



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

October 2, 2015

**C9-15-04 Popeye's Chicken – Broadway Boulevard
Rezoning R-3 to C-1
Public Hearing: September 17, 2015**

BACKGROUND

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.

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

PUBLIC HEARING SUMMARY (Minutes Attached)

Glenn Moyer, Planning and Development Services Department, presented the staff report with a recommendation for approval. Mr. Moyer also commented that two written approvals and one written protests were received.

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

FINDINGS OF FACT

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 10th 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

C9-14-04 Popeye's Chicken – Broadway Boulevard
Rezoning: R-3 to C-1

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.

Respectfully Submitted,


Linus Kafka
Zoning Examiner

ATTACHMENTS:

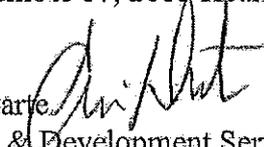
Public Hearing Minutes
Rezoning Staff Report



MEMORANDUM

DATE: September 1, 2015
For September 17, 2015 Hearing

TO: Linus Kafka
Zoning Examiner

FROM: Ernie Duarte 
Planning & Development Services
Director

SUBJECT: REZONING
PLANNING & DEVELOPMENT SERVICES REPORT
C9-15-04 – Popeye’s Chicken – Broadway Boulevard, R3/C-1 to C-1 (Ward 6)

Issue – 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 (high density residential) and C-1 (neighborhood commercial) 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 (see Case Location Map). The Broadway frontage of the property is zoned C-1. The rear (10th Street) frontage is zoned R-3. The preliminary development plan (PDP) proposes to clear the buildings and improvements and redevelop the site with a new 4,000 square foot, 26’ foot tall single story, drive through food service and associated pedestrian and vehicle circulation. Access to the site is proposed to be limited by two ingress/egress driveways, one along Broadway Boulevard and one accessed from the adjacent private right-of-way.

Planning & Development Services Recommendation – The Planning & Development Services Department recommends approval of the requested C-1 zoning, subject to the attached preliminary conditions.

Background Information

Existing Land Use: vacant commercial structures.

Zoning Descriptions

R-3: This zone provides for high density, residential development and compatible uses.

C-1: This zone provides for low-intensity, commercial and other uses that are compatible with adjacent residential uses. Residential and other related uses shall be permitted.

Surrounding Zones and Land Uses:

North: Zoned R-1; single-family residential
South: Zoned C-1; local commercial
East: Zoned C-1; local commercial
West: Zoned R-3/C-1; high density residential and local commercial

Previous Cases on the Property: none

Related Cases:

C9-14-03 Broadway Festival – Leonora Avenue, R-3 to C-1 This was a rezoning request for a 1.92 acre site to allow two buildings with a mix of retail and food service, with parking, on a parcel which was split zoned as C-1 and R-3. On June 9, 2015, Mayor and Council adopted Ordinance No. 11274.

C9-13-03 Heights Properties – Broadway Boulevard, R-3 to C-1 This was a rezoning request for a 0.55 of an acre site to allow for a sit-down restaurant, with parking, on a parcel which was split zoned as C-1 and R-3. On September 24, 2013, Mayor and Council adopted Ordinance No. 11110. The zoning was effectuated on November 22, 2013.

C9-90-03 Marglen, Inc – Broadway Boulevard, R-3 to B-1 (now C-1) This was a rezoning request for 0.22 of an acre located 225 feet west of Chantilly Drive and approximately 250 feet east of the proposed rezoning site, to allow the development of a business use and consistent zoning pattern on the site. On July 2, 1990, Mayor and Council adopted Ordinance No. 7447 and the development plan was recorded on July 2, 1990, effectuating the requested zoning.

Applicant’s Request – The applicant is proposing to rezone approximately 0.28 of an acre from R-3 to C-1 to allow for expanded parking for a “quick service restaurant with drive through.” This action will allow for the redevelopment of an existing C-1 property.

Planning Considerations

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

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 *Plan* 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.

Plan Tucson (PT): The “Future Growth Scenario Map” reflects Broadway Boulevard 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.

The proposed redevelopment of the site is in substantial compliance with the existing policy guidance of the *General Plan* and the *Sewell-Hudlow Neighborhood Plan*. The PDP exhibits reflect the general intent of the plan elements and supporting policies.

The total site area is 0.77 of an acre. The northern third of the parcel is approximately 0.23 of an acre, and is currently zoned R-3. The remainder of the site is zoned C-1. The proposed PDP reflects a street frontage with sidewalk and landscaping consistent with plan direction to allow development along Broadway Boulevard. Residential properties to the north of this site, across 10th Street, are developed as single story single-family residences. The proposed commercial building shown to be located at greater than required setbacks to reduce the impacts on the neighboring residential uses. Additional screening shall be provided by masonry walls and landscaping in compliance with the code and the abovementioned plans. The property to the east of this site is developed with a sit-down restaurant and those to the south and west are developed as a variety commercial uses. Based on existing developments, commercial is an appropriate zone at this location and a drive through restaurant blends well with surrounding character. The established land use along the Broadway corridor is generally stable in nature and has seen revitalization over the last decade. The proposed property is located within the Rio Nuevo Multipurpose Facilities District.

