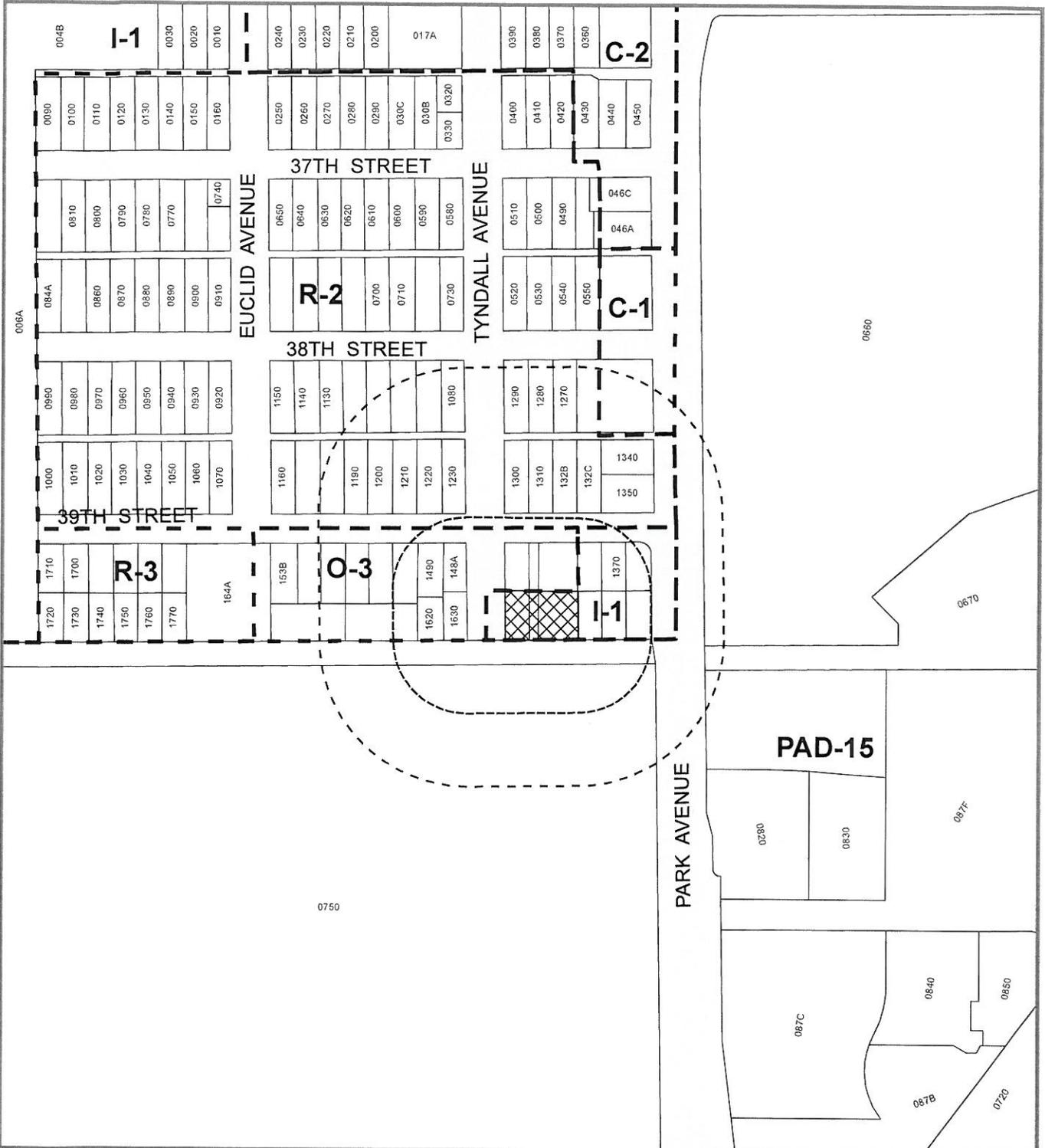
C9-16-01 Yerger - 39th Street
2014 Aerial

0 100 200
Feet
1 inch = 200 feet



C9-16-01 Yerger - 39th Street

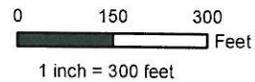
Rezoning Request: from I-1 to O-3



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



Address: 902 E. 39th Street
 Base Maps: Sec.30 T.14 R.14
 Ward: 5



PUBLIC FACILITIES AND SERVICES REPORT FOR June 16, 2016
(as of May 26, 2016)

C9-16-01 Yerger – 39th Street, I-1 to O-3 Zone

CITY AGENCIES

Planning & Development Services – Community Planning: See attached comments dated 3/23/16.
Planning & Development Services – Engineering: See attached comments dated 3/23/16.
Planning & Development Services – Zoning Review: See attached comments dated 3/17/16.
Planning & Development Services – Sign Code: See attached comments dated 3/16/16.

No Objections Noted

City of Tucson, Real Estate Program
Planning & Development Services – Landscape
Transportation – Traffic Engineering
Transportation – Engineering
Tucson Fire Department
Community Services – Historic Preservation Officer
Tucson Parks and Recreation
Tucson Police Department
Tucson Water New Area Development
Tucson Parks and Recreation
Environmental Services

NON-CITY AGENCIES

No Objections Noted

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

Additional information about this project, including the staff report to the Zoning Examiner and the Preliminary Development Plan, will be posted on the web by 5:00 PM, June 1, 2016 at
<https://www.tucsonaz.gov/PRO/pro/AdvancedSearch.jsp>



Approval – Protest Form

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

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

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

**Case: C9-16-01 Yerger – 39th Street, I-1 to O-3
Ward # 5**

I/We the undersigned property owners, wish to

- APPROVE the proposed rezoning.
- PROTEST the proposed rezoning.

Reason:

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

Owner’s Signature: _____ Date _____

Place
Stamp
Here

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

C9-16-01

Expose this flap - Affix stamp and return



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

C9-16-01
IMPORTANT REZONING NOTICE ENCLOSED