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. Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – The rezoning site is located along a Gateway Arterial within a long established area of strip commercial development. Within the rezoning site, redevelopment will address vehicular access, circulation, and parking issues that are endemic to the entire strip. Vehicular access to the neighboring parcels to the immediate west of the subject parcel will be impacted by the redevelopment on the subject parcel but should be maintained. Developer shall coordinate between neighboring property owners, Department of Transportation, and City of

Tucson Real Estate Department to ensure adequate access to public alley and existing private right of way, for all involved parties. The proposed PDP reflects additional buffering and landscaping along the northern property line to assist in mitigation for the residential properties north of 10th Street. Generally, staff would require the waste enclosure for the proposed development to be no less than 50’ from the northern property line. In this case, Mr. Egan has provided signatures from neighboring residents showing support of the rezoning and the proposed development plan. The PDP shows the waste enclosure as less than 50’ from the northern property line. Staff is unsure as to how the material was presented to the residents and the extent of their approval. Staff suggests additional discussion at the public hearing regarding the proposed location for the waste enclosure.

Drainage/Grading/Vegetation – The development process will bring the parcel into compliance with current City of Tucson engineering codes, guidelines, and manuals for stormwater detention/retention and grading. The development plan process will also address the landscape buffer yards and planting materials to enhance the overall visual impact of the proposed sit-down restaurant.

Road Improvements/Vehicular Access/Parking – The proposed drive through restaurant will front onto Broadway Boulevard, a six-lane, city maintained, gateway arterial, with a shared multi use bike and turn lane adjacent to the redevelopment site. There is a raised median with eastbound left turn lanes into the restaurant to the east and to the alley adjacent to the west edge of the site. The development plan process will clarify the driveway locations, set-backs from existing access points and ensure that all engineering standards are met. All necessary streetscape improvements along Broadway, including sidewalks and landscaping, shall be completed at the expense of the developer. Staff recommends that there be no direct access to 10th Street to minimize cut through traffic north of the development. Access to the east-west alley is a concern due to a future planned median, associated with the C9-14-03 Broadway Festival – Lenora Avenue rezoning case, along Lenora Avenue that will direct traffic into the neighborhood to the north. Staff recommends the installation of a pork-chop island to limit westbound traffic at the northwest corner, where the north-south alley meets the east-west alley. All necessary improvements and future maintenance of alleyways shall be the responsibility of the applicant. Cross access for all future adjacent new development shall be granted. Double stacking lanes for the drive through (up to menu boards), maybe be utilized to minimize on-site traffic circulation congestion.

Access through the existing public alley poses a few challenges that will need to be addressed during redevelopment of the rezoning site. Proper management of the existing multi-family parking, to remain, along the northeastern edge is extremely important. Staff recommends a minimum 24’ parking area access lane (PAAL) for those existing parking spots. Applicant shall work closely with the City of Tucson Real Estate department, Department of Transportation, and owner of adjacent multi-family residential development to conduct necessary title research and create a cross access easement for the residents. Additionally, staff recommends applicant work with environmental services to ensure proper access for on-site trash pickup and for neighboring properties and businesses trash pickup.

Heat Island Mitigation – The City of Tucson promotes sustainable development, mitigation of Urban Heat Islands, and green building principles in the City’s Framework for Advancing Sustainability, adopted in 2008. Impervious surfaces, such as paved roadways, parking areas, and rooftops contribute to increasing urban heat islands which can have detrimental health effects. Increasing reflectivity of these paved surfaces, and providing shade or pervious surfaces mitigates the heat absorption quality of dark pavement. As a condition of rezoning, staff recommends incorporating reflective, pervious paving materials in pedestrian areas and adjacent to planting areas. The use of cool-roof-rated materials such as Energy Star-rated is also required. Canopy trees will be provided for every four parking spaces to decrease the Urban Heat Island Effect. Providing a healthy root zones helps trees reach their potential maximum canopy capacity. Staff recommends tree root zone to have a minimum of 300 cubic feet (no deeper than 3 feet) of uncompacted (less than 90%) soil. Ninety-five percent or greater compaction is permitted if utilizing structured/engineered soil that permits compaction while allowing root development.

Conclusion – The proposed rezoning request is consistent with, and supported by the *Sewell Hudlow Neighborhood Area Plan* and the *General Plan* which support medium- to high-density residential, low-rise office, and neighborhood commercial including C-1 uses at this location. Subject to compliance with the attached preliminary conditions, approval of the requested C-1 zoning is appropriate